

APPENDIX A PROPOSED STRATEGY FOR AMPHORA

To: Colchester Commercial Holdings Ltd Board

Date: 26 September 2023

From: Interim Managing Director

1. PURPOSE

1.1 Taking account of the current external environment, and in particular, its impact of the City Council's ability to accommodate risk, to propose a future strategy for Amphora, based on the refocussing and simplification of the current arrangements.

2. BACKGROUND

2.1 The Amphora group of companies, comprising a holding company (**Colchester Commercial Holdings Ltd**) and three subsidiaries were incorporated in 2017 as Local Authority Trading Companies. They are wholly owned by the City Council and were intended to generate income for the authority, including in the form of dividends and, in some instances, to take advantage of Government grants for the development of new forms of energy generation (a low carbon heat network) and the roll out of fibre, which were not readily available at the time to Council directly.

2.2 The subsidiary companies are:

- * **Colchester Amphora Trading Ltd (CATL)**, which delivers a range of services, some of which are genuinely trading, such as Events, Helpline and Colchester Fibre, whilst others are essentially functions provided back to the City Council, such as estates management or support with the delivery of the capital programme.
- * **Colchester Amphora Homes (CAHL)**, which was intended to deliver new housing by borrowing from the City Council to acquire land and cover the costs of development. This approach was intended to take advantage of the ability of local authorities to borrow more cheaply than a commercial organisation. The plan was to focus, in particular but not exclusively, on the development of new homes as part of the Northern Gateway.
- * **Colchester Amphora Energy Ltd (CAEL)**, which was designed to take advantage of grant regimes available at the time to bring about the development of a low carbon heat network, again to support the development of the Northern Gateway.

2.3 Much has been achieved as a result of these arrangements and the companies have attracted some committed and highly skilled staff. However, over time, a succession of reviews (the City Council's Corporate Peer Challenge in 2022, a review by Ethical Consulting and subsequently by CIPFA (the Chartered Institute of Public Finance and Accountancy), Appendix 2, have pointed to improvements required. At the heart of these lies the need to revisit the purpose of the companies, taking account of significant changes in the external environment in which both the City Council and therefore its trading companies now find themselves.

3. CHANGED CONTEXT

3.1 There are various facets that have contributed to a changed context in which the City Council and therefore its trading companies find themselves in, but these include:

- * A more **challenging economic environment**, which has included higher costs and more subdued property values. Amongst other things, this has resulted in greater **strain on the City Council's finances** and **reduced its ability to accommodate risk**. This is especially significant for the original plans for new housing to be delivered by CAHL and the approach to the development to the Northern Gateway; in essence, the City Council's ability to fund investments through its companies, taking the risk that these would result in a commercial return, is considerably more constrained now than in the past.
- * As a result of the difficulties in which some councils elsewhere have found themselves, greater scrutiny of local authority borrowing.
- * Less emphasis on grants being made to arm's length bodies, rather than councils themselves, to support initiatives such as low carbon energy and fibre connectivity.

3.2 Meanwhile, locally, the City Council has been reviewing aspects of its operations. Mostly notably in this context, is its approach to the management of assets and it is anticipated that the City Council will move to a '**corporate landlord**' model, where decisions about its assets are taken corporately, rather than left to individual service areas to determine. This approach has much to commend it and does entail a move away from a rather dispersed approach to asset management, with different functions being discharged by different parts of the 'Colchester family'.

3.3 Particularly in view of these changed circumstances and developments, it is appropriate for the Board to review the future strategy for Amphora and to consider the best approach to meeting the City Council's objectives.

4. SUPPORTING THE CITY COUNCIL'S STRATEGIC OBJECTIVES

4.1 As part of the 'Colchester family', the starting point for any review of Amphora's strategy should be to consider how best the delivery of the City Council's strategic objectives can be supported, against the background of the changes mentioned in paragraph 3.1 above. Particularly important in this context are the Council's objectives relating to the Northern Gateway, housing and wider regeneration, the move to low carbon energy generation and the economic development of the City.

4.2 The planning permissions in place for the **Northern Gateway** recognise the strategic significance of the site to Colchester and provide for a mixed-use development, covering employment, housing, leisure and health facilities. Various teams within the Amphora group have been supporting the delivery of the development, including with the relocation of the rugby club and the creation of a new sports centre, and the leisure and retail element of the site, currently referred to as Turnstone. The full development is impacted by the need to secure infrastructure enhancements, including the upgrading of junction 28 on the A12 and associated road improvements, which again Amphora has been supporting. However, there is a dependency here on Essex County Council (ECC), as the highways authority, and National Highways. Until these infrastructure works have been agreed with the highway authorities and delivered, other aspects of the development cannot be progressed. This includes the housing and heat network, for which CAHL and CAEL were established to deliver.

4.3 In effect, the City Council has assumed the role of master developer for the Northern Gateway, funding key elements of the scheme, albeit with some third-party contributions, in anticipation of future value from rental income from premises created, capital receipts (from selling the private housing element of the development) or dividends from the Amphora companies supporting the delivery of different elements of the overall project. However, the factors described in 3.1 mean that it is now questionable whether the City Council can continue to act as a master developer, and this therefore has implications for the Amphora companies. This is especially compounded by rising construction costs and more subdued property values.

4.4 All this does not mean that the City Council should abandon its aspirations for the Northern Gateway. Some compromises may need to be struck, but the change in circumstances should propel a review of the strategic delivery options available, as an alternative to the Council acting as a master developer. These include joint venture arrangements, or even a partial or full disposal of the site, or a combination of both. In this context, while it may no longer be appropriate for Amphora to play the roles envisaged originally, the skills within the company could be repurposed to assist with the assessment of strategic delivery options and the management of which ever option or combination of options is selected by the City Council. For a development scheme of this nature, it is especially important that the Council has access to the appropriate skills. It is also important that the Northern Gateway is managed as a 'multifaceted programme' to understand the interplay between the different elements of the development and to manage the links between the development and the Council's Medium Term Financial Plan and Capital Programme.

4.5 The City Council's **housing and wider regeneration** objectives are arguably more important than ever as the 'cost of living crisis' compounds the difficulties experienced by an increasing number of residents in finding somewhere to live that is within their means. Although many councils established Local Authority Housing Companies in a similar way to Colchester, in practice, few have been able to make a significant contribution to housing supply through such vehicles. This is because the factors set out in paragraph 3.1 mean that, like Colchester, many councils are now unable to accommodate the financial risks associated with advancing funds to their housing companies in the hope that this will result in both new homes and a commercial return to the sponsoring authority. This reinforces the suggestion made by CIPFA, as part of their review referred to in paragraph 2.3, that Amphora Homes should be 'hibernated' or moved to a dormant status, as the prospects of it being able to recover its costs in the foreseeable future are currently limited. However, as with the Northern Gateway, the skills within Amphora could be used by the Council in a different way that helps it to develop and deliver a strategy to alleviate the emerging housing crisis in Colchester. This might include supporting the delivery of existing housing locations with the Local Plan, exploring the scope to put forward sites within the Council's ownership for potential housing development in the forthcoming 'call for sites' and helping to overcome obstacles to several garage site redevelopments.

4.6 The delays with the development of the Northern Gateway site have inhibited the ability of CAEL to complete the low carbon heat network and its prospect of generating an income in the foreseeable future; in essence, CAEL will have no customers to sell the heat that would be generated by the network it was established to create until homes and other facilities are built. CAEL has no influence over the timing of when this will be. It is for this reason that CIPFA recommended that CAEL should be hibernated and that the assets created (bore holes) should be transferred to the City Council. Proposals for this hibernation are included elsewhere on this agenda. In due course, the Council will need to consider how it wishes to deliver the operational management functions of the heat network that CAEL was to perform. In the meantime, the climate change agenda and the concern to move to **low**

carbon forms of energy generation remains a strategic priority for the City Council. Once again, the skills within Amphora have the potential to help the Council in working towards these ambitions, including by supporting the delivery of the micro grid and solar panel farm proposed for the northern part of the Northern Gateway and arguably other projects within the Council's Capital Programme. As with the housing and regeneration objectives, it would make sense to redeploy these skills, even though the original intention to apply them through a quasi-commercial model is no longer viable for the reasons set out in paragraph 3.1. Assuming these skills remain within Amphora (but transferred to CATL), the associated costs would need to be reflected in a review of the Management Fee paid to the company by the City Council.

4.7 The City Council is also concerned to strengthen and enhance the **economic performance** of Colchester. A number of services delivered by Amphora contribute to this objective but the role of **Colchester Fibre** is particularly relevant in this context. The origins of Colchester Fibre lie in a recognition of the importance of access to broadband connectivity to future business development, including for the creative sector, as well as to residents. Colchester secured a Government grant of c£3.3m to support the roll out of full fibre broadband at a time when the city was not well served by commercial suppliers. Over time, a network has been created that is currently serving about 500 residential customers and 80 businesses in the city and beyond, as well as delivering operational savings from broadband provision to the City Council within its own assets. Whilst Colchester Fibre is technically loss making at the moment, it has the potential to grow significantly, and a number of options are being reviewed for expanding both the residential and the business customer base with several third parties who are interested in partnering with the company. These options require proper appraisal and assessment and recommendations for Colchester Fibre will be brought forward to the Board when this has been completed. In the meantime, the proposal is that Colchester should remain part of Amphora for the time being.

4.8 The City Council's recently adopted Strategic Plan reflects a commitment to deliver **modern services** and the use and maintenance of the Council's assets has the potential to make an important contribution to that objective, and, indeed, the others discussed already. In this context, the City Council commissioned CIPFA to carry out an Asset Management Review which, as mentioned in paragraph 3.2 above, has recommended a move to a **Corporate Landlord** model. Currently, Amphora delivers an estates management service for the City Council in return for a management fee, whilst facilities management support is provided by Colchester Borough Homes. Although the current distribution of functions across the Colchester family could be accommodated within a Corporate Landlord model, the current arrangements have led to some ambiguities. In view of this, it is anticipated that the City Council will wish to repatriate all asset-related functions within the local authority.

5. CAPITAL PROGRAMME DELIVERY

5.1 Amphora employs several staff with technical and other project-management related expertise that are needed to support the delivery of the City Council's Capital Programme, including schemes that are funded from the authority's own resources, including borrowing, accessing external funding such as grants either from Government or others, or developer contributions. The costs of these staff are recouped from a combination of a management fee and project specific charges. Theoretically, the skills could be traded, ie. offered to third parties on a chargeable basis but in practice the scope for this has been constrained by capacity considerations.

5.2 The City Council is seeking to strengthen its approach to project delivery, which is to be welcomed as at times ambiguity over the sponsorship, scope, financial and time parameters for projects has led to confusion, potential rework and, historically, strained relations. Arguably, the current charging arrangements have deterred some Council staff from drawing on the necessary technical expertise that exists within Amphora to the detriment of project delivery.

5.3 Going forward, there are three main options for those services that Amphora currently provides to support the delivery of the Council's capital programme:

- (i) Transfer the staff into the City Council
- (ii) Retain the current arrangement but move to a management fee covering the full costs of the service provided to the City Council
- (iii) Move to a Shared Service model

5.4 None of these options would negate the need for proper project management disciplines and procedures to be applied consistently as described in paragraph 5.2 above. But the first and second might help overcome the current disincentive for the City Council to take technical advice when needed. The third option could help deliver financial benefits and resilience and is a recognition that many authorities are struggling to source the required technical skills to deliver their capital programmes and end up resorting to expensive consultants or agency staff. Some preliminary discussions have commenced with one authority about a shared service option, but these arrangements require a genuine commitment politically and managerial to work, and effective governance.

5.5 Pending further analysis of the viability of a Shared Service model, it is recommended that the second option is pursued for the time being, not least as this would leave open the other two options later.

6. TRADED SERVICES

6.1 The residual services delivered by Amphora through CATL cover **Events, Helpline and CCTV**, the latter of which is closely linked to the capability created by Colchester Fibre. These services are already servicing customers beyond the City Council; for example, Events has secured contracts with two other neighbouring councils. As a group, they are profitable and indeed there could be scope to grow this income further. Although there is a need to agree any appropriate mechanism for continued investment, they are not capital intensive and can trade in a way that does not expose the City Council to unmanageable risk.

6.2 Conceivably, these services could be brought into the Council and continue to trade but they have developed a reputation and a culture which should not be jeopardised. On balance, there is no obvious advantage to be gained from moving them out of a company structure, especially if that were simplified by virtue of the proposals set out in this report, including with more proportionate overheads.

6.3 As these services win business from other customers, the 'Teckal', arrangements which allow local authorities to place work with any commercial companies they have established without market testing that work, can no longer be relied upon. This is because of the increased likelihood that the proportion of Amphora's turnover that is accounted for by customers, other than the City Council,

would exceed the appropriate legal thresholds. In other words, it becomes more likely that the City Council cannot place work with Amphora without some form of market testing. This does bring a degree of risk with it, as the company could lose business to competitors. This will need to be monitored regularly.

6.4 As with the support for the delivery of capital projects, there is the potential for at least some of the services delivered to move to a Shared Services model if there was a genuine appetite for this amongst other councils.

7.0 FINANCIAL IMPLICATIONS

7.1 Detailed work will be required with the City Council to model the full impacts of the proposals set out in the report. However, the underpinning assumptions are that:

- * Where staff and functions are transferred into the City Council, there is a reduction in the management fee paid to Amphora, taking this into account.
- * Where staff are retained within Amphora, but they provide support to the City Council, the costs of this are recovered fully from the Council through an appropriate management fee.
- * Traded services are given the maximum scope to realise their true potential of generating future income to the Council. This includes a review of overhead costs charged by the City Council through the current Service Level Agreement. There will also need to be and an agreed approach to investment in the companies in order that they remain competitive.

7.2 Projections for Traded Services based on current contracts are set out in Appendix 1.

7.3 The transfer of residual assets and liabilities arising from the proposed hibernation of CAEL and CAHL will need to be agreed with the City Council in a way that protects the interests of both parties.

8.0 STAFFING IMPLICATIONS

8.1 The strategy set out in this report has significant staffing implications and as such appropriate staff consultation is planned. However, if the principle of redeploying skills within Amphora in the way described is accepted, whilst some staff may end up working for a different part of the Colchester family, they should not be disadvantaged in terms of their conditions of employment.

9.0 RISKS

9.1 This strategy is designed to respond to the substantive risks that flow from the circumstances described in paragraph 3.1 and in particular to the constraints on the City Council's ability to accommodate risk.

9.2 Risks that will need to be monitored closely arising from this strategy, include the potential loss of staff if the delivery of the proposals is not managed carefully. Some staff who currently work for Amphora but who would transfer to the Council if the proposals set out in this report are agreed, might not welcome such a move due to their perspectives about the differences in culture between a local authority and trading company and the value that might be placed on their professional expertise by

a local authority. Unless managed carefully, this could also compromise the City Council's ability to recruit appropriate expertise in the future.

9.3 It will also be important to review regularly the Teckal implications of further trading as described in paragraph 6.

9.3 None of the proposals negate the need for effective working relationships within the Colchester family at all levels, nor the application of appropriate project management disciplines as described in paragraph 5.4.

10. TRANSITION PLANNING

10.1 Without pre-empting decisions the made by the Board and the City Council on this proposed strategy, transition planning is underway, including to cover:

- * Staff communication
- * Staff consultation on the implications of the proposed transfer of functions
- * Financial implications based on the principles set out in paragraph 7
- * Future company structure and governance
- * Programme management arrangements for the Northern Gateway and the assessment of strategic delivery options
- * Consideration of how those teams that would transfer from Amphora onto the City Council would be accommodated within the Council's management arrangements and the operation of the 'Corporate Landlord' model in practice and the delivery of future housing support
- * Measures to mitigate the risks identified in 9 above

11. CONCLUSION

11.1 Much has been achieved through the Amphora arrangements but a change in the external environment and in particular the City Council's ability to accommodate risk requires a new strategy for the future. At the heart of this lies a simplification of Amphora to focus on services which can genuinely trade, the hibernation of CAEL and CAHL and the repurposing of skills within the company to support the delivery of the City Council's strategic objectives.

12. RECOMMENDATIONS

12.1 The Board is recommended to endorse the strategy set out in the report and commend it to the City Council, based on the following core elements:

- A move to a simplified Amphora with a focus on services which can genuinely trade and thereby bring financial benefits to the City Council.
- The hibernation of CAEL and CAHL but the repurposing of the skills they contain to support the delivery of the Council's strategic objectives.

- The transfer of the Estates function and the staff within it to the City Council as part of a move by the local authority to a Corporate Landlord model.
- For the time being, the retention of those staff who support the delivery of capital projects within Amphora but on the basis that their costs are met in full by the City Council through a management fee, pending the further exploration of a Shared Services model with other councils.
- A further report on the opportunities and implications of developing Colchester Fibre.

12.2 The Board commissions a report on a revised company structure, reflecting the simplification proposals set out in the proposed strategy.