

**Annex A – Cabinet Report on Ubico
Contract Extension**

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	CABINET – 8 FEBRUARY 2021
Report Number	AGENDA ITEM 8
Subject	UBICO CONTRACT EXTENSION
Wards affected	ALL
Accountable member	Cllr Andrew Doherty, Cabinet Member for Waste, Flooding and Environmental Health Email: Andrew.Doherty@cotswold.gov.uk
Accountable officer	Scott Williams, Business Manager – Contracts Email: scott.williams@publicagroup.uk
Summary/Purpose	To update Members on the Ubico contract for Domestic Waste and Recycling collections, Street Cleansing, Grounds maintenance, Cemetery maintenance and Bin deliveries which comes to an end on 31 st March 2022 and put forward a recommendation to negotiate an extension to the agreement term for a period of 5 years to 31 st March 2027.
Annexes	Annex A – Ubico Performance Report Annex B - Strengths & Weaknesses Table - Commercially Sensitive
Recommendation/s	It is recommended that Cabinet: <ul style="list-style-type: none"> a) Endorse the proposal contained within this report and recommend to Council that the Ubico contract should be extended by 5 years from 1st April 2022 until 31st March 2027 on the following basis: <ul style="list-style-type: none"> i) The contract extension should be subject to a performance review at 2 years based upon expected outcomes ii) That officers be delegated authority, in consultation with the relevant Cabinet Member(s) to negotiate the terms of a Deed of Variation to the existing contract. iii) The Chief Executive, in consultation with the Leader, Deputy Leader and Cabinet Member for Finance and the Cabinet Member for Environment, Waste and Recycling be delegated authority to sign the Deed of Variation and contract extension

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Corporate priorities	The proposal in this report supports the Council priority: Respond to the challenges presented by the Climate Change Emergency.
Key Decision	NO
Exempt	NO
Consultees/ Consultation	The following people have all been consulted on this report and the detail contained within: Councillor Andrew Doherty and Senior Council and Publica Officers.

I. BACKGROUND

- I.1. Cotswold District Council (CDC), West Oxfordshire District Council (WODC) along with Forest of Dean District Council (FoDDC), and 4 other partners in Gloucestershire are shareholders in Ubico Limited, a Teckal company designed to deliver environmental services, offering better value for money than commercial contracts.
- I.2. The Teckal model enables Councils to commission services without the costs associated with an EU procurement process. Ubico delivers environmental services on behalf of the Councils at a price which reflects the actual cost of service provision but in doing so holds no assets, and so the depots it operates from, the vehicles it uses to perform the services and the waste and recycling containers which are provided to residents, are all owned by the authorities. This ensures that the shareholders have full control over high value expenditure.
- I.3. The CDC contract with Ubico delivers the following services:
- Domestic Waste and Recycling collections
 - Street Cleansing
 - Grounds maintenance
 - Cemetery maintenance
 - Bin deliveries
- I.4. Feedback from service managers confirms that Ubico performs well and delivers a good level of service, within the time constraints set by the Council. Collection accuracy is extremely high at 99.75%, so the level of missed bins is low. There is a good relationship between officers in Publica and Ubico which has been crucial in maintaining delivery of the front line service despite the Covid-19 pandemic and the pressure that has inflicted. A short update on the last six months of service delivery is attached at Annex A.
- I.5. Annual expenditure is subject to variation in areas such as salary increases and fluctuations in fuel cost. However, there has been regular in-year additional overspend in the management cost. Much of this was due to the cost of additional resources being required to provide the collection services in light of increases in waste volumes on the back of the rollout of the new service and this was largely out of the control of Ubico. However, some overspend was also attributed to omissions in the initial budget setting when the company was set up and has

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required adjustment of base revenue budgets. In addition, some overspend has continued to occur as a result of changes in overheads.

- 1.6. The delivery of the Domestic Waste and Recycling collections, Street Cleansing, Grounds maintenance, Cemetery maintenance and Bin deliveries is due to be reviewed and updated in 2027 in line with the majority of existing fleet vehicles reaching the end of their usable life and requiring replacement.

2. MAIN POINTS

- 2.1. There is provision within the current Ubico contract to extend by up to 5 years, should it be considered advantageous to do so.
- 2.2. The services performed form part of the Council's statutory duties and therefore not providing them is not an option. The Council could however choose from one of the following options with regard to the contract for Domestic Waste and Recycling collections, Street Cleansing, Cemetery maintenance and Bin deliveries:
- Enter into contract extension with Ubico for 2 years
 - Enter into contract extension with Ubico for 5 years (any period up to 5 years could be selected, but for the purposes of this comparison 5 years has been presented)
 - Award a new longer term contract to Ubico for this provision
 - Complete a procurement to enter into contract with a private or 3rd sector provider
- 2.3. Cabinet will be considering an update to the Council's Medium Term Financial Strategy (MTFS), during this meeting. The MTFS sets out the scale of risk to Government funding posed by the Ministry of Housing, Communities and Local Government "Fairer Funding Review" which may be implemented in 2022/23. In order to manage the risk of reduced Government funding, the Council needs to identify and implement changes to Ubico services to reduce costs.

3. STRENGTHS & WEAKNESSES OF EACH OPTION

- 3.1 The strengths and weaknesses of each option are presented in the commercially sensitive table at Annex B.

4. FINANCIAL IMPLICATIONS

- 4.1. The current Ubico contract for Domestic Waste and Recycling collections, Street Cleansing, Grounds maintenance, Cemetery maintenance and Bin deliveries is budgeted to cost the Council £6,552,103 this year (2020/21).
- 4.2. As a comparison the Ubico contract budget to perform the same services cost the Council £6,044,540 in 2019/20.
- 4.3. Ubico has proposed a budget for 2021/22 as £6,983,315.

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- 4.4. The year-on-year increase is partly a result of the introduction of the new waste and recycling service in March 2020 and increased waste volumes which can partly be attributed to the effects of the Covid-19 pandemic and large proportions of residents remaining/working from home.
- 4.5. Over the last six months officers have been reviewing potential savings achievable through improved system design and this would be the focus for the period of the contract extension with the creation of an Environmental Services Improvement Programme (ESIP) which aims to:
- Improve the services provided to residents and communities
 - Reduce costs for the Authorities, Publica and Ubico
 - Improve existing systems, processes and structures
 - Reduce service failure
 - Increase use of digital platforms so customers can effectively self-serve
 - Reduce the carbon produced by environmental services
 - Make business information current and visible, using it to make informed strategic and operational decisions

5. LEGAL IMPLICATIONS

- 5.1. The Council has a statutory requirement to perform Domestic Waste and Recycling collections as the Waste Collection Authority, Street Cleansing, Grounds maintenance, Cemetery maintenance and Bin deliveries. These services are provided by Ubico under the terms set out in a contract dated the 1st of April 2012.
- 5.2. The contract term is for a period of 10 years and will expire on the 31st March 2022 unless an option to extend the contract for up to five years is exercised. This option must be exercised by giving not less than 12 months notice prior to the last day of the term which is the 30th March 2021.
- 5.3. Clause 28 of the contract envisages that, subject to satisfactory performance by Ubico, any extension of the contract will be on the provisions of the current contract. Clause 2.2 provides that the Council may seek to extend the contract and states that “*During the Extension, the obligations under the Agreement shall continue (subject to any Variation)...*” Therefore, as a matter of contract, there is ability for the parties to seek to agree a variation of the current terms, subject to any procurement law considerations. This will enable the Council to negotiate a variation to the contract to include the matters referred to in paragraph 4.5 above.
- 5.4. It is anticipated that, from the authority’s perspective, the contract extension will include a performance review at 2 years based upon expected outcomes which will need to be set out in a formal Deed of Variation to the existing contract.
- 5.5. Having given notice to extend in accordance with Clause 28.1, the authority will then be able to discuss a potential variation up to the point of the contract termination date. Otherwise, the contract will be extended on its current terms.

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6. RISK ASSESSMENT

- 6.1. The Council does not have the option of simply stopping these functions, so needs to continue delivering them directly or through a third party.
- 6.2. The risks associated with the options available to the Council are set out in the Strengths and Weaknesses section of this report [Annex B - **Commercially Sensitive**]

7. EQUALITIES IMPACT

- 7.1. None associated with this report.

8. CLIMATE CHANGE IMPLICATIONS

- 8.1. None associated with this report.

9. ALTERNATIVE OPTIONS

- 9.1. The Council can choose to enact a contract extension with Ubico or re-tender the contract for Domestic Waste and Recycling collections, Street Cleansing, Grounds maintenance, Cemetery maintenance and Bin deliveries with an alternative provider. Given the risks surrounding the economy as a result of the Covid-19 pandemic and uncertainty surrounding Brexit, it would be unlikely to receive any competitive bids, when compared to that currently being paid to Ubico. In addition, significant one-off costs associated with a new procurement (£100,000+) would need to be accounted for and the Council would miss the partnership opportunity it has to work with Ubico on a sustainable solution for future service provision in Gloucestershire/Oxfordshire.

10. RECOMMENDATION

- 10.1. In order to maintain delivery of the Domestic Waste and Recycling collections, Street Cleansing, Grounds maintenance, Cemetery maintenance and Bin deliveries, and as a result of the Covid-19s pandemic and Brexit, Officers believe that entering into a 5 year extension with Ubico (from 1st April 2022 until 31st March 2027), with a performance related review at 2 years, would be the best solution at this time. This should allow enough time for outside influences to play out and for Ubico to work with the council to deliver further efficiencies as part of the Environmental Services Improvement Programme (ESIP) in support of the Authorities Medium Term Financial Strategy

11. BACKGROUND PAPERS

- 11.1. None