

MUNICIPAL YEAR 2018/2019 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:
Cabinet Member for Regeneration

REPORT OF:
Executive Director – Place

Contact officer and telephone number:
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Agenda – Part: 1

KD Num: 4669

Subject: Meridian Water Station – Public
Realm Construction

Wards: Upper Edmonton & Edmonton
Green

1. EXECUTIVE SUMMARY

- 1.1 In order to deliver the new Meridian Water Station, it is essential to complete the adjoining public realm works to allow public access to the station.
- 1.2 Enfield Council, in order to protect its position tendered for these works through our Remediation Framework. No contractor responded to the invitation to tender for various reasons among which a lack of capacity was quoted.
- 1.3 VolkertFitzpatrick, the appointed contractor (By Network Rail) to build the new Meridian Water station were approached to submit a cost plan for delivering the public realm works and an estimate for entering into a Pre-Construction Service Agreement (See Part 2)
- 1.4 Given the failure of recent procurement exercises and the need to get a contract in place a waiver of Contract Procedure Rules (CPRs) has been approved by the Head of the Council's P & C Hub to appoint VolkertFitzpatrick as this is essential to avoid Enfield Council incurring significant penalty costs should the station opening be delayed beyond May 2018.

2. RECOMMENDATIONS

It is recommended that the Cabinet Member for Regeneration:

- 2.1 Authorises the appointment of VolkertFitzpatrick under a Preconstruction Service Agreement (PCSA) to complete the design of the public realm works and enter into a contract to deliver those works
- 2.2 Authorises the appointment of VolkertFitzpatrick to carry enabling works associated with the awarded contract
- 2.3 Authorises the appointment of VolkertFitzpatrick to construct the Meridian Water Station public realm and enter into a NEC 3 form of contract with a value not exceeding £2,000,000.
- 2.4 It is recommended that the contracts are in a form approved by the Director of Law and Governance.

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 delivery of the station and wider public realm is essential to open up the area for regeneration and provide a key into both central London and the employment hub of Cambridge.

Initially Enfield had expected Barrett London as its preferred development partner to undertake these works. Following the withdrawal of BL and the delay in concluding negotiations with PCPD it was considered essential for Enfield to undertake the work by directly engaging a contractor.

- 3.3. Following a robust and compliant tendering exercise involving six contractors no submissions were received from the contractors approached. Feedback from the contractors indicated that the timing of the work and proximity of the station development were significant obstacle, also stated was the current lack of capacity.

4. Cost

- 4.1 The detailed cost can be found in Part 2 of this report.
- 4.2 The council has an existing agreement with Network Rail and an ongoing relationship with VolkersFitzpatrick (VFP) to design and build the new Meridian Water station.
- 4.3 The purpose of the PCSA is to refine the design of the public realm works and with VFP tendering the individual works packages provide cost certainty for delivery

The synergy of undertaking these works concurrently with the station and by the same contractor will reduce site preliminaries and avoid abortive duplication of effort

5. Cost Certainty

- 5.1 Cost estimates are presented Part 2 of this report.

6. Conclusion

- 6.1 To enable achieving a timely completion of the public realm works appointing VFP is considered the most economically advantageous tender route providing both value for money and quality that compliments the station design.

7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 Use of an appropriate framework was undertaken but no companies chose to bid.
- 7.2 Doing nothing would result in not being able to discharge planning conditions, failure to comply with Enfield's Customer obligations under the implementation agreement with Network rail to deliver the new Meridian Water Station resulting in stalling of delivering of the station and potentially open the Council liable to prohibitive penalties from Network Rail. Ultimately delay with works could delay the opening of the station service by 12 months until May 2020

8. REASONS FOR RECOMMENDATIONS

- 8.1 Only VFP have the capacity and willingness to undertake the work in the required timescales

9. COMMENTS OF THE EXECUTIVE DIRECTOR OF RESOURCES AND OTHER DEPARTMENTS

9.1 Financial Implications

- 9.1.1 The approved re-profiled capital budget for the period ending in September 2018 includes provision for Station Public Realm

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.
- 9.2.2 The Council has a general power of competence in section 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 proposed works and services which the Council wishes to provide are in accordance with this power.
- 9.2.3 The contract consists of services and works, the dominant category being works. In terms of procurement law, the contract is therefore treated as a works contract and is below the threshold (currently £4,551,413.00) where an EU procurement is required under the Public Contracts Regulations 2015.
- 9.2.4 The contract must be procured in accordance with the Council's Constitution and in particular with Contract Procedure Rules (CPRs). As the anticipated contract value exceeds £250,000 and the contract will have a significant impact on the local community in one or more wards, this is a Key Decision and the Council must comply with the process for Key Decisions including publication of the proposed award in the Forward Plan (see CPR 1.22.4).

- 9.2.5 Legal Services has been advised by Council officers that a waiver of the Council's CPRs regarding tendering has been obtained for this contract. The Head of Procurement has confirmed that the waiver has been approved.
- 9.2.6 The Council will need to ensure that it obtains Best Value as required under the Local Government Act 1999. The Council must keep a clear audit of its decision to award this contract to ensure that Best Value has been and will continue to be obtained.
- 9.2.7 The contracts must be in a form approved by the Director of Law and Governance.

9.3 Property Implications

- 9.3.1 There are no property implications arising from this procurement

9.4 Procurement Implications

- 9.4.1 A waiver of Council's Contract Procurement Rules has been approved to take account of the urgency to engage a suitable contractor.

10. KEY RISKS

- 10.1 The key risks for using VFP are:

Financial risk. The Council may not recover its investments in the station and any delay in opening the station would render Enfield liable to significant financial penalties (liquidated damages) from Network Rail.

Mitigation – early award of contract to VFP with a joint project team regime working together with the station delivery team will ensure delivery on time, within budget cost and with a quality commensurate with the finished iconic new station

11. IMPACT ON COUNCIL PRIORITIES

11.1 Fairness for All

Meridian Water will deliver fairness for all by providing homes of different tenures, types and sizes to meet the diverse need of the community. In addition, it will create well managed open spaces making Meridian Water a key destination and a place where people want to live, work and play. The decision to terminate the master developer procurement process will enable these benefits to be delivered more quickly and with the potential for a better return for the tax payers of Enfield.

11.2 Growth and Sustainability

Meridian Water will deliver new homes, jobs and infrastructure: both major new physical and transport infrastructure and social infrastructure

including medical facilities, schools, nurseries, community centres, parks and gardens. Clean and green energy will be provided by the Lee Valley Heat Network, which will ensure that the development is environmentally sustainable.

11.3 Strong Communities

The new neighbourhood at Meridian Water will be designed to foster social cohesion through a series of physical and social interventions, such as direct pedestrian, cycle and other connections into existing neighbouring community for example Angel Edmonton; and position new community facility to encourage a mixed use by both existing communities and future new residents. The new Meridian Water station and public realm will in itself serve as a hub where existing and new communities will mingle and interact.

12 EQUALITY IMPACT IMPLICATIONS

- 12.1 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 Authorise the appointment of VolkersFitzpatrick.
- 12.2 It should be noted that projects or work stream deriving from this may be subject to a separate Equalities Impact Assessment. Therefore, any projects or work stream will be assessed independently on its need to undertake an EQIA to ensure that the council meets the Public Sector Duty of the Equality Act 2010. In addition any contracts awarded should include a duty on the successful applicant to assist us with meeting our obligations under the Equalities Act 2010.

13 PERFORMANCE MANAGEMENT IMPLICATIONS

Delivery of a comprehensive regeneration scheme at Meridian Water is a corporate priority within the Council's Business Plan for 2016-2018. Completion of the Masterplan and the delivery of phased infrastructure improvements including increased rail services, station improvements and new homes will help to meet the strategic priority: "a borough that attracts inward investment and supports sustainable regeneration and growth."

14 HEALTH AND SAFETY IMPLICATIONS

There are no health and safety implications for this procurement. Completion of the Meridian Water Public realm will create a safe environment for residents and station users.

The Meridian Water Project bringing widespread improvements in transport, accessibility, and comprehensive remediation of contaminated brownfield sites will have positive health and safety benefits for the local

community and the future residents, workers and leisure users at Meridian Water.

15 PUBLIC HEALTH IMPLICATIONS

Meridian Water has significant potential to improve public health. Part of the necessary development will be to ensure good public transport which will increase everyday physical activity and help to reduce car usage.

16. HUMAN RESOURCES

N/A.

17 BACKGROUND PAPERS

None

18 APPENDICES

General Arrangement Plan showing scope of works

Copy of Waiver

Before completing this form, please click on link below to check that this is not an Exemption.

If your Procurement is Exempt from CPRs then completion of this form is not required.

If Exempt and the Supplier needs to be added to Neptune (so that Purchase Order can be raised), please complete the Supplier Request Form. Within not been used, there will be an option to select the exemption from a list.

[Supplier Request Form](#)

To check if the procurement is an Exception click on link below.

Exceptions

I am completing this form because:

It is a Waiver of CPRs

Type of Contract

Works

Title of Contract

Meridian Water Station - Public Realm Works

Total spend anticipated over duration of contract

E2,000,000

(including extensions options) or, if unknown, over 4 years.

Have the goods or service already been provided?

No

Person completing this form

Alan Westlake

Project Owner / Buyer (if different to above)

Alan Westlake

Job Title of Project Owner / Buyer

Enabling and Building Works Lead

Department

ENV / Regen

Team

Regeneration - Meridian Water

Phone Number

0208 379 4771

E-mail

alan.westlake@enfield.gov.uk

Name of Supplier

VolkersFitzpatrick

Is Supplier set up in Neptune (PO System)?

No

Please complete Supplier Request form and send with this completed form. Failure to do so will result in it being rejected. Thanks.

Contract Start Date

01-Jun-18

Contract End Date

31-Mar-20

Cost Centre that will be charged for invoices relating to this

C202138 64951

Detailed description of the product / service being provided and the reason for this request.

Provision of public realm adjoining the new Meridian Water Station including new traffic controls and pedestrian crossing; pedestrian access to and from new station, emergency vehicle access, disabled and staff parking.

Enfield Council are procuring these works because the Master Developer negotiation with Barratts were aborted and subsequent negotiations with PCPD did result in a deal there would not be sufficient time for them to deliver all the works before the station is due to open.

Delivery of these facilities would have been the responsibility of Enfield Council's development partner (Barret London and subsequently PCPD).

The provision of these facilities is a contractual obligation upon Enfield Council as part of the contract between Enfield Council and Network Rail in delivering the station (the client's obligation) failure to deliver these by the time the station opens 31 March 2019 would render Enfield Council liable to a penalty until the work is completed.

Enfield Council, in order to protect its position tendered for these works through our Remediation Framework. No contractor responded to the invitation to tender.

VolkersFitzpatrick, the appointed contractor (By Network Rail) to build the new Meridian Water station were approached to submit a cost plan for delivering the public realm works - their quoted cost for completing the work has been reviewed by external cost consultants and is considered representing value for money.

Given the failing of recent procurement exercises and the need to get a contract in place the waiver of PCR is essential to avoid Enfield Council incurring significant penalty costs.

How does this represent best value?

Failure to engage through framework tendering for a contractor and the delay in Enfield Council to enter into a delivery partnership has made this route essential to avoid significant penalty payments.

VolkersFitzpatrick's cost plan aligns with previous cost estimates and will be subjected to due diligence to ensure that cost is in line with prevailing market rates.

What is the risk associated with the approval of this procurement (financial/political/reputation)?

Detailed response required if

Approval of this procurement mitigates risk rather than create it

Financial - Enfield Council is obliged to provide public realm interfacing with the station in order for the station to be commissioned and operate as designed and planned by Network Rail and the planning consent.

If the works are not complete to a satisfactory standard and condition (NR decision with Abellio as operator) then this could impact on the opening of the station.

The cost of delay would be incurred by Enfield as the Customer of the Implementation Agreement as part of the Emergency cost nature of the

I confirm my approval to the submission of this document; and that it represents the best terms that are reasonably obtainable. I have taken the necessary advice and confirm that this request will not breach EU or UK regulations. If it does breach the law then the attached report addresses the risk of challenge. I confirm that the necessary budget is available to enter into this contract.

Level 5 SRM Approver Name

Peter Geroge

Has your Director been consulted in this process?

No

Approver, please copy in your relevant Director on the e-mail when you send this.

Approver to e-mail this form to Tendering@enfield.gov.uk

No Procurement is to commence until Approval by AD Procurement & Commissioning Hub

FOR Proc Comm Hub Use

Authorised by Procurement & Commissioning Hub

Procurement & Commissioning Hub Comments

London Tenders Portal Reference Number

