MUNICIPAL YEAR 2017/2018 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:

Cabinet Member for Economic Regeneration & Business Development

REPORT OF:

Executive Director – Regeneration & Environment

Agenda – Part: 1

KD Num: 4439

Subject: Direct Appointment and Instruction of National Grid via Exemption

Wards: Upper Edmonton & Edmonton

Green

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1. EXECUTIVE SUMMARY

- In order to accelerate the delivery of homes for the Housing Zone the Council is under taking remediation activities on the Willoughby Lane and Meridian Way sites. Approval is sought for works as part of the remediation budget approved by Cabinet in KD 4229.
- 1.2 National Grid own gas infrastructure on the Willoughby Lane and Meridian Way sites. Relocating this infrastructure releases the remaining land development of the site and enables completion of remediation. Initial National Grid (NG) design works and minor diversion works is underway (approved via KD 4421).
- 1.3 Approval is sort for the next phase of NG works:

(B) Phase 2

Delivery of the new relocated Pressure Reduction Station (PRS), new gas mains and decommissioning of redundant infrastructure.

1.4 There is only one supplier of the works, which is National Grid who own the infrastructure.

2. **RECOMMENDATIONS**

It is recommended that the Cabinet Member for Economic Regeneration and Business Development authorises placing of orders with National Grid for the scope outlined in 1.3 (B) above comprising construction of the new relocated PRS and associated gas pipework for the Willoughby Lane site.

3. BACKGROUND

- 3.1 Meridian Water is a pivotal regeneration scheme, which has the potential to accommodate over 10,000 new homes and 6,700 new jobs by 2030. The Meridian Water Masterplan was adopted in 2013 as Planning and Urban Design Guidance Material Consideration, and provides a framework for the delivery of this new community adopted by the council in July 2013 (Key Decision: 3699).
- 3.2 The Council has identified Barratt as the preferred master developer for Meridian Water and is finalising negotiations before entering into the Master Development Agreement.
- 3.3 A remediation contractor framework has been procured and selected. The Council has procured the remediation works through the framework resulting in a contract for soil remediation so the Willoughby Lane site can be used for development purposes and the building of houses. There are however certain associated works which the Council needs to deliver outside of the contract which includes the diversion and relocation of the existing gas supply infrastructure (gas pipes of varying pressures and a pressure reduction station (PRS)).
- 3.4 The Willoughby Lane site was formerly used for the production of town gas. The sites are to be redeveloped for housing, with areas of public open space and a new railway station. The first phase of construction is intended to be completed by 2018 / 19, with further phases to follow.
- 3.5 The site history has led to some contamination presence, for which there are remediation strategies to bring the sites into beneficial use. Part of the remaining planned remediation requires the removal or diversion of live gas infrastructure which is owned by National Grid. A remediation budget for the Willoughby Lane and Meridian Way sites was approved as part of the wider Meridian Water budget in February 2016 (Key Decision: 4229) and included the cost of the required removal or diversion of services. Note that diversions means making existing pipes redundant and replacing with more strategically located pipes elsewhere.
- 3.6 The relocation/removal of the gas infrastructure (PRS and related pipework) is essential to maximise the potential of the development sites. The PRS is the last remaining live NG infrastructure on the site, which blights the Zone 1 development due to its unattractiveness and inefficient layout. Critically, the land it occupies remains in NG ownership, thus a land swap is being arranged whereby a new PRS will be placed in the far north of Zone 1, which will have less visual impact. Its relocation will create both more value enabling approximately 80 additional homes to be built. Furthermore, the removal works will enable a safe development via the remediation clean up. The gas infrastructure includes low, medium and intermediate pressure gas pipes, which all connect to a PRS in the south-east of the Willoughby Lane site.
- 3.7 The development programme requires the removal or diversion of particular gas pipes. Works can be split into three: i) removal of a medium pressure gas pipe that traverses from the PRS, through a subway under the rail lines and

across the north of the Tear Drop site where it joins a pipe in Meridian Way Road – a new pipe will be laid southwards down Meridian Way turning west on to Leeside Road where it connects to an existing pipe (inspection of this pipe to determine the pipe material is required as part of the works); ii) design of a new PRS in the north of the Willoughby Lane site and diversion of existing pipes, followed by iii) construction of the new PRS and diversion of existing pipes. These are all critical items in the programme that leads to the housing development. This paper is concerned with iii), which follows i) and ii) that were procured in 2016 (Key Decision: 4421) – drawings are presented in Appendix 1 to illustrate the location of the works.

- The works are part of the existing agreed allocated budget and enables both the effective remediation of the site and allows key development infrastructure to be installed, such as piles for housing and new utilities (e.g. drainage, water, heat and electricity) for the new housing. There is only one possible supplier of the works, which is National Grid who own the infrastructure this is due to the importance of control of the health & safety of any intrusive works undertaken and protection of their own assets.
- 3.9 The PRS relocation will result in it taking up a smaller area. This smaller area is strategically located and will release 0.3ha more land for the development of housing by relocating the PRS. This may represent approximately 80 homes.
- 3.10 The purpose of this paper is to i) communicate the breakdown of the cost involved; and ii) recommend that orders are placed to meet the programme.

4. Cost

- 4.1 The detailed cost can be found in Part 2 of this report.
- 4.2 A small number of assumptions have been made in deriving the scope and cost estimate. If any of the assumptions turn out to be incorrect, some aspects of the works may lead to an increase in costs. Below can be found the assumptions made.

4.3 Design of New PRS and Diversion of Gas Pipes

The costed scope is based on the following assumptions:

- The new PRS will require a planning application. Any requirement for a planning application will be undertaken by Arup, Enfield Council's planning consultant.
- Any requirement for site investigations will be undertaken by Amec Foster Wheeler, Enfield Council's site investigation consultant.
- The requirement for build up of soils underlying the new PRS will be undertaken by Hydrock, as part of the soils remediation contract and budget.
- The requirement for utility grade material surrounding the pipes and trench excavation and backfill will be undertaken by Hydrock, as part of the soils remediation contract and budget.
- The soils remediation contractor will remediate the land prior to the new PRS or pipes being laid.

- Due to the value of the PRS construction, including the laying of new pipes, NG's framework contractors will competitively bid for this work, representing best value.
- The original estimate was from 2015. It is assumed that there will not be increases beyond 4% representing inflation (reference: www.rics.org - BCIS Construction Briefing, September 2016).
- The cost is an estimate. It is assumed that there will be no more than 20% fluctuation due to accuracy of the initial estimate. The estimate for the works are paid up front and if there is an underspend, then Enfield Council will receive a refund.

5. Cost Certainty

Cost estimates are presented Part 2 of this report.

6. Conclusion

To enable the site for development the site must be remediated and part of that includes the relocation and diversion of gas infrastructure. This gas infrastructure is owned by National Grid and only they can undertake the work. Orders need to be placed with National Grid to enable the development to proceed as programmed.

7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 No other suppliers considered because only National Grid can undertake work on their own asset.
- 7.2 Doing nothing would result in the current building configurations needing redoing, which would then require another planning application to be submitted this would have a significant programme delay with regards to building homes. This is because the current drainage and services configuration takes the same route as the intermediate pressure (IP) main, i.e. it is crucial that it is removed.
- 7.3 Doing nothing would also mean two of the building blocks are too close to the IP main and would require a smaller footprint. This could result in a lower number of homes being delivered and thus a lower land receipt value for the Council.

8. REASONS FOR RECOMMENDATIONS

Only National Grid can undertake work. Without constructing the new gas infrastructure development of the site would be a significant constraint and remediation would not be effectively completed. The resulting relocation of the PRS shall release tand within Willoughby Lane for development and also significantly increase the value of the site by removing the unsightly infrastructure.

9. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

9.1 Financial Implications

The 2016-17 budget report approved by Council in February 2016 (KD:4229) included the Meridian Water Capital Programme budget for the year 2016-18 inclusive of a forecast budget for remediation. Part 2 report confirms the cost amount and that it can be contained from within this budget at no additional borrowing cost to the Council.

9.2 Legal Implications

- 9.2.1 Section 1 of the Localism Act 2011 permits the Council to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles.
- 9.2.2 There is a proposal to award the contract to the company cited in the report by way of a direct contract award. The contract, under the Public Contracts Regulations 2015 ("the Regulations "), is a works contract and of a value which is below the relevant EU threshold (£4.1m) which would oblige the Council to put the contract out to tender via OJEU (except where an exception applied), meaning that the contract can be awarded under the auspices of the Council's Contract Procedure Rules (" CPR") whereby an exception to tendering can be applied [as per Section 9 - Exceptions to Competitive Tendering 1. Provided the appropriate processes are complied with, as laid out in Section 9.3 of the CPR (viz. ".. the Director must be able to demonstrate that any decision not to seek competitive tenders fully complies with this Rule 9, was reasonable in all the circumstances and was in the best interests of the Council. The decision must be recorded in writing and all documentation supporting the decision must be retained.") then there should be negligible risk to the Council in awarding the contract to the company, as proposed.
- 9.2.3 The resultant contract must be in a form agreed by the Assistant Director, Legal Services, Finance, Resources, and Customer Services.

9.3 Property Implications

- 9.3.1 Strategic Property Services supports the essential relocation of this gas infrastructure in order to accelerate the delivery of homes for the Housing Zone the Council is undertaking with particular attention to the remediation activities on the Willoughby Lane and Meridian Way sites.
- 9.3.2 Strategic Property Services (SPS) is aware that relocation of gas infrastructure, particularly the Pressure Reduction Station and remediation works are potentially expensive and time consuming issues and have the capacity to adversely affect the development programme.
- 9.3.3 Furthermore, actual costs for these works should, at the appropriate time, be compared against the budgeted cost within the development appraisal following the acquisition from National Grid PLC to ensure that overall viability on this plot is maintained and represents Value for Money.

9.4 Procurement Implications

As referenced above, National Grid are the only providers who can realistically deliver this activity under the preferred method identified. As such, this procurement has been conducted as an exception to competitive tendering, under clause 9.1.10 of the Council's CPRs [included below for transparency].

"Where the goods, services or works are only available from a single supplier or are available only at a fixed price and no suitable alternative is available in accordance with EU procurement law."

10. KEY RISKS

- 10.1 Cost consideration for the increase in cost has been made above and reasonable increase above previous quotes has been allowed in the approval. This still fits comfortably within the overall remediation budget as approved.
- 10.2 Time National Grid have set procedures once orders are placed and delays are not unusual. The existing orders for the PRS design and diversion of the existing MP main early goes part way to mitigating the potential for delay. Furthermore, by already working with National Grid gives a better understanding of their procurement procedures and how long they take, which we can account for with more confidence.

11. IMPACT ON COUNCIL PRIORITIES

Fairness for All, Growth and Sustainability and Strong Communities

Fairness for All, Growth and Sustainability, Strong Communities

Meridian Water is the Council's major regeneration project and is key to
delivering outcomes for residents that will improve their housing, education
and employment opportunities and improve their quality of life and wellbeing.

12. EQUALITY IMPACT IMPLICATIONS

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report to approve remediation activities on the Willoughby Lane and Meridian Way sites.

13. PERFORMANCE MANAGEMENT IMPLICATIONS

All elements of the Meridian Water Development are subject to robust performance management systems.

14. HEALTH AND SAFETY IMPLICATIONS

The relocation of National Grid gas infrastructure on the Willoughby Lane and Meridian Way sites is necessary to enable the remediation and development of the sites. The remediation of the sites, in compliance with the CDM Regulations 2015, will in turn mitigate risks and ensure the sites are suitable

for the end uses, including providing a satisfactory level of amenity, safety and security.

15. PUBLIC HEALTH IMPLICATIONS

The supply of energy to households is a basic necessity and fundamental to public health.

16. HUMAN RESOURCES

N/A.

Background PapersNone



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PORTFOLIO DECISION OF:

Cabinet Member for Economic Regeneration & Business Development

REPORT OF:

Executive Director – Regeneration & Environment

Agenda – Part: 1 KD I

KD Num: 4440

Subject: Meridian Water Zone 1 Site Investigation & Remediation Related Works

Wards: Upper Edmonton & Edmonton

Green

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1. EXECUTIVE SUMMARY

- 1.1 In order to accelerate the delivery of homes for the Housing Zone the Council is under taking remediation activities on the Willoughby Lane and Meridian Way sites. Approval is sought for works as part of the remediation budget approved by Cabinet in KD 4229.
- 1.2 Cognition Land and Water Ltd ("Cognition") are undertaking critical groundwater remediation works and Amec Foster Wheeler Environment & Infrastructure UK Ltd ("Amec") are providing essential advice, supervision and consultancy support for the overall site investigation and remediation works (approved via KD 3973 and KD 4109).
- 1.3 Approval is sort for the continuation of groundwater remediation and consultancy works for key scope under existing contracts, which will extend the duration and value of these contracts, which will extend the duration and value of these contracts. As part of this work a licence fee to access Network Rail land may be required.
- 1.4 Cognition are the sole supplier of the groundwater remediation solution being used.
- 1.5 Amec are contracted via a government framework.

2. RECOMMENDATIONS

It is recommended that the Cabinet Member for Economic Regeneration and Business Development:

authorises an extension of existing contracts with Cognition and Amec (comprising groundwater remediation and consultancy support) and a possible access licence fee payable to Network Rail, as part of the general remediation scope for Willoughby Lane and Meridian Way sites to cover additional scope.

3. BACKGROUND

- 3.1 Meridian Water is a pivotal regeneration scheme, which has the potential to accommodate over 10,000 new homes and 6,700 new jobs by 2030. The Meridian Water Masterplan was adopted in 2013 as Planning and Urban Design Guidance Material Consideration, and provides a framework for the delivery of this new community adopted by the council in July 2013 (Key Decision: 3699).
- 3.2 The Council has identified Barratt as the preferred master developer for Meridian Water and is finalising negotiations before entering into the Master Development Agreement.
- 3.3 The Willoughby Lane site was formerly used for the production of town gas and the Meridian Way (also known as Tear Drop) site for coal storage. The sites are to be redeveloped for housing, with areas of public open space and a new railway station. The first phase of construction is intended to be completed by 2018 / 19, with further phases to follow.
- 3.4 A remediation contractor framework has been procured and contractor selected (Hydrock Contracting Ltd via Key Decision: 4438). The Council has procured the remediation works through the framework resulting in a contract for soil remediation so the Willoughby Lane site can be used for development purposes and the building of houses. There are however certain works which the Council is delivering outside of the contract which includes the remediation of shallow groundwater (by Cognition via Key Decision: 3973). Consultancy Amec was selected to undertake site investigations, remedial strategies and oversee the remediation as client's representative (via Key Decision: 4109). Amec were appointed via a direct call-off from the Crown Commercial Service Framework for Environmental and Sustainability Advice, Support and Delivery Services (Ref:RM830 Lot 16 Built Environment) to support the delivery of the Meridian Water project.
- 3.5 The site history has led to some contamination presence, for which there are remediation strategies to bring the sites into beneficial use. A site investigation and remediation budget for the Willoughby Lane and Meridian Way sites was approved as part of the wider Meridian Water budget in February 2016 (Key Decision: 4229). The Key Decisions detailed in Section 3.3 were for the groundwater remediation were to cover a defined scope over the first two years and consultancy support via Amec that will last until end 2017. Further costs for additional groundwater remediation scope as defined in Cognition's original proposal, to meet regulatory requirements, and consultancy support in 2018 need authorising from the remediation budget mentioned above.
- To complete the detailed quantitative risk assessment of the underlying Chalk Principal Aquifer, which is linked to a planning condition requirement, one off-site borehole is required to be drilled by Cognition. It is possible that Network Rail will require a licence fee for accessing their land. No other suitable locations could be found. An allowance is required for this potential licence fee.

3.6 The purpose of this paper is to i) communicate the breakdown of the cost involved; and ii) recommend that further orders are placed under existing contracts to meet the programme.

4. Cost

- 4.1 The detailed cost can be found in Part 2 of this report.
- 4.2 The council has an existing contract with Amec which is based on a government procurement framework which was subject to OJEU and that utilises rates from 2012. This offers good value considering the works are to be undertaken in 2018.
- 4.3 Should the groundwater remediation not be required for the full programme duration, due to achieving the regulatory requirements, then costs would not be encountered.

5. Cost Certainty

5.1 Cost estimates are presented Part 2 of this report.

6. Conclusion

6.1 To enable the site for development the site must be remediated and part of that includes the remediation of shallow groundwater and related consultancy support. Orders need to be placed with Cognition and Amec to enable the development to proceed as programmed. Furthermore, an order may need to be placed with Network rail to enable a critical borehole to be drilled.

7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 No other suppliers considered because only Cognition have licence to use the remedial technology (Key Decision: 3973). Amec has been working closely with the Council for the last few years in a highly successful partnership. They have a significant understanding of the Willoughby Lane site and the Council's objectives and have built effective working relationships with key stakeholders especially the Environment Agency. The potential impact of another procurement process could be the loss of knowledge and delay. Network Rail are the land owner and may require a lease cost to be paid; being the land owner there are no other alternatives.
- 7.2 Doing nothing would result in not being able to discharge planning conditions resulting in stalling of delivering key housing in the borough.

8. REASONS FOR RECOMMENDATIONS

8.1 Only Cognition and Amec can undertake the work and only Network Rail can give access to the land to drill the borehole. To discharge planning conditions related to the development the risk assessment must be completed and remediation must be effectively completed. The resulting suitable for use and safe development of Willoughby Lane and Meridian Way will significantly increase the value of the site by mitigating the environmental risks.

9. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

9.1 Financial Implications

The 2016-17 budget report approved by Council in February 2016 (KD:4229) included the Meridian Water Capital Programme budget for the years 2016-18 inclusive of a forecast budget for remediation. Part 2 report confirms the cost amount and that it can be contained from within this budget at no additional borrowing cost to the Council.

9.2 Legal Implications

- 9.2.1 Section 111 of the Local Government Act 1972 gives a local authority power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The services required from Amec and Cognition, and the access licence from Network Rail, as proposed within this report are incidental to the functions of the Council and are intended to help ensure an effective provision of services and support to the Council.
- 9.2.2 The Council also has a general power of competence in s.1 (1) of the Localism Act 2011. This states that a local authority has the power to do anything that individuals generally may do provided it is not prohibited by legislation. The recommendations set out in this report are consistent with this power.
- 9.2.3 The Council must comply with all requirements of its Constitution, Contract Procedure Rules ("CPRs") and, as the Amec and Cognition contract values exceed the EU threshold, the Public Contracts Regulations 2015 ("Regulations").
- 9.2.4 CPR 19 (Variations to the Scope of Contracts) allows a contractor to carry out additional works or services that were not included in the original contract but which, through unforeseen circumstances, have become necessary, provided such services or works do not exceed 50% of the value of the original contract and such services or works represent best value. It has been confirmed that the conditions set out in CPR 19 have been met in relation to the Amec and Cognition contracts. Cabinet must agree variations that are Key Decisions.
- 9.2.5 Pursuant to regulation 72 of the Regulations, contracts may be modified without a new procurement procedure where a change or contractor (i) cannot be made for economic or technical reasons; or (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided any increase in price does not exceed 50% of the value of the original contract. It has been confirmed that the Council is compliant with regulation 72 of the Regulations in relation to the Amec and Cognition contracts. The Council must comply with the notification requirements set out in regulation 72 of the Regulations.
- 9.2.6 Throughout the engagement of Amec and Cognition as service providers, the Council must comply with its obligations of obtaining best value, under the

Local Government (Best Value Principles) Act 1999. The Council must keep a clear audit trail of its decision to award these services to Amec and Cognition to demonstrate that best value has been, and will continue to be, obtained for the Council.

9.2.7 All legal agreements arising from the matters described in this report must be approved in advance of contract commencement by the Assistant Director of Legal and Governance Services.

9.3 Property Implications

There are no direct property implications. As noted in the Financial Implications above, remediation costs are factored into the overall development appraisal for the scheme. Regular quarterly reporting ensures that there is an up-to-date understanding of the overall financial picture at any given time. This helps enables confirmation that the scheme remains viable as calculated by the Council's property advisors.

10. KEY RISKS

10.1 The key risks for the Amec contract extension can be considered as the following:

Financial risk. The Council may not recover its investments into projects. **Mitigation -** The Meridian Water programme has been subject to a comprehensive financial model noted by Cabinet in Report KD4229. The financial model includes for professional fees from the years 2016/17 onwards. The money being requested to fund Amec for part of the years 2017/18 and 2018/19 forms part of the fee allocation in the financial model. In fact, continuing to pay for services from the remediation allocation of the Neighbourhood Regeneration Capital Budget reduces the financial risk as it is a critical factor in meeting the Council's objectives on timescales and increasing the value of the Council's land in Meridian Water.

10.2 The key risks for the Cognition contract extension can be considered as the following:

Whilst the EA have authorised the Cognition method they will still need to sign off the operation after is has been in operation. Not gaining EA signoff following 1 year's operation; **Mitigation** - provision has been made within the budget for a 2nd and if necessary 3rd year as a mitigation measure.

- 10.3 Development programme preventing completion of planned works due to access issues. **Mitigation** the remedial approach is flexible and can operate in tight spaces and furthermore, so long as it can be demonstrated that 'best efforts' were made in the time opportunity available, then all stakeholders should be satisfied.
- 10.4 Presence of DNAPL (hydrocarbon contamination) under the rail lines in a natural depression in the geology making it difficult to extract. **Mitigation** Additional mitigation measures w.r.t. piling design may be required if residual DNAPL contamination is left on-site; note that the planned deep piling approach already uses a method to mitigate vertical migration. This risk will

be dealt with via the developer's Foundations Works Risk Assessments (as per the planning condition), which will outline these aspects.

- 10.5 Dust or vapour generation from the site **Mitigation** Boundary monitoring will be put in place and any corrective action will be taken as and when necessary.
- 10.6 The exclusivity agreement in the contract is until 31st December 2018 Mitigation In advance of this date, a review of the requirements for additional works (if any) will be undertaken and options for procurements (e.g. extension of proposed contract, further market testing) put forward for consideration.

11. IMPACT ON COUNCIL PRIORITIES

Fairness for All, Growth and Sustainability and Strong Communities

Fairness for All, Growth and Sustainability, Strong Communities Meridian Water is the Council's major regeneration project and is key to delivering outcomes for residents that will improve their housing, education and employment opportunities and improve their quality of life and wellbeing.

12. EQUALITY IMPACT IMPLICATIONS

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report to approve remediation activities on the Willoughby Lane and Meridian Way sites.

13. PERFORMANCE MANAGEMENT IMPLICATIONS

All elements of the Meridian Water Development are subject to robust performance management systems. Regular monitoring of the programme and contract will ensure value for money is obtained and support effective delivery.

14. HEALTH AND SAFETY IMPLICATIONS

The remediation of soils and groundwater at Willoughby Lane and Meridian Way sites is necessary to enable the development of the sites. The remediation of the sites, in compliance with the CDM Regulations 2015, will in turn mitigate risks and ensure the sites are suitable for the end uses, including providing a satisfactory level of amenity, safety and security.

15. PUBLIC HEALTH IMPLICATIONS

It would be dangerous to build housing on land for which there was no assurance that this land itself would not harm human health. This work is therefore necessary as a precursor to the building of needed housing.

16. HUMAN RESOURCES

N/A.

17 Background Papers

None

