

NORTH LONDON WASTE AUTHORITY

REPORT TITLE: NORTH LONDON HEAT AND POWER PROJECT UPDATE

REPORT OF: PROGRAMME DIRECTOR

FOR SUBMISSION TO: AUTHORITY MEETING

DATE: 4 APRIL 2019

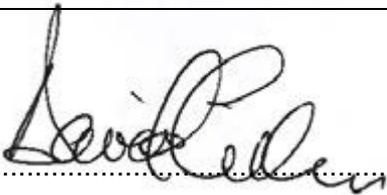
SUMMARY OF REPORT:

This report provides an update on the North London Heat and Power Project, specifically on the proposed Workforce Standards Policy; and on recent stakeholder engagement. The report further provides an update on the procurements and recent progress on the Laydown Area East contract. The report also provides an update on the application for funding under the government's Local Infrastructure Rate (LIR) scheme.

RECOMMENDATIONS:

The Authority is recommended to:

- A. Comment on proposals for development of a Project-wide Workforce Standards Policy (section 2 of the report) and agree the interim approach to Employment Relations proposed in section 2.6 for procurements commencing in April.
- B. Note the update on the stakeholder engagement in Section 3.
- C. Note the progress on the procurement of the works contracts in Section 4.
- D. Note the update on the Local Infrastructure Rate (LIR) application in Section 5.

SIGNED:  **Programme Director**

DATE: 25 March 2019

1. INTRODUCTION

- 1.1. A Development Consent Order (DCO) was granted to the Authority in 2017 to construct and operate an Energy Recovery Facility (ERF) on Edmonton EcoPark for the treatment of waste. This DCO includes associated works to support the ERF and the management of waste onsite, including a Resource Recovery Facility (RRF), Reuse and Recycling Centre (RRC) and EcoPark House for offices, visitor reception and space for community use and for waste related education.
- 1.2. The Authority is now in the process of implementing the DCO. This report provides an update on the development of a Workforce Standards Policy; engagement with stakeholders; procurement of contractors and delivery of the works; and an application for the Local Infrastructure Rate (LIR). It includes one appendix: a draft structure for the North London Heat and Power Project (NLHPP) Workforce Standards Policy.

2. WORKFORCE STANDARDS (EMPLOYMENT RELATIONS) POLICY

- 2.1. There is a strong case for developing a Workforce Standards Policy for the Project. In the wider construction industry, this is commonly referred to as Employment Relations. The Policy would clarify the Authority's expectations for minimum employment standards on the Project and set a positive framework for compliance by the delivery Contractors. Whilst the Authority as client would not get involved in the day to day running of Employment Relations within Contractor organisations, from the position of ensuring fair employment standards on a public sector funded project, and for the avoidance of disruption through failing to secure positive industrial relations, the Authority has a legitimate interest in assuring itself that Contractors are managing matters appropriately and in accordance with contractual obligations.
- 2.2. It is the intention for the NLHPP to be a positive role model for good employment practice in London's construction sector, avoiding commonly seen abuse and exploitation at the lower-wage end of the market and ensuring protection and enforcement of employment rights. The Workforce Standards Policy would seek to achieve transparency in the Contractors' approach to acceptable employment standards whilst recognising the flexibility in the workforce required by the contemporary UK construction industry. The Policy would not exclude any Contractors or Sub-contractors, including Small and Medium Sized Enterprises (SME), who can demonstrate fair employment standards. Through pre-tender market engagement the Authority would brief potential bidders on requirements so that those not familiar with them would be supported to understand and comply.
- 2.3. The importance of establishing a framework for good industrial relations from the outset is of major importance for a project such as the NLHPP, particularly in relation to;
 - 2.3.1. Multiple contractors and subcontractors present on site concurrently.
 - 2.3.2. Several small, short-term contracts presenting challenge for Contractors using direct employment effectively.

- 2.3.3. Potentially higher than normal Trade Union interest and involvement linked to the Project's significance.
- 2.3.4. The long-term nature of the Project likely to see cycling of the health of the construction industry market, including the impact of Brexit.
- 2.4. The cost premium associated with applying a minimum employment standard is not possible to calculate at present, but will be outweighed by the benefits of improved health and safety, and productivity performance, plus the mitigation of financial, schedule and reputational risk associated with disruption resulting from industrial relations matters.
- 2.5. Subject to any steers from Members, officers would propose to develop an Employment Relations Policy for approval. This could cover the following key principles;
 - 2.5.1. Establish a code of practice for minimum employment standards for all Contractors across the Project based on alignment, where appropriate, with terms and conditions of nationally recognised Working Rule Agreements.
 - 2.5.2. Encourage the use of a nationally recognised Working Rule Agreement for the ERF contract. It is extremely likely that potential Engineering, Procurement and Construction (EPC) contractors for the ERF will be experienced in the development of suitable agreements for projects of this nature.
 - 2.5.3. Promote the importance of recruitment of suitably qualified local labour through various means such as the notification of vacancies to the local job centre; the use of locally vetted agencies, etc.
 - 2.5.4. Test bidders' understanding and resources related to Employment Relations at Selection Questionnaire and Tender Stages of procurement.
 - 2.5.5. Put Employment Relations on the agenda for Contractor progress meetings and review the performance through Programme and Member reporting lines.
 - 2.5.6. Require that each Contractor produce their own Project Employment Relations Policy/Plan and keep under regular review. Audit Contractor Payroll for compliance with minimum standards.
 - 2.5.7. Take reasonable steps to respect and protect Trade Union freedoms and encourage positive Trade Union engagement with the Authority Project Team through, for example, periodic information sharing sessions; one-to-one meetings with senior Trade Union Officials; ensuring site access arrangements for officials.
 - 2.5.8. Establish a dedicated confidential workforce concerns helpline.

- 2.5.9. Determine where we can make standards contractually binding, through incorporation of suitable contract provisions and imposition of sanctions/penalties for non-compliance.
- 2.6. A potential structure for the Policy is included at Appendix A. The Policy and key elements of the Employment Relations Project Code of Practice will be developed over the forthcoming weeks and submitted to the Members for approval.
- 2.7. There are two tenders for civil works contracts due to be issued in April; for the Laydown Area West and the Northern Access (Deephams Farm Road). Pending approval to an Employment Relations policy, it is proposed to incorporate the following elements in procurement documentation for these contracts;
- 2.7.1. Requirement for London Living Wage as a minimum to qualifying workers (i.e. those working on site). Members previously approved the inclusion of London Living Wage requirements in Official Journal of the European Union (OJEU) notices for the NLHPP contracts.
- 2.7.2. A requirement to create apprenticeships and construction skills training places in accordance with the Section 106 conditions. The quantum is dependent on the expected value and duration of the contract.
- 2.7.3. A requirement that every effort should be given by the appointed contractors and their sub-contractors to the recruitment of suitably qualified local labour. All appropriate vacancies to be notified to the local job centre.
- 2.7.4. A commitment to the use of Pay As You Earn (PAYE) direct employment where possible. Any circumstances leading to deviation from this policy to be notified to the Authority in advance.
- 2.7.5. Submission of an Employment Relations Plan by the prospective contractors at tender stage. The Plans should be aligned to the Construction Industry Joint Council (CIJC) Working Rule Agreement as a minimum benchmark. Areas of non-compliance should be highlighted by the tenderers and will be considered in the quality evaluation of the tenders.
- 2.7.6. The requirement for the contractor to report periodically on compliance/performance against the Employment Relations Plan.
- 2.7.7. The right of the Authority to audit payroll for the contract in order to verify compliance with the contractor's Employment Relations Plan.
- 2.7.8. Contractors to engage positively with Trade Unions to promote good standards of productivity and employment relations, respecting and protecting the Trade Union freedoms and allowing site access for Trade Union officials.

3. STAKEHOLDER ENGAGEMENT

- 3.1. Engagement with the North London Heat and Power Project (NLHPP) stakeholders has grown as local members of the community become interested in the plans to

replace the existing facility at the Edmonton EcoPark. These engagements range from community group representatives, local ward councillors, residents and neighbouring land owners. North London Waste Authority has provided group briefings for a number of these stakeholders, most recently:

- 3.1.1. Members of LB Enfield Planning Committee
- 3.1.2. Edmonton Green Ward Councillors,
- 3.1.3. Community Liaison Group Members, and
- 3.1.4. Members of the Eley Industrial Estate at their Annual General Meeting.

3.2. Common themes that have arisen in discussions with these stakeholders are:

- 3.2.1. to consider in plans the cumulative effects of project construction traffic with that from local development projects – including Meridian Water; and aim to reduce impacts to residents,
- 3.2.2. further information about the environmental impacts of the project and new facility to reassure on assessments completed for the DCO,
- 3.2.3. clearly sharing how the project can benefit those who live and work locally, and
- 3.2.4. providing a greater understanding of the proposals for a local heating scheme planned by Energetik, which include a new facility on the EcoPark.

3.3. There are plans in place for further engagement to build on the work with stakeholders and address any requests for information. NLHPP also plans to implement community roadshows that will continue to raise awareness in the local community and offer an opportunity for residents to ask questions about the Project. The first of these is to be undertaken at Edmonton Green Library in the coming months. Further stakeholder engagement will be maximised and supported by updates to be made on the NLHPP website.

4. PROCUREMENT AND WORKS UPDATE

- 4.1. The procurements for the Northern Access (Deephams Farm Road) and Laydown Area West and Eastern Access contracts are in development with Invitations to Tender due to be issued in April and construction works planned to start in August and October 2019.
- 4.2. Officers are preparing to start procuring the Sewer Diversion Enabling Works in line with the delegation made to the Managing Director in consultation with the Chair and Vice Chairs at the Authority meeting on 7 February 2019.
- 4.3. It will be necessary to provide a temporary Transport Yard off-site from the EcoPark for the London Energy Ltd (LEL) waste transport fleet until a new facility is provided as part of the Project. The existing Transport Yard is under the footprint of the future Sewer Diversion Main Works. Work is being undertaken to identify a suitable facility

which will meet LEL's needs and can be made available for the planned start of the Sewer Diversion Enabling Works in August 2019.

- 4.4. The Sewer Diversion Main Works procurement is moving forward, and the selection of shortlisted candidates is expected to be completed at the end of April, including obtaining the agreement in principle of Thames Water Utilities Ltd (TWUL) to the shortlisted candidates. The anticipated date of contract award is September 2019. Contractor design is planned to start in October 2019 with construction works to follow in May 2020.
- 4.5. Buckingham Group Contracting Ltd (BGCL) have mobilised to the Laydown Area (East) project site and are progressing with the work in a safe manner, with no health and safety incidents to date. BGCL have embraced our requirements to promote Health, Safety and Wellbeing as their priority and have been engaging with us on this proactively.
- 4.6. Completed works include site mobilisation, provision of a temporary access road and wheel-wash, preparation of a compound area, and deployment and hook-up of site offices and welfare facilities. Bulk earthworks have made significant progress and are due to continue into April 2019. Fencing works have started and are ensuring the site is secured. The drainage subcontractor is due to mobilise to site and begin construction in March 2019. Works are on target to be completed in Summer 2019.

5. UPDATE ON THE APPLICATION FOR FUNDING UNDER THE GOVERNMENT'S LOCAL INFRASTRUCTURE RATE (LIR) SCHEME SUBMITTED 29 MARCH 2019

- 5.1. In the Autumn Budget 2017 the government announced that it would make available £1bn of lending to Local Authorities in England at advantageous rates of public borrowing, known as the Local Infrastructure Rate (LIR). This represents a rate that is 0.2% lower than the rate that the Authority can normally borrow. Up to £1bn of lending will be provided at this rate, with a maximum of £100m to any one applicant. Applications for this Local Infrastructure Rate were assessed in two bidding rounds, the second of which closed on 31 March 2019.
- 5.2. The Authority considers that the NLHPP meets the criteria set out by HM Treasury for this preferential rate and therefore engaged its financial advisors, Amberside Advisors, to support a bid. The bid was for LIR funding at the maximum amount of £100m. HM Treasury's selection process for allocating funding will take account of the Benefit Cost Ratio (BCR) of each bid and therefore the success or otherwise of the Authority bid will depend partly on the BCR of other bids submitted. The application will meet the requirement to commence construction before 1 April 2022 and an indicative profile of the funding requirement has been provided as part of the bid.

6. COMMENTS OF THE LEGAL ADVISER

- 6.1. The Legal Adviser has been consulted in the preparation of this report and comments have been incorporated.

7. COMMENTS OF THE FINANCIAL ADVISER

- 7.1. During the early stages of the project, there is a level of uncertainty regarding costs. As individual projects within the programme develop and contracts are let, the Authority will have a higher level of certainty over costs. Updates will be reported to the Authority in regular project and finance reports.
- 7.2. As mentioned in paragraph 2.7, the Authority intends to include the London Living Wage for qualifying employees as a condition of future contracts, in line with the Member decision.

List of documents used:

Application for Local Infrastructure Rate (containing commercially confidential material)

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APPENDIX A: DRAFT STRUCTURE FOR NLHPP WORKFORCE STANDARDS POLICY

1. Introduction
 - a. Background to the Project
 - b. NLWA high level aims
 - i. Ethics and reputation
 - ii. Fair employment
 - iii. H&S
 - iv. Community engagement
2. Scope and Application (list of projects highlighting anything out of scope)
3. Relationship to National Working Rule Agreements (NWRA);
 - a. Non-ERF projects; alignment with NWRA e.g. Construction Industry Joint Council (CIJC) as minimum benchmark
 - b. ERF; registration with NWRA e.g. National Agreement for the Engineering Construction Industry (NAECI) or Joint Industry Board (JIB)
4. Protection of Trade Union freedoms
5. Direct employment;
 - a. Deviation in defined circumstances
 - b. Notification to client and agreement
6. London Living Wage
7. Apprenticeships and Training
8. Contractor Workforce Standards Policy and Project-specific Plans
 - a. Evaluate corporate policy at Selection Questionnaire Stage
 - b. Review and Evaluation of Project-specific Plans tender stage
 - c. Evaluation of non-compliance with NWRA minimum benchmark
 - d. Performance review during contract
 - e. NLWA right to audit payroll
9. Headline contractual provisions and proposed penalties for non-compliance
10. Confidential workforce concerns helpline