

## MUNICIPAL YEAR 2018/2019 REPORT NO.

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

### OPERATIONAL DECISION OF:

Executive Director Resource in consultation with the Executive Director Place

**Agenda – Part: 1**

**KD Num: KD4757**

**Subject:** Contract Variation - multidisciplinary services contract for HIF

**Wards:** Upper Edmonton

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### 1. EXECUTIVE SUMMARY

- 1.1 On 25 July 2018 Cabinet approved the submission of a bid for the Housing Infrastructure Fund for receipt of funding to deliver strategic infrastructure in Meridian Water (KD 4711).
- 1.2 To work up detailed grant application Enfield Council appointed a civil engineering-led multi-disciplinary team with the experience and expertise to support the strategic infrastructure design and planning and lead the HIF bidding process, on behalf of the Council. (KD4620).
- 1.3 For reasons listed in this report additional services need to be carried out to finalise the HIF funding application, which were not included in the original contract to inform the HIF Business Case.

### 2. RECOMMENDATIONS

It is recommended that the Executive Director Resource in consultation with the Executive Director Place:

- 2.1 Approve the Variation to the existing contract to cover the additional services identified;
- 2.2 Authorises the authorised legal officer to complete and sign the Deed of Variation.
- 2.3 See part 2 of this report

### **3. BACKGROUND**

#### **3.1 Introduction**

- 3.1.1 In September 2017 the Greater London Authority (GLA) submitted, on behalf of Enfield Council, an Expression of Interest for the Housing Infrastructure Fund (HIF) to build strategic infrastructure in Meridian Water. The HIF is a government capital grant programme aimed to unlock housing sites and help deliver new homes.
- 3.1.2 On 20<sup>th</sup> March 2018 the Ministry for Housing, Communities and Local Government (MHCLG) confirmed that the GLA / Enfield Council had successfully passed the Expression of Interest stage and were asked to work up a detailed grant application in the form of a Green Book compliant Business Case.
- 3.1.3 Following the submission of the Expression of Interest the Regeneration Team identified the need to appoint a civil engineering-led multi-disciplinary team with the experience and expertise to support the strategic infrastructure design and planning and lead the HIF bidding process, on behalf of the Council.
- 3.1.4 In consultation with LBE procurement, the Regeneration Team carried out a procurement process, using the GLA/TfL Framework Agreement for the provision of Architecture, Design and Urban Consultancy Services (ADUP). A mini-competition was run in accordance with the terms of the ADUP Framework and the appointment of the preferred bidder was authorised by the Executive Director – Finance, Resources and Customer Services on 12 February 2018 (KD4620). The procured services are funded from the existing Capital Programme and ultimately, if the Council is successful in its bid for HIF Funding, will be reimbursed from the funding contributions of the Housing Infrastructure Fund.
- 3.1.5 Cabinet authorised a bid of £120m for the Housing Infrastructure Fund (KD4711) and under delegated authority the Director of Meridian Water has increased the scope of works for the funding application to a total value of £156m. This decision was made following a steer from Central Government that the Council could increase the funding ask and further site appraisals which demonstrated that additional levelling and flood mitigation works are required to deliver the housing at Meridian Water.
- 3.1.6 In consultation with the GLA it was decided to defer the funding application by three months from September to early December 2018. This allowed the team to carry out further transport modelling work in consultation with Transport for London, which subsequently will result in a significantly stronger bid and improve the likelihood of a successful outcome

## **3.2 Reasons for Variation**

- 3.2.1 The original appointment of a civil engineering led multi-disciplinary team included the essential surveying, design, planning and project management services, thought to be required to develop the HIF funding application by the submission deadline in September 2018. However, the team has now identified additional services that need to be carried out to inform and finalise the HIF Business Case which will now be submitted by the Council in December 2018.
- 3.2.2 The tendered scope of services was based on assumptions about what level of detail was required for the funding application, but it was only after the appointment of the successful tenderer that the MHCLG published the funding application template uncovering the exact level of detail required.
- 3.2.3 During the preparation of the business case, further site appraisal had been undertaken to develop the funding scope. The output of appraisal demonstrated the need for essential infrastructure works required to deliver scope proposed at EOI stage. This includes remediation and earthworks required to address the flood risks and to design the plot levels to mitigate potential flood risks. The proposed funding has therefore increased from £120million at EOI stage to £156 million.
- 3.2.4 Furthermore, the GLA in consultation with the Council decided to defer the submission of the HIF funding application from September to December 2018. The Council was required to carry out more detailed transport modelling to help strengthen the HIF Business Case. This requirement is in addition to the initial scope included in consultant's appointment.
- 3.2.5 For these reasons, extra professional services will be required to ensure a successful business case submission on 3 December 2018. The increased scope of services covers the following:
- Additional flood modelling and assessment work to assess the earthworks required and site level designs;
  - Transportation modelling fees to inform the WebTAG lite business case as well as the output required for HIF planning application in early 2019;
  - Advisory services to prepare for site investigation works to assess the extent of remediation required as well as the associated costs.
  - Advisory services to address planning impacts due to land acquisition strategies;
  - Additional professional fees required for the development of business case write-up due to extended deadline from September 2018 to December 2018.

### **3.3 Value for Money**

- 3.3.1 The additional services identified to inform and finalise the HIF funding application can be financed from the approved budget of the Regeneration Team.
- 3.3.2 The current consultant was procured on a competitive basis for the original contract and apart from a high quality response that showed excellent ability to undertake the work, their rates are competitive compared to the other bidders.
- 3.3.3 Furthermore, if we need to procure the additional services we lose valuable time and potentially lose the current consultant who have all knowledge of the early work already carried out. Other companies will need time to catch up and get up-to-speed with the project. Delays at this stage are likely to result in an inability to submit the funding application by the submission deadline of early December 2018, which will lead to missed opportunity to secure £156m of funding for strategic infrastructure in Meridian Water in early 2019.

### **3.4 Contract**

- 3.4.1 The original contract is a call-off contract under the Framework Agreement for the provision of Architecture, Design and Urban Consultancy Services (ADUP), which was signed by the successful tenderer and Enfield Council in February 2017.
- 3.4.2 See part 2 of this report.
- 3.4.3 The ADUP framework agreement provides the possibility of a variation by mutual agreement between both parties and requires a deed of variation to the original contract.

### **3.5 Cost and Funding**

- 3.5.1 The estimated cost to deliver the additional services is set out in part 2 of this report.
- 3.5.2 The expenditure for the tasks set out within this report are to be funded from within the existing Capital Programme initially and ultimately reimbursed from the funding contributions of the Housing Infrastructure Fund.
- 3.5.2 Confirmation from Central Government on whether Enfield Council/GLA have been successful in securing the HIF funding is expected in February 2019. If the bid is successful, all capital works must be completed by March 2023. Therefore, the Council has adopted

a proactive strategy to initiate work that is on the critical delivery path and an accelerated programme of design and procurement.

3.5.3 See part 2 of this report

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

##### **4.1 Do nothing**

Do nothing would leave the Council without the support needed, resulting in an incomplete funding application for the Housing Infrastructure Fund. Consequently, the Council will be unlikely to secure the HIF funding from the MHCLG in early 2019 to deliver strategic infrastructure in Meridian Water.

##### **4.2 Re-tender**

Re-tender the additional services would result in a loss of valuable time and potentially the Council will lose the consultant that has all knowledge of the early work already carried out. Other companies will need time to catch up and get up-to-speed with the project. Delays at this stage of the project are likely to result in an inability to submit the funding application by the submission deadline of early December 2018, which will lead to missed opportunity to secure £156m of funding for strategic infrastructure in Meridian Water in early 2019.

#### **5. REASONS FOR RECOMMENDATIONS**

5.1 The current consultant was procured on a competitive basis for the original contract and apart from a high quality response that showed excellent ability to undertake the work, their rates are competitive compared to the other bidders. The additional services are within budget already approved.

5.2 Re-tender the additional services would result in a loss of valuable time and potentially the Council will lose current consultant who have all knowledge of the early work already carried out. Delays are likely to result in an inability to submit the HIF funding application by the submission deadline of early December 2018, which will lead to missed opportunity to secure £156m of funding for strategic infrastructure in Meridian Water early 2019.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

Please see Part 2 of this report.

##### **6.2 Legal Implications**

- 6.2.1 Section 111 of the Local Government Act 1972 gives a local authority power to do anything (whether or not involving 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 its functions. The Council also has a general power of competence in section 1(1) of the Localism Act 2011. This states that a local authority may do anything that individuals generally may do provided it is not prohibited by legislation. The power to enter into contracts is within the general power of competence.
- 6.2.2 As set out in this Report, the Council entered into a contract to appoint a multidisciplinary team to support the strategic infrastructure design and planning services at Meridian Water. The procurement was undertaken using the Architecture Design and Urbanism (ADUP) Framework. It is now proposed to vary the terms of that appointment of the contract. The Framework Contract allows for variations to any call-off contract with the written agreement of both parties.
- 6.2.3 Regulation 72(1)(b) of the Public Contracts Regulations 2015 allows contracts to 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 conditions set out in regulation 72 of the Regulations have been met in relation to the contract. See paragraph 5.2 of this report. Following the contract variations, the Council will be required to publish in OJEU a “Notice of modification of a contract during its term”.
- 6.2.4 The Council must comply with all requirements of its Constitution, including its Contract Procedure Rules.
- 6.2.5 As the anticipated value of the extension exceeds £250,000, this is a Key Decision and the Council must comply with its Key Decision procedure.
- 6.2.6 Throughout the engagement of the contractor, the Council must comply with its obligations of obtaining best value, under the Local Government Act 1999. The Council must keep a clear audit trail of its decision to award the services to the contractor and to vary the terms of the contract as described in this report to demonstrate that best value has been, and will continue to be, obtained for the Council.
- 6.2.7 All legal agreements arising from the matters described in this report must be approved in advance by the Director of Law and Governance.
- 6.2.8 See Part 2

## **6.3 Property Implications**

6.3.1 There are no property implications as result of this report.

## **7. KEY RISKS**

7.1 See part 2 of this report.

## **8. INTERNAL DEPARTMENT IMPLICATIONS/CONSULTATION**

There are no internal department implications as result of this report.

## **9. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

### **9.1 Good homes in well-connected neighbourhoods**

The recommendations in this report do provide the Regeneration Team with the specialist support required to finalise the funding application for the Housing Infrastructure Fund. The funding will contribute to the development of strategic infrastructure in Meridian Water with the aim to unlock new housing development in the borough.

### **9.2 Sustain strong and healthy communities**

The scope of works proposed for the Housing Infrastructure Fund does include several green spaces linking up with existing green spaces in the area and thereby enhancing the value of the local green infrastructure. Next design stages of the strategic infrastructure will give full consideration as to how the proposed works can contribute to the health and wellbeing of the existing and future communities in the area.

### **9.3 Build our local economy to create a thriving place**

The strategic infrastructure that is put forward in the funding application will unlock the Meridian Water area and significantly increase accessibility of the site, especially by public transport. It is expected that increased accessibility will support local businesses, as well as attract new jobs and business growth in the area supporting Enfield residents and the local economy.

## **10. EQUALITY IMPACT IMPLICATIONS**

10.1 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.

- 10.2 It should be noted that projects or workstreams deriving from this may be subject to a separate Equalities Impact Assessment (EqIA). Therefore, any projects or workstreams will be assessed independently on its need to undertake an EqIA to ensure that the Council meets the Public Duty of the Equality Act 2010.

## **11. PERFORMANCE MANAGEMENT IMPLICATIONS**

- 11.1 The performance of the multidisciplinary team will be overseen by the Regeneration Team.

## **12. HEALTH AND SAFETY IMPLICATIONS**

Not applicable.

## **13. PUBLIC HEALTH IMPLICATIONS**

Meridian Water is poorly connected by public transport, walking and cycling and although the site lies adjacent to the North Circular Road and Meridian Way, a strategic north-south route, the central and eastern part of the site have no direct connection to the proposed railway station, the most important piece of new infrastructure. The intervention proposed for the development should address these site constraints and design-in foundations to prioritise walking and cycling. The infrastructure designs should be grounded on an urban structure that improves the environment and to encourage healthy lifestyle. The utilities corridor should also be designed to provide specs for smart technologies, introduce suitable energy infrastructure to help residents save energy bills and improve air quality.

## **Background Papers**

None.