

## London Borough of Enfield

### Operational Report

#### Report of Programme Director Meridian Water

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**Subject:** Meridian Water Housing Infrastructure Fund – Approval to Award Rail Design Services for the Strategic Rail Infrastructure Works

**Cabinet Member:** Cllr Nesil Caliskan, The Leader of the Council

**Executive Director:** Sarah Cary, Executive Director - Place

**Ward:** Upper Edmonton

**Key Decision:** 3931

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#### Purpose of Report

1. Meridian Water Housing Infrastructure Fund (HIF) – Approval to Award Rail Design Services for the Strategic Rail Infrastructure Works (SRIW).

#### Proposal(s)

2. **Approve the appointment of Bidder A to provide Rail Design services for the delivery of the Rail HIF Works through the Homes England Multidisciplinary Framework, as set out in part 2, the confidential appendix.**
3. **Authorise expenditure for the scope of services and contingency costs set out within the body of this report.**
4. **Note budget and funding sources for the expenditure (see Confidential Appendix).**

#### Reason for Proposal(s)

5. The Strategic Rail Infrastructure Works (SRIW) are required as part of the HIF works programme to unlock further development at the Meridian Water. The proposal will enable housing development, boost local economy and employment, and contribute to the health and wellbeing of local communities. It is key that the right rail design arrangements are in place to ensure the required level of experience and expertise to design the rail infrastructure project.
6. The Council needs to complete the rail works by March 2024 in order to claim the full amount of available funding. HIF grant may only be claimed by the Council until 31<sup>st</sup> March 2024 and the Council can submit claims in respect of expenses incurred up to this date.

7. The expenditure for the tasks set out within this report are to be funded from within the existing Capital Programme and following satisfaction of conditions to funding the amount spent by 31<sup>st</sup> March 2024 will be reimbursed from the HIF funding on a quarterly basis.
8. A rail designer is required to advance to the next stage of the project, with the required level of experience and expertise. The procurement through the Homes England Framework for Multidisciplinary Technical Services was identified as preferred and approved by the Council as an operational decision made on 5<sup>th</sup> May 2020.

### **Relevance to the Council's Plan**

#### **9. This appointment would contribute to the Council's priorities:**

##### **a) Good homes in well-connected neighbourhoods**

The recommendation in this report do provide the authority to award a contract to a rail design consultancy to design the HIF Rail Works. The HIF Rail Works will unlock new housing development in Meridian Water.

##### **b) Safe, health and confident communities**

The HIF Rail Works will include ecological and diversity assessments in line with Network Rail standards. The rail works will contribute to the achievement of long-term carbon emission goals, through improved energy efficiency, helping others make more carbon efficient journeys, which reduces the need to use a car. These works can also contribute to the health and wellbeing of the existing and future communities in the area.

##### **c) An economy that works for everyone**

The delivery of strategic rail works 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.

### **Background**

#### **Introduction**

10. In July 2018, Cabinet approved the scope of Housing Infrastructure Fund, a central government funding programme enabling a delivery of strategic infrastructure at the Meridian Water scheme (see Housing Infrastructure Fund Cabinet Report dated 25 July 2018 (KD 4711)). It also approved planning strategy for HIF delivery works and delegated authority to the Programme Director – Meridian Water to authorise procurement procedure.
11. In early December 2018 a funding bid for the Housing Infrastructure Fund (HIF) was submitted to central government by the GLA on behalf of Enfield Council. The Housing Infrastructure Fund is a government capital grant programme from

the Ministry for Housing, Communities and Local Government (MHCLG) aimed to unlock housing sites and help deliver new homes.

12. The scope of works proposed for HIF funding includes rail enhancement works (HIF Rail Works) and strategic road and flood alleviation works (HIF Site Works). These works are required as a first phase of strategic infrastructure to unlock housing delivery in Meridian Water.
13. In August 2019 Central Government announced that the Council's bid had been successful. The detailed terms and conditions of the grant agreement are currently being negotiated and it is envisaged that the parties will enter into the agreement by the end of September 2020. Availability of funding will be contingent on the Council satisfying certain conditions to funding.
14. All SIW must be completed before the delivery deadline of 31<sup>st</sup> March 2024. To ensure timely delivery ahead of the funding deadline, the Council is commencing with the necessary procurements in advance of entry into the HIF grant agreement and confirmation that all conditions to funding have been satisfied. It is envisaged that the grant agreement will be entered into in Q4 2020.
15. In respect of the delivery of the rail infrastructure, a need has been identified to appoint an external rail design consultancy to carry out the role of design of the project. It is envisaged that the new rail design consultancy will come on board during October 2020, so they can progress the design in line with Network Rail standards and other key industry stakeholders prior to the main contractor being appointed in September 2021.
16. On the 26th of June, Delivery Director - Meridian Water approved the procurement of the rail designer services for the delivery of the HIF Site Works through the Homes England Framework for Multidisciplinary Technical Services.

### **Scope of Works**

17. The proposed contract award is seeking to appoint the rail designer's team to provide rail design services for the delivery of the SRIW.
18. The Council's rail design team is expected to fulfil the design role which will form part of the 'client's team'. This will assist the council in exercise of its duties as client under the forthcoming contracts for design and delivery of the infrastructure. The purpose of the rail designer role is to ensure that the Main Contractor provides the follow-on detailed design to execute the contracted works safely, in compliance with Network Rail standards, on programme and to the agreed Contract Sum.
19. The Council's rail design team will be required to fulfil specific duties for each of the project stages.

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#### **GRIP Stage 3 -4**

- Multi-disciplinary report advancing on the level of Grip 2
  - Technical design of Civil engineering, M&E, Overhead line equipment, Signalling, Telecoms and Track.
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- Surveys results and findings from GRIP 3 to fully validate design assumption the designer will consider existing assets to support the NR Asset Management Plan process, design criteria, design proposals, interfaces, assurances etc
  - Interdisciplinary check / review to enable engineering compliance.
  - GRIP 4 will advance the design into single options for each engineering discipline (M+E, civils, structural etc)
  - Design will progress to a maturity point that they can be used to price the works and build off.
  - Support to the Hazard Log, NR Asset management policy (AMP) process Stakeholder engagement (London Borough of Enfield for Planning, and the Environment Agency for Brimsdown Ditch)
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20. To allow flexibility of scope of services due to the changing nature of wider strategic rail infrastructure delivery strategy and the HIF funding programme deadlines, the Council reserved the right to add further duties beyond the scope of services indicated above, The bidders were asked to provide daily rates per service areas and by level of qualification. The Framework Contract which will form the basis of the contractual arrangement for the provision of the rail design services stipulates the right to inspect and examine any of the work being performed as part of the provision of the Services at any reasonable time.

### **Procurement Process**

21. The Procurement and Commissioning Board agreed procurement through the Homes England Framework for Multidisciplinary Services on 5<sup>th</sup> of May 2020, as it offers a fast, efficient and OJEU compliant route, removing the need to undertake a costly and time-consuming full OJEU procurement process. Furthermore, the Homes England Framework was approved for use within the Council and offered the wide range of services required as well as a good list of suitable suppliers.

22. The Homes England framework requires all procurements to be run through the Homes England framework on their e-Tendering system. Given the fact that the estimated value of the scope of services exceeded the OJEU threshold, the procurement process was run as a three-stage procurement process:

- 1.) Expression of Interest (determine interest)
- 2.) Sifting Brief (shortlist a maximum of 5 suppliers)
- 3.) Invitation to Further Competition (select successful supplier)

23. In total 10 framework suppliers expressed an interest in the opportunity to tender for the Rail Designer services. All suppliers that expressed an interest were invited to submit a sifting brief response and a total of 6 suppliers provided a submission.

24.5 of the 6 suppliers were shortlisted following the Sifting Brief responses. However, two of the suppliers declined to tender during the tender period, one

of them due to resourcing issues and the other one wanted to concentrate on tendering for the PMO contract. 3 suppliers provided valid ITT submissions.

25. The tenders submitted in response to the Council's ITT were evaluated against price (30%) and quality (70%) criteria to establish the most economically advantageous tender. Two Council officers and an external rail expert evaluated and scored the ITT responses in accordance with the evaluation criteria and the scores were moderated by the Council's Procurement Team.
26. The outcomes of each evaluation stages are explained in Confidential Appendix.

### **Contract**

27. All suppliers on the Homes England Framework for Multidisciplinary Services have been appointed under framework contracts, which have been prepared by Homes England's Legal Services. The successful supplier will be appointed in accordance with the Framework Agreement which provides that required services can be drawn down by issuing an Instruction to the Consultant. The Framework Agreement provides a template Instruction Form that will need to be completed on behalf of Enfield.

28. See Confidential Appendix.

### **Cost and Funding**

29. See Confidential Appendix

### **Main Considerations for the Council**

30. Following award of the contract the newly procured design services consultancy will work in collaboration with the rail project management office and the external City Economics team (Final Business Case) through GRIP stages 3 and 4 to drive the delivery of the design of the HIF Rail Works within the context of the Council's vision and objectives.

31. Given the funding deadline of March 2024 to deliver the HIF Rail Works, it is key that the right design services arrangements are in place to ensure the required level of experience and expertise to design large infrastructure project to deliver the SRIW. As timely delivery is of importance, the chosen supplier will need to demonstrate adequate resources, experience and controls to deliver on time and budget.

32. It is aimed to get the new rail design team on board at the start of GRIP 3 (October 2020) to allow the new rail design team to get up to speed.

33. The successful bidder demonstrated the required expertise and experience to deliver the tasks set out in this report and is considered to have submitted the most economically advantageous tender.

34. This appointment is instrumental to unlocking development that contributes to the Council's priorities.

35. **Safeguarding Implications**

36. The recommendations in this report do not have any safeguarding implications.

### **Public Health Implications**

37. The appointment of a rail design team service in themselves do not have any significant public health implications.

### **Equalities Impact of the Proposal**

38. 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.

39. Framework Contract stipulates that the consultant shall not, and shall take all reasonable steps to procure that no employee, servant or agent of the Consultant engaged in the provision of the Services shall, unlawfully discriminate within the meaning and scope of the provisions of the Sex Discrimination Act 1975, the Equality Act 2010 or the Human Rights Act 1998.

### **Environmental and Climate Change Considerations**

40. Evaluation Criteria for this appointment did not include questions on Sustainability and Climate Change. However, it should be noted that a post tender clarification (Enfield's Sustainability Policy) was sent to the three bidders for confirmation of compliance. Bidder A has confirmed that they will design the rail services for this project in accordance with the Meridian Water Environmental Sustainability Strategy.

41. Environmental Sustainability Strategy.

### **Risks that may arise if the proposed decision and related work is not taken**

42. Delivery of strategic rail infrastructure at Meridian Water could fail or be delayed if project management support needed is not secured in time.

43. Council's housing and employment objectives could be put at risk if infrastructure necessary to unlock development is not delivered in time.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

#### **44. Housing Infrastructure Funding is not or only partially secured**

MHCLG has announced that the bid for funding has been successful, negotiation of contractual terms is at an advanced stage and it is expected that the grant agreement will be entered into by Q4 2020. However, the award of funds will be subject to the satisfaction of various pre-contract conditions. The services included in this commission related to the HIF Rail Works will initially be covered from the Meridian Water Capital Programme and ultimately refunded from the HIF funding.

**Mitigation:** If HIF funding is not secured, the Council will look to secure alternative funding to cover its costs. None of the work undertaken as part of

HIF delivery will be abortive and will contribute to strengthening the deliverability of scheme.

The improved rail frequency is essential to the delivery of homes; achieving an enhanced frequency of six trains per hour at Meridian Water will help unlock the major regeneration proposed for the site, involving delivery of over 10,000 new homes and up to 6,000 jobs by the early 2040s. A high-quality, high-frequency rail service is needed to support the regeneration programme, and is a key planning prerequisite

The rail enhancement is one of a number of measures being funded via the Housing Infrastructure Fund (HIF) – alongside other site-related works that are needed to enable the proposed regeneration to proceed. Good rail connections are key in ensuring the growth in transport network demand arising from the new development is sustainable, and that congestion impacts on the local road network are minimised.

Existing transport network users in the surrounding area will also benefit from the more frequent services at Meridian Water, which will link into the local bus network. This will help to reduce local journey times and crowding impacts.

The additional track capacity delivered by the project will also provide additional flexibility for general train operations on the WAML route, thereby enhancing operational resilience of the line, particularly in periods of disruption or delay

#### **45. The appointed team does not provide value for money**

The successful bidder does not offer value for money.

**Mitigation:** The successful bidder is an established firm with extensive experience delivering the services required. The Council received three tenders back and the successful bidder offered the most economically advantageous bid.

The current procurement operating procedures for the Council aligns with value for money.

Through tendering, the Council ensured that value for money is obtained at the start of the contract and throughout the life of the contract through active contract management activity. Key considerations for value for money

Getting an increased level or quality of service at the same cost

Avoiding unnecessary tasks

#### **46. Financial security of the appointed bidder**

Suppliers informed the Council that under Homes England Framework Agreement they are not obliged to provide a Parent Company Guarantee. This form of financial security is not appropriate for a consultant in this role.

**Mitigation:** All suppliers on the Home England Framework have undergone rigorous financial evaluation. Furthermore, as part of the ITT stage an assessment of economic and financial standing has been carried out to ensure suppliers are financially sound. Up to date financial records will be maintained on all Framework members. If insufficient information is available in the public domain Homes England's Customer Due Diligence team may be in touch to request additional information in order to get comfort of continued good standing. The Instructions for Tendering stipulate that The Council will continue to monitor the financial standing and stability of the tenderer. The Tenderer shall notify the Council of any circumstances that it considers will have a material impact on the financial standing of the Tenderer.

**47. Discontinuity of Rail Designer arrangements results in loss of valuable time and knowledge on the project**

The rail design team to be appointed through this procurement will need to build up knowledge of the project in order to efficiently and effectively carry out their responsibilities and the knowledge and expertise of the existing project management consultancy will be lost.

**Mitigation:** The Invitation to Tender for the rail design services included full details of the HIF Rail Works Project. Furthermore, it is aimed to get the new rail design team on board before the responsibilities of the current management come to an end in order to allow the new rail design team to get up to speed.

**Financial Implications**

48. The Meridian Water Financial Model and Budget report approved by Cabinet in October 2019 recommended the authorisation by Full Council (in November) for expenditure of the Meridian Water detailed budget for the remainder of 2019-20, 2020-21 and 2021-22 financial years, which included money to finance the scope of services set out in this report within that budget period. This budget includes £113m for Construction of the HIF Site Works, which includes money to finance the scope of services set out in this report within that budget period. Furthermore, the report sets out an indicative 10-year budget for Meridian Water and seeks approval from Cabinet on the Meridian Water Financial Model baseline which includes the full extent of the HIF grant.

49. See also Confidential Appendix.

**Legal Implications**

**50. MD 18th September 2020 (based on report received on 18<sup>th</sup> September 2020 at 08:32)**

The Council has the power under s.1(1) Localism Act (2011) to do anything individuals generally may do providing it is not prohibited by legislation and subject to Public Law principles. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way. The Council therefore has sufficient powers to enter into the contract as proposed in this report.

51. The Council must comply with all requirements of its Constitution (including its Procurement Procedure Rules) and the Public Contracts Regulations 2015 in respect of the procurement, award and any subsequent variation of contract for rail design services. The Procurement Procedure Rules and Public Contracts Regulations 2015 permit the Council to call-off from an existing framework if the framework terms permit. The Homes England Framework permits local authorities to call-off from it and sets out the procedures for calling-off contracts. The resulting call-off contract must be based on the framework terms and the Council must ensure that it follows the rules of the Framework. Any subsequent variations to the contract must comply with the terms of the Framework, the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules. Further advice must be sought from Legal Services in respect of any proposed variation.
52. The Contract Procedure Rules require that, for contracts valued at between £500,000 to £1,000,000 officers must consider whether to obtain from the supplier security for performance of the contract. Evidence of the form of security required, or why no security was required, must be stored and retained on the E-Tendering Portal for audit purposes.
53. It is proposed that the contract fees will be funded by HIF grant funding to be made available by MHCLG. Although the Council's bid for HIF funding was successful, MHCLG and the Council are yet to enter into an agreement in respect of HIF funding. Any contract entered into, or any expenditure incurred by the Council prior to entry into the HIF grant agreement and prior to receiving formal confirmation that any preconditions to funding have been met, is at the Council's own risk. Any services provided after 31<sup>st</sup> March 2024 will not be recoverable out of the HIF grant funding. Unless otherwise agreed by MHCLG, the Council will be required to provide to MHCLG with a copy of the executed project management contract as well as a collateral warranty from the contractor in favour of MHCLG as a condition to funding.
54. Throughout the engagement of the contractor, the Council must comply with its obligations of obtaining best value as set out in the Local Government Act 1999.
55. All legal agreements arising from the matters described in this report must be approved in advance of contract commencement by the Director of Law and Governance. Given the anticipated contract value, the contract must be sealed and retained by Legal Services for safekeeping.
56. The anticipated contract value exceeds £500,000. Therefore, this is a Key Decision, and the Council must comply with its Key Decision procedure.

### **Workforce Implications**

57. Due to the nature of this appointment, it is clear that the London Borough of Enfield does not have the required rail design expertise to progress the project. It is therefore appropriate to engage an industry respected rail systems designer to mitigate the risk of non-compliance with Network Rail.

### **Property Implications**

58. There are no property implications arising directly from this report however it is anticipated that there may be future Property Implications as each section of the works progresses. Any future reports arising as a result of these proposals will need to be further reviewed and when property transactions are included Strategic Property Services will comment on the individual deals.

## **Other Implications**

### **Procurement Implications**

*provided by Doreen Manning on 15/09/2020*

59. The tender was a call-off from the Homes England Multidisciplinary Framework 2018/S 127-289621. Due diligence was carried out by the Procurement and Commissioning Hub (P&C Hub) on the Council's ability to use the framework. Other frameworks were also considered but the Homes England Framework was chosen due to the length of the call off contract allowed under the framework and the range of suppliers. The tender process commenced with an Expression of Interest, followed by a Sifting Brief which was used to provide a shortlist of bidders. After the shortlist was complete, the project was mini tendered to 5 providers in accordance with the guidelines provided by the Homes England who operate the framework. The tender returns were evaluated by members of the Meridian Water Rail Team and an external rail expert, a moderation meeting was held on 31 July 2020 where the scores and final comments were agreed. The P&C Hub were involved in the procurement and the process was carried out fairly and transparently.
60. The tendered rates were compared with the competitively tendered framework rates and were the same as the tendered framework rates.
61. The procurement was undertaken using the Homes England London Tenders Portal ref DN479143.
62. A business case was presented to the Procurement & Commissioning Review Board on 05/05/2020 where the procurement route was reviewed and approved.
63. The award of the contract, including evidence of authority to procure and award promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the Enfield London Tenders Portal including future management of the contract.
64. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements

## **Options Considered**

### **65. Do nothing**

Doing nothing would leave the Council without the support needed to for the delivery of strategic infrastructure and phase delivery at Meridian Water delaying provision of much needed affordable homes.

### **66. Re-tender**

The Council received three valid tender responses, which demonstrated a good understanding of the Council's requirements and value for money. Retendering the scope of services is unlikely to lead to better tender responses. Retendering would lead to a delay of the timings of the project, leaving the Council without the support needed for the delivery of strategic infrastructure and phase delivery at Meridian Water.

## **Conclusions**

67. Strategic Rail Infrastructure Works (SRIW) are required in the early stages of the programme to unlock further development Meridian Water scheme. The proposal will enable housing development, boost local economy and employment, and contribute to health and wellbeing of local communities.
68. It is key that the right rail design arrangements are in place to ensure the required level of experience and expertise to design large infrastructure project to deliver the SRIW.
69. Procurement approach has been approved and rigorous evaluation of bidders was undertaken to ensure best value for the Council. It is therefore recommended to appoint the successful bidder as to enable future development at Meridian Water.

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12.08.2020

## **Appendices**

- Appendix 1 – Confidential Appendix