

LATS TRADING AGREEMENT
WDA/01/09

Recommendation

That:

1. the contract for the purchase of allowances detailed in the report be approved;
and
2. the Clerk be authorised to affix the Seal of the Authority to the contract.

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LATS TRADING AGREEMENT
WDA/01/09

Report of the Director

1. Purpose of the Report

- 1.1 To seek Authority approval to enter into an agreement with a partnership of North East Local Authorities for the purchase of Landfill Allowances and to authorise the Clerk to affix the Seal of the Authority to the contract.

2. Background

- 2.1 At a meeting of the Authority held on 22nd February 2008, Members considered options for the acquisition of Landfill Allowances for the trading years 2009/10 up to 2012/13, to offset the predicted deficit of allowances for Merseyside.
- 2.2 Delegated powers of the Authority were granted to the Director, in consultation with the Chairperson and the Treasurer to enter into a trade with a partnership of North East Local Authorities, which was based on the requirements set out in that report.
- 2.3 Negotiations with all parties have been on-going and a contract agreement has now been drawn up which requires the Seal of the Authority.

3. Trading Agreement

- 3.1 The previous LATS report identified a shortfall in available Landfill Allowances for Merseyside from 2009/10 onwards to enable the Authority to landfill Biodegradable Municipal Waste (BMW), based on the Waste Flow Model used as part of the Procurement Programme.
- 3.2 Given that the predicted deficit was a forecasted position, the proposed trade detailed in that report aimed to secure only a proportion of the deficit and was as follows:

| Scheme Year | 2009/10 (Target Year) | 2010/11 | 2011/12 | 2012/13 (Target Year) |
|---------------------------------|------------------------------|----------------|----------------|------------------------------|
| Original MWDA Projected Deficit | 82,040 | 114,355 | 155,348 | 115,483 |
| Original Trade Proposed | 79,700 | 66,700 | 53,700 | 40,700 |
| Remaining Deficit after Trade | 2,340 | 47,655 | 101,648 | 74,783 |

3.3 Subsequent to this report and prior to finalising the trade agreement, the Authority's Waste Flow Model was updated with the latest performance information, district council action plans and trends in the municipal waste stream.

3.4 The most significant amendment to the model related to annual waste growth which, historically, had been applied at 3% growth. However, in recent years waste growth has slowed significantly and in some instances, has even shown an overall reduction in some years.

3.5 The revised Waste Flow Model has therefore been based on yearly growth of less than 1% and the net effect of this has been a reduction in the amount of BMW sent to landfill which in turn has reduced the anticipated shortfall of Landfill Allowances required for Merseyside.

3.6 In view of this, the level of the proposed trade has been reviewed and the following revised trade has been negotiated:

| Scheme Year | 2009/10 (Target Year) | 2010/11 | 2011/12 | 2012/13 (Target Year) | Totals |
|---|------------------------------|----------------|----------------|------------------------------|---------------|
| Revised MWDA Projected Deficit (Tonnes) | 49,034 | 73,859 | 105,984 | 75,159 | 304,036 |
| Proposed Allowances to be purchased | 40,000 | 53,795 | 43,451 | 33,130 | 170,376 |
| Cost @ £20 / allowance (£) | £800,000 | £1,075,900 | £869,020 | £662,600 | £3,407,520 |
| Projected Deficit (Tonnes) | 9,034 | 20,064 | 62,533 | 42,029 | 133,660 |

3.7 The allowances identified equates to 80% of the available allowances which the partnership of North East Local Authorities anticipate for each year, with the

exception of 2009/10 where the Authority is only seeking to acquire a reduced amount given the predicted deficit for that year. The agreement makes provision for the Authority to have first refusal to purchase further allowances from the partnership if available at the same price, should the need arise.

- 3.8 The proposed agreement also includes options for trades in 2013/14 and 2014/15. Although at present the Resource Recovery Contract is scheduled to deliver sufficient diversion to meet Merseyside requirements in these years, this option may need to be taken up if there is any slippage in the Procurement Programme for this contract. Should the option for these additional trades be required, it will be subject to further approval by Members at the appropriate time.
- 3.9 It is worth noting that the proposal covers four LATS Trading years, two of which are target years. The trading scheme allows for some movement of allowances between years with the exception of target years, where unused allowances cannot be moved either into or out of the accounting year. Given these restrictions, trading in target years is subject to greater market forces than non-trading years.
- 3.10 The proposed contract agreement has now been drawn up and will need to be signed by the Authority and each of the North East Local Authorities who are acting in partnership.
- 3.11 Members will note that the document requires the Seal of the Authority to be affixed. This report therefore makes a specific request for approval to allow the Clerk to affix the Seal in line with the Authority's Procedural Rules.

4. Risk Implications

- 4.1 Whilst the Procurement Programme seeks to eliminate the need for additional landfill allowances in the future, the Authority still faces a predicted deficit of allowances in the medium term.
- 4.2 The strategy to trade now is not without risk however, particularly as it is based on future waste flows, which in the current economic climate are difficult to predict with any degree of certainty.
- 4.3 In addition to this, the market for Landfill Allowance Trading has also proved difficult to predict. The market is driven by supply and demand, where essentially, if there are more allowances than needed nationally, then the value of allowances is negligible, as is the case in the current year. Alternatively, as allowance allocations reduce year by year, the probability of there being an overall shortage of allowances will increase if improved diversion cannot keep pace. If and when this happens, then the trading price of allowances will be at a premium.

- 4.4 The Authority is therefore taking a balanced view by trading part of its predicted deficit up to and including the 2012/13 year. This provides a degree of financial certainty, whilst the option in the trading agreement for further purchases provides the flexibility to make purchases which meet the Authority's precise needs when known.

5. Financial Implications

- 5.1 The price secured in the agreement is £20 per allowance for each year. This is comparable with other trades taking place for allowances in the 2009/10 target year which range between £18 and £35.
- 5.2 The Authority needs to include sufficient funds in its budget for 2009/10 to purchase the full projected deficit of 49,034 allowances. This cost is based on the assumption that the predicted balance of 9,034 remaining after the purchase of allowances through this agreement will be needed and can be acquired for a similar price of £20 per allowance.
- 5.3 A sum of £1M has been built into the budget for 2009/10 accordingly. Provision for future years will be reviewed annually and based on the full predicted deficit of allowances and known market prices as the situation evolves.

6. Conclusion

- 6.1 Members are asked to approve the agreement with the partnership of North East Local Authorities and to authorise the Clerk to apply the Seal of the Authority to the contract.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.