

# Nottingham City Council

## Commissioning and Procurement Executive Committee

Minutes of the meeting held at Loxley House, Station Street, NG2 3NG, on 14 February 2023 from 10.02 am - 10.24 am

### Membership

#### Present

Councillor Adele Williams (Chair)  
Councillor Cheryl Barnard (Vice Chair)  
Councillor Sally Longford  
Councillor Toby Neal  
Councillor Linda Woodings

#### Absent

### Colleagues, partners and others in attendance:

Wayne Bexton	-	Director of Environment and Sustainability
Trevor Bone	-	Head of Building Services and Facilities Management
Antony Greener	-	Head of District Heating and Waste Strategy
Mark Leavesley	-	Governance Officer
Steve Oakley	-	Head of Procurement
Andy Whitley	-	Utilities Manager

### Call-in

Unless stated otherwise, all decisions are subject to call-in. The last date for call-in is 23 February 2023. Decisions cannot be implemented until the working day after this date.

### 54 Apologies for absence

Ceri Walters

### 55 Declarations of interests

None.

### 56 Minutes

The Committee agreed the minutes of the meeting held on 10 January 2023 as a correct record and they were signed by the Chair.

### 57 Exit electricity and gas supply contract - key decision

Councillor Longford, Portfolio Holder for Energy, Environment and Waste Services, introduced the report.

Wayne Bexton, Director of Environment and Sustainability, Antony Greener, Head of District Heating and Waste Strategy, and Andy Whitley, Utilities Manager, presented the report and stated the following:

- the current supplier of electricity and gas announced in August 2022 an intention to withdraw from the supply market to large scale commercial users, of which Nottingham City Council are categorized;
- the current contract with the supplier will finish on 31 March 2024, and they would honour this contract. However, during discussions with the supplier, the opportunity for a one-year early cancellation of the contract on 31 March 2023 has been offered. This provides the Council the opportunity to undertake a soft market test by inviting pricing from ESPO, via their energy supply frameworks, for electricity and gas;
- the current contract that Enviroenergy has for export of electricity to grid is due to finish on 31 March 2023, and a new contract is required to be in place by then so that the Council continues to receive income for the electricity that it generates and sells to an off-taker.

### **Resolved**

- (1) to approve spend of up to £13million, and any income, related to the contracts for electricity supply and sales and gas supply;**
- (2) to delegate authority to the Director of Environment and Sustainability as follows:**
  - (a) in consultation with the Head of Procurement:**
    - (i) to identify the best procurement option available to secure electricity and gas supplies for Nottingham City Council;**
    - (ii) to identify the best procurement option available in securing the sale of electricity generated by Nottingham City Council for export to grid;**
  - (b) to approve the outcome of any procurement process and award contracts:**
    - (i) based on the most economically advantageous offer available at the time of renewal, for the supply of electricity and gas to the Council;**
    - (ii) based on the most economically advantageous offer available at the time, for the sale of electricity generated by the Council for export to grid, including, but not limited to, any secondary value delivered by low carbon generation.**

### Reasons for recommendations

- (i) The opportunity to refresh the current electricity and gas supply contract is available due to the incumbent supplier, decision to withdraw from the large-scale commercial user's energy supply market.
- (ii) The energy wholesale market has changed at pace during this current contract which commenced in April 2020, with unprecedented volatility in the wholesale

commodity costs for electricity and gas. The current contract allows for fixed price, fixed term unit rates for 100% grid supplied electricity and gas, with no option to procure green gas.

- (iii) Entering into new utility supply contracts will also provide opportunity to reduce 3<sup>rd</sup> party liabilities currently held by the Council in respect of partner organisations which obtain their Utilities through our current contracts.
- (iv) After directly supplying their own requirements and the requirements of their private wire customers, Enviroenergy currently export any surplus electricity generated to the grid and receive an income for this volume, along with income for the sale of the associated ROCs (Renewable Obligation Certificates) and REGOs (Renewable Energy Guarantee of Origin).

#### Other options considered

- (i) For the Council to combine its export and import requirements into a single contract to take advantage of the generated export from Enviroenergy.

This option would mean developing a bespoke flexible export and import contract, requiring a risk management approach to buying and selling power volumes and additional resource to manage and be responsible for a hedging strategy.

Whilst this option may provide the most economically advantageous outcome for the Council, it is not currently resourced to deliver this arrangement within the timescales required for renewal.

However, by entering into short term supply and sale arrangements, the option can be further explored, and the right procurement strategy can be developed.

### **58 NCC Enviroenergy Servicing and Maintenance Contracts - key decision**

Councillor Longford, Portfolio Holder for Energy, Environment and Waste Services, introduced the report.

Wayne Bexton, Director of Environment and Sustainability, and Antony Greener, Head of District Heating and Waste Strategy, presented the report and stated the following:

- Nottingham City Council owns and operates the largest district heating network in the UK. As the plant ages (it is now 50 years old), continued maintenance has minimised the risk of service downtime;
- the plant must provide heating, hot water and power to its customers on a 24/7 basis for as many days of the year as possible;
- the complexity of works required is considerable and is reflected in the level of external specialist support required. However, the arrangements in place help contribute to securing business continuity, continuous improvement and best value;

- a decision by the Executive Board to hive up Enviroenergy Limited into the Council recognised the additional investment required to ensure the continued success of the District Heating Network;
- As part of the Asset Transfer Agreement between the company and the Council, company contracts, including service and maintenance contracts, were novated to the Council and the terms and conditions of these contracts continue to be relevant;
- To ensure goods, services and works continue to provide best value, approval is sought to enter into new arrangements for the contracts and services required (detailed in the report and the exempt appendix) and summarised below:
  - (i) Provision of Welding, Repair and Maintenance Services;
  - (ii) Water Treatment;
  - (iii) Turbine Maintenance;
  - (iv) Network Maintenance and Repair;
  - (v) Control System;
  - (vi) Carbon Credits;
- the recommendations in the report, if approved, will maximise the ability of the service to continue to provide heating and power supply services within the Council's Contract Procedure Rules, whilst also maintaining Council's contractual obligations to the Eastcroft Incinerator, therefore minimising the risk of service disruption.

## **Resolved**

### **(1) to approve:**

- (a) the tender and award of new contracts for heat station and district heating maintenance, as detailed in table 1 of the report;**
- (b) extensions to the contracts for heat station and district heating maintenance, as listed in the exempt appendix;**
- (c) the procurement of Carbon Credits through the use of a broker, to ensure that the Council complies with its statutory obligations in respect of the UK Emissions Trading Scheme;**
- (d) spend against the contracts, listed in table 1 of the report and in the contracts and transactions listed in the exempt appendix, for the duration of all contracts and transactions, including any extension(s).**

### **(2) to delegate authority to the Director of Environment and Sustainability to award contract extensions, tender and award new contracts for services and purchase goods and/or works, as detailed in the recommendations above.**

## Reasons for recommendations

### **Recommendation (1)(a): Award of new contracts**

Table 1 below sets out the requirement to tender for and award new contracts for the provision of the following services to support district heating, with a rationale for each contract required detailed below the table:

Contract	Term	Estimated value	Estimated value including extension
Provision of Welding, Repair and Maintenance Services	5 Years plus extension options for 2+2 years	£2,000,000	£3,600,000
Water Treatment	5 Years plus extension options for 2+2 years	£450,000	£810,000
Turbine Maintenance	Up to 7 years	£2,000,000	N/A
Network Maintenance and Emergency Repair	5 Years plus extension options for 2+2 years	£3,000,000	£5,400,000
Scada Control Engineering System	Up to 6 years	£1,300,000	N/A

#### Provision of Welding, Repair and Maintenance Services

The contract for essential servicing and maintenance of the boilers and associated mechanical infrastructure including condensers and steam management systems is due for renewal. Boiler servicing and maintenance takes place continually as required and projects are identified, costed and agreed before Purchase Orders are raised on a job by job, call-off basis. If essential works, are not completed, the system may not be able to operate safely and there is a significant risk of losing the steam management systems meaning customers could be without a supply of heating and hot water for prolonged periods.

There is a requirement to secure the continued supply of this service and a new contract needs to be tendered and awarded for 5-years with options to extend by 2+2 years to ensure a suitable contractor is available to respond to emergency situations and schedule planned works as required throughout the contract term.

#### Water Treatment

The water treatment plant at the Combined Heat and Power (CHP) Station treats raw water from the on-site borehole/mains supply to produce boiler grade feedwater for the Eastcroft Energy from Waste (EfW) plant and district heating makeup water to replenish water losses. The closed water cycle feeds the generating turbine at the London Road Heat Station as well as the District Heating Network and Eastcroft EfW. The Environmental Permit under which the Council operates requires improvements to be delivered, best achieved through modernising the current water treatment process.

The technical solution chosen will remove chemical water dosing arrangements and replace this with reverse osmosis technology to remove the requirement to store bulk hazardous chemicals on site. A new contract is to be specified, tendered and awarded for

5-years with options to extend the contract term by 2+2 years if required to ensure that the improved water treatment requirements are delivered.

#### Turbine Maintenance

The Council owns and operates a turbine from its London Road Combined Heat and Power (CHP) Plant and requires expert external assistance in the effective management and maintenance of this asset. The current contract has expired and requires a new arrangement to be secured until 2030 which is the expiry date of the Council's steam supply Agreement with the operators of the Eastcroft EfW plant.

#### Network Maintenance and Emergency Repair

The Council must retain the ability to respond to leaks or other repairs required on the District Heating network so that disruption to heating services is minimised. Essential maintenance and emergency repairs of the district heating network is completed with the assistance of external contractors where required and the contract is due to expire shortly. The Council therefore needs to procure and award a new contract for 5-years with options to extend the new contract term by 2+2 years if required.

#### Control Engineering System (Scada)

Supervisory control and data acquisition (Scada) is a control system architecture comprising computers, networked data communications and graphical user interfaces for high-level supervision of machines and processes. It also covers sensors and other devices, such as programmable logic controllers, which interface with process plant or machinery.

The support required is currently provided by an annually renewed Service Support Agreement. However, the service has identified a requirement to work with Corporate Procurement to investigate options for securing best value in maintaining a Scada system for the longer term, and tender for and award any necessary new contracts as required.

#### **Recommendation (1)(b):** Extension to Contracts

Contained within an exempt appendix to the report.

#### **Recommendation (1)(c):** Procurement of Carbon Credits

The Greenhouse Gas Emissions Trading Scheme Order 2020 places statutory obligations on the Council to offset its fossil fuel consumption utilised in the delivery of district heating through the purchase of Carbon Credits under the regulated UK Emissions Trading Scheme. The methodology for procuring the required Carbon Credits is contained within the exempt appendix to the report.

#### **Recommendation (1)(d):** Contract Value

The estimated contract values are detailed in table 1 of the report. The values of the contract extensions or transactions are detailed in table 2 of the exempt appendix. Approval is sought to raise the requisite purchase orders up to the values listed within the appropriate contractual or transactional arrangements.

#### **Recommendation (2):** Delegation of Authority

To expedite the award of contract extensions and contract tenders and awards, approval is sought to delegate authority to enter into the arrangements to the Director of Environment and Sustainability.

Other options considered

Do nothing – If the Council does not award contracts or extensions to contracts:

Welding Repair and Maintenance	<ul style="list-style-type: none"> <li>• Risk of Failure and shutdown of service</li> <li>• Risk of statutory non-Compliance of Health and Safety requirements</li> <li>• Non-compliance with Environmental Permit</li> </ul>
Water Treatment	<ul style="list-style-type: none"> <li>• Risk of statutory non-Compliance of Health and Safety requirements</li> <li>• Non-compliance with Environmental Permit</li> <li>• Risk of damage to district heating or EfW assets or force shutdown of service to avoid this</li> <li>• Risk of contract breach with Eastcroft Incinerator</li> </ul>
Turbine Maintenance	<ul style="list-style-type: none"> <li>• Risk of Failure and shutdown of service</li> <li>• Risk of statutory non-Compliance of Health and Safety requirements</li> </ul>
District Heating Network Maintenance	<ul style="list-style-type: none"> <li>• Risk of Failure and shutdown of service</li> <li>• Risk of statutory non-Compliance of Health and Safety requirements</li> </ul>
Control Engineering System	<ul style="list-style-type: none"> <li>• Shutdown of service with no operating system</li> <li>• Risk of statutory non-Compliance of Health and Safety requirements</li> </ul>
Carbon Credits	<ul style="list-style-type: none"> <li>• Non-Compliance with statutory obligation under the UK Emissions Trading Scheme</li> </ul>

**59 Building Services and Facilities Management procurement requirements 2023-24 - key decision**

Councillor Williams, Portfolio Holder for Finance, introduced the report.

Trevor Bone, Head of Building Services and Facilities Management, presented the report and stated the following:

- (i) the report sets out Building Services (BS) and Facilities Management (FM) procurement requirements for planned, reactive maintenance and minor works for the financial year 2023/24;
- (ii) the Council must comply with a number of statutory obligations set out in a wide range of primary and secondary legislation in relation to its asset portfolio;

- (iii) the obligations are met by carrying out planned, reactive and minor works on the asset portfolio;
- (iv) whilst works are performed in-house wherever possible, there are occasions where specialist contractors or additional resource is required, and the report sets out how those requirements are to be procured to provide a seamless ability to meet the Council's obligations under the applicable legislation;
- (v) BS and FM needs to award several framework agreements and contracts, up to a value of £5.497m (as set in appendix 1) in conjunction with the council's procurement team;
- (vi) terms and conditions are already in place for awards under framework arrangements, and for other contracts, Legal Services will support where it can or facilitate the use of external solicitors if circumstances require and funding is identified.

### **Resolved**

- (1) to approve the procurement of contracts as detailed in appendix 1, in line with the annual procurement plan, to a maximum value of £5.497m;**
- (2) to delegate authority to Director of Economic Development and Property to award the contracts procured under recommendation 1, and to approve all call-off arrangements under those contracts over a period of four years (2023/27);**
- (3) to approve the proposed expenditure of at least £1m of the £3.1m planned maintenance budget for 2023/24 on services delivered through in-house provision (as referenced in paragraphs 2.4 and 2.5 of the report).**

### Reasons for recommendations

- (i) The contracts set out in the appendix require re-procurement to comply with the public contract regs 2015 to enable BS and FM to keep the Council's asset portfolio compliant with regulatory obligations, the applicable legislation and insurance obligations.
- (ii) Through the proposed procurement routes, the Council can continue to improve efficiency and service of supplier delivery across multiple high-risk work streams, and improve value for money for Directorates across the Council.
- (iii) The Council's annual procurement programme has proven to be the best approach to securing a competent speciality supply chain with the lowest costs possible.
- (iv) The report details how orders are placed with Contractors through the Council's robust systems. To ensure a smooth and timely process for placing orders it is recommended that the Director of Economic Development and Property has delegated authority to approve any contracts and call-offs made under frameworks for their duration. No award will be made without evidence that the budget has been approved for the ordered requirement or a contract is in place



that either complies with the requirements of the Framework or has been reviewed by Legal Services.

- (v) It has been identified that at least £1m of the 2023/24 planned maintenance budget can be delivered through use of in-house services.

#### Other options considered

- (i) Do nothing and allow contracts to end, which will remove compliance with the applicable legislation and regulatory requirements across the Council's portfolio of assets and increase the risk of prosecution and reputational damage to Nottingham City Council. This option was considered unacceptable and rejected.
- (ii) Insource all the activity covered by the contract areas under consideration for renewal. Due to the complexity and high risks involved with this task, including a lack of competency-based skills and training, equipment, and specialised resource, it was considered unacceptable and rejected.
- (iii) Allow Nottingham City Council's directorates to purchase their own asset compliancy services. This is a very high-risk approach to asset safety and compliance across the portfolio and the Council would find it very hard to track actual compliance through our current systems. Such an approach would lead to additional expense and the general safety of the asset compromised. This approach is also against the principles of the Corporate landlord model to be introduced in 2023. This option was considered unacceptable and rejected.

#### **60 Exclusion of the public**

The Committee agreed to exclude the public from the meeting during consideration of the remaining items in accordance with Section 100A(4) of the Local Government Act 1972, Schedule 12A, Part 1, Paragraph 3, on the basis that having regard to all the circumstances, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

#### **61 Exempt appendix - Exit electricity and gas supply contract**

**Resolved to note the exempt appendix to minute 57 above.**

#### **62 Exempt appendix - NCC Enviroenergy Servicing and Maintenance Contracts**

**Resolved to note the exempt appendix to minute 58 above.**