



London Borough of Enfield

Title of Report:	MW HIF – PCSA Final Settlement
Report to:	Ian Davis - Chief Executive
Date of Report:	28 November 2023
Directors:	Penny Halliday – Director of Meridian Water
Report Author:	Lydia Boxer – (lydia.boxer@enfield.gov.uk)
Ward(s) affected:	Upper Edmonton
Key Decision Number	KD5400
Implementation date, if not called in:	11 December 2023
Classification:	Part 1 & 2 (Para 3)
Reason for exemption	Paragraph 3 of Schedule 12A to the Local Government Act 1972 (as amended): Information relating to the financial affairs of any particular person including the authority holding that information

Purpose of Report

1. The purpose of this report is to obtain approval of the settlement proposal with the first ranked Framework Contractor Taylor Woodrow to complete the Pre-Construction Service Agreement (PCSA), including additional services that have been provided by VINCI Construction UK Limited during the PCSA and prolongation of the programme period.

Recommendations

- I. Approve the settlement proposal with the first ranked Framework Contractor VINCI Construction UK Limited to complete the Pre-Construction Service Agreement.
- II. Authorise expenditure in relation to the settlement proposal to complete the Pre-Construction Service Agreement (also detailed in the confidential Appendix A).

Background and Options

2. In September 2020 Cabinet approved (KD5181) the entry by Council into a Contractor Framework Agreement, as well as entry into a Pre-Construction Services Agreement (PCSA) with VINCI Construction UK Limited for the delivery of the Strategic Infrastructure Works.
3. In February 2023 approval was obtained (KD5400) to vary the scope of the PCSA with VINCI Construction UK Limited to account for additional services that had been provided during the PCSA period and prolongation of the programme, as well as the instruction of demolition and archaeology works.
4. The February 2023 authority report (KD5400) also approved an allowance for additional scope items to cover critical items of work to maintain programme and potential prolongation and cost movement as result of protracted funding decision by DLUHC.
5. This report seeks to draw down against this approved allowance to approve the PCSA settlement offer, covering further variation requests, prolongation cost as well as additional payments due as a result of the Value Engineering (cost saving) /Shared Savings clause in the PCSA agreement.
6. Authorisation to enter into the Main Works contract with VINCI Construction UK Limited as well as authorisation of the associated expenditure was authorised in August 2023 (KD5570).

PCSA Settlement Proposal

7. The final PCSA settlement covers the items set out in the table below:

Description of Change / Variation
New Planning Performance Agreement Strategy
Bridge B5 Design Amendments
Thames Water Utilities - Design Fee
Transport for London – Transport modelling fee
Additional Security Requirements Demolition Works
Prolongation PCSA Core Team Cost
Value Engineering/Shared Savings payment
Total

8. The first two items are historic items that have been instructed between August and December 2022 for which we are seeking authority:
 - New PPA strategy - instructed to produce a planning strategy for design changes and agree a Planning Performance Agreement with the LPA for those changes.
 - Bridge B5 design – instructed to amend bridge design for B5
9. The recent variation requests from VINCI Construction UK Limited for which Instructions have been give relate to the following items:
 - *Design of drinking water distribution system*
 - TfL Transport Modelling – fee to update the traffic model to reflect the latest junction layout as requested by TfL.

- Additional security – due to *risk* posed by travellers occupying nearby site, VINCI Construction UK Limited are undertaking additional security measures to prevent occupation of Orbital Business Park
 - Extended PCSA Core Team Cost – due to delayed funding decision / main contract award
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10. It should be noted that the PCSA was scheduled to be complete in March 2022 and some cost of core team up to October 2022 have been agreed as part of the settlement that was reached in July 2022. However, the PCSA wasn't completed in October 2022 and is expected to be ongoing until early 2024. Therefore, the additional core team cost picks up historic staff and subcontract PCSA commitments, as well as additional design change claims for the period after October 2022.
 11. All variations, as well as the *delay* cost have been assessed by the Council's Cost Consultant and are considered reasonable and reflective of cost incurred, which Enfield Council has received the benefit of
 12. The settlement figure *also* includes additional payments due because of the cost saving clause in the PCSA agreement. This clause sets out that the contractor is due the payment of shared savings equal to 50% of the total saving value.
 13. VINCI Construction UK Limited developed several cost saving proposals that have been incorporated in the Main Works Price offer. Key savings identified by VINCI Construction UK Limited includes recycling of demolition waste for use on site

Cost and Funding

14. The total value of the settlement proposal is set out in part 2 of this report.
15. The anticipated total cost to complete the Pre-Construction Service Agreement can be covered from the budget allowance in the Meridian Water Capital Programme for HIF Street Works.
16. The PCSA costs are eligible for HIF funding and can be claimed back in arrears on a quarterly basis from DLUHC in the form of preliminary funding.

Preferred Option and Reasons for Preferred Option

17. Under the terms of the PCSA VINCI Construction UK Limited is entitled to additional fees for the additional services provided, the prolongation of the PCSA period, as well as the additional payments due because of the Value Engineering / Shared Savings clause in the PCSA. The settlement offer is considered reasonable and represent value for money and has been recommended by Council's Cost Consultants on the project (Turner & Townsend).
18. Refusal to pay reasonable additional fees may be a breach of contract by LBE and VINCI Construction UK Limited would be entitled to suspend services under the contract, which would result in significant disruption to the project delivery of SIW works.
19. It should also be noted that the settlement proposal made by VINCI Construction UK Limited has been put forward as their best and final offer in conjunction with

their price offer for the Construction Phase. Not accepting the settlement offer for the PCSA risk opening price negotiation for the main works contract, which is likely to delay the construction phase. Any delay *further* to the construction programme would put the HIF funding at risk.

Relevance to Council Plans and Strategies

20. The Strategic Infrastructure Works delivered through the HIF funding is key to unlocking the development of Meridian Water and contributes to the priorities of the Council's Corporate Plan:

a. Good homes in well-connected neighbourhoods

The Strategic infrastructure at Meridian Water is key to building more and better homes in Enfield. It is also key to delivering and driving investment to deliver growth in Enfield. Further to this, a key aim in the Council Plan is to complete government funded strategic infrastructure works for Meridian Water, which include a major new road and public park.

b. Safe, healthy, and confident communities

The Strategic Infrastructure works underpin placemaking capability at Meridian water that will contribute to reducing reliance on cars and increasing walking, cycling and public transport at Meridian Water and it will also contribute to opportunities to visit and enjoy parks and open spaces.

c. An Economy that works for everyone

The Strategic Infrastructure Works at Meridian water are key to shaping the economy of Meridian Water and allowing the economic growth of Meridian Water to be filtered out to connecting areas throughout Enfield, attracting jobs, business growth and supporting Enfield residents and the local economy.

Financial Implications

21. See Part 2 of the report.

Legal Implications

22. The increase in the original contract sums under the PCSA that has previously been approved under separate reports (KD5400 and ROD309) and the increase in contract sum that is the subject of this report will need to be captured within a deed of variation (DOV) to the PCSA. The DOV shall be required to set out the detail of all the variations that amount to the increases in contract price. The form of DOV must be approved by the Director of Law and Governance.

23. The general power of competence in s.1 (1) of the Localism Act 2011 states that a local authority has the power to do anything that individuals may do provided it is not prohibited by legislation and subject to Public Law principles. This power would encompass the power to enter into contracts and any variations to the contracts entered into.

24. Please note the Equalities Implications set out below that are relevant to Meridian Water project and in particular the EQIA referred to there. The Council has a Public Sector Equality Duty under section 149 of the Equalities Act 2010., and sub-section 1 states:

25. (1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Equalities Implications

26. The Council has a duty to promote equality, diversity, and inclusion, and it recognises the issue of diversity specifically within the construction sector.
27. An Equalities Impact Assessment (EQIA) by Ottaway Strategic Management Ltd was commissioned by the Council to consider the impacts of the Meridian Water (Strategic Infrastructure Works) Compulsory Purchase Order. The EQIA concluded that there are no direct negative equality impacts identified against any of the protected characteristics. However, there are some groups with protected characteristics who are likely to experience proportionately higher consequences of the regeneration of Meridian Water and these are:
- White other staff, including Eastern European, Turkish and Greek
 - BAME Staff
 - Women in properties in third party ownership; and
 - Older members of the workforce potentially less able to re-engage in the labour market if their jobs are lost to the relocation programme.
28. The EQIA proposed several mitigation measures to address these indirect impacts which the Council intends to implement including the implementation of effective equalities monitoring by the Council and development and construction partners. The EQIA also acknowledges significant potential positive impacts of the regeneration of Meridian Water (including for example, new homes, social infrastructure, and employment growth) and that these benefits will likely impact on all the aforesaid groups having protected characteristics.
29. An EQIA was also prepared by the Council's Strategic Planning Team to support the ELAAP submission. The planning application for Phase 2 and more recently the approval of the Meridian West Supplementary Planning Document was also subject to an EQIA. No substantive negative impacts to persons or groups with protected characteristics were identified.

Environmental and Climate Change Implications (if any, delete if not relevant)

30. There are no environmental implications arising directly from this decision. Increasing the train regularity at Meridian Water station is important for providing good public transport links and reducing reliance on private fossil fuel car use, but we understand and agree with this report to first prioritise unlocking the new homes to be built.

Other Implications

Procurement Implications

31. The original procurement of a framework for the Strategic Infrastructure Works was undertaken using the London Tenders Portal (ref DN372948) under an OJEU process overseen by the Procurement and Commissioning (P&C). The original procurement was also for the Council to enter into a PCSA with the top ranked contractor. KD5181 approved the framework award and the entry into a PCSA with the top ranked contractor. The contract has been uploaded to the London Tenders portal.

Report Author: Lydia Boxer
Project Manager
Lydia.boxer@enfield.gov.uk
020 8132 2587

Background Papers

EQIA