

DECISION TITLE: Novation of contract for Highways Infrastructure Services
<u>Councillor Peter Hiller, Cabinet Member for Strategic Planning and Commercial Strategy and Investments</u>
March 2021
Deadline date: March 2021

Cabinet portfolio holder: Responsible Director:	Councillor Peter Hiller, Cabinet Member for Strategic Planning and Commercial Strategy and Investments. Steve Cox Executive Director Place & Economy, Cambridgeshire and Peterborough
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: Yes Unique Key decision Reference from Forward Plan: KEY/18JAN21/04
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	N/A

RECOMMENDATIONS

The Cabinet Member is recommended to approve the novation of the existing Highways Infrastructure Services Contract from Skanska Construction UK Ltd to Milestone Infrastructure Ltd, together with the assignment of the Lease of the Depot at Dodson Way.

1. PURPOSE OF THIS REPORT

- 1.1 This purpose of the report is for the Cabinet Member for Strategic Planning and Commercial Strategy and Investments, to consider exercising his delegated authority under paragraph 3.4.8 of Part 3 of the constitution in accordance with the terms of his portfolio at paragraph (b), to approve the recommendations set out above.

2. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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3. BACKGROUND AND KEY ISSUES

- 3.1 To approve the novation of the existing Highways Infrastructure Services Contract from Skanska Construction UK Ltd to Milestone Infrastructure Ltd.
- 3.2 Under the existing contract, Skanska Construction UK Ltd provide the inspection, maintenance and management of the Peterborough Highway network. The contract commenced on the 1st of October 2013 and is due to expire on the 30th of September 2023, with an option to extend for a period of up to 10 years.
- 3.3 M Group were selected by Skanska Construction UK's Highways Infrastructure to acquire their business in December 2020. As a result of the business acquisition, Skanska Construction UK is obliged to novate its existing contract with the Council to Milestone Infrastructure Ltd. This includes all of the processes, procedures and systems in place with Skanska which will automatically transfer over to the new company, Milestone Infrastructure Limited.

Under Regulation 72 (1) (d) (ii) of the Public Contracts Regulations 2015 the new contractor is required to fulfil the criteria for qualitative selection initially established when the initial contract was procured. Milestone Infrastructure Limited have completed a pre-qualification questionnaire which has been reviewed and confirmed to be satisfactory by the procurement section.

- 3.4 M Group Services delivers a range of essential infrastructure services within the water, energy (retail and infrastructure) transport and telecommunication in UK & Ireland. Its long-term business model is to achieve profitability through acquisition of Infrastructure Businesses and has acquired 12 since 2016.

M Group comprises 4 companies - Minerva Equity Limited, M Group Services Limited, M Group Transport Limited and Milestone Infrastructure Ltd. A full list of all known mutual companies is listed in Table A below.

M Group will take on Skanska's Infrastructure Services, with a revenue of £320 million in 2019, services include the existing highways maintenance, street lighting, rail and highways projects.

To receive the business a new company has been formed, Milestone Infrastructure Ltd (Milestone), which, following completion and subject to consultation, it is proposed the majority of the existing 1500 people in Skanska's infrastructure services business will TUPE to. The responsibility for the TUPE of staff and any associated consultation is entirely the responsibility of Skanska and Milestone.

Milestone will operate as a standalone highways maintenance, street lighting and highways projects business. Milestone are required to obtain an operator's licence from the Office of the Traffic Commissioner before it is able to operate from the Highway Services Depot at Dodson House. Milestone has made the application and a letter has been issued by the Council to the Office of the Traffic Commissioner confirming that the Council will give permission to Milestone to use the Depot at Dodson Way to park 16 heavy goods vehicles in connection with the Highways contract, subject to and on the condition that the vehicles are used in accordance with the undertakings of the Operator Licensing rules and that the existing Highways contract is novated to Milestone on 1 April 2021. It is anticipated that this will be in place by the 1st of April.

Table A:

Company	Mutuals	Status
Minerva Equity Limited	Callisto Data Limited	ACTIVE
Minerva Equity Limited	Dyer & Butler 2014 Limited	ACTIVE
Minerva Equity Limited	IDS Holdings Limited	ACTIVE

Minerva Equity Limited	Industrial Water Training Services Limited	ACTIVE
Minerva Equity Limited	Minerva Bidco Limited	ACTIVE
Minerva Equity Limited	Minerva Debtco Limited	ACTIVE
Minerva Equity Limited	Minerva Holdco Limited	ACTIVE
Minerva Equity Limited	Minerva Parent Limited	ACTIVE
Minerva Equity Limited	Morrison Utility Services Limited	ACTIVE
Minerva Equity Limited	PMP Utilities Limited	ACTIVE
M Group Services Limited	M Group Utilities Limited	ACTIVE
M Group Services Limited	Minerva Bidco Limited	ACTIVE
M Group Services Limited	Minerva Debtco Limited	ACTIVE
M Group Services Limited	Minerva Holdco Limited	ACTIVE
M Group Services Limited	Minerva Parent Limited	ACTIVE
M Group Services Limited	Morrison Telecom Services Limited	ACTIVE
M Group Services Limited	Morrison Utility Services Group Limited	DISSOLVED
M Group Services Limited	Thor Holdco Limited	ACTIVE
M Group Services Limited	Thor Midco Limited	ACTIVE
M Group Services Limited	Thor Topco Limited	ACTIVE
M Group Transport Limited	Antagrade Electrical Limited	ACTIVE
M Group Transport Limited	Antagrade Holdings Limited	ACTIVE
M Group Transport Limited	Dyer & Butler Electrical Ltd	ACTIVE
M Group Transport Limited	Dyer And Butler Limited	ACTIVE
M Group Transport Limited	KH Engineering Holdings Limited	ACTIVE
M Group Transport Limited	KH Engineering Services Ltd	ACTIVE
M Group Transport Limited	Minerva Holdco Limited	ACTIVE
M Group Transport Limited	Minerva Parent Limited	ACTIVE
M Group Transport Limited	PMP Utilities Limited	ACTIVE
M Group Transport Limited	Thor Midco Limited	ACTIVE
Milestone Infrastructure Limited	No Mutuals	N/A

4. CONSULTATION

- 4.1 The finance team have been provided with information to allow a thorough check to be undertaken so as to ensure the robust financial position of M Group and its trading company Milestone Infrastructure Ltd is verified in line with standard practice. This has been completed and all of the information provided has been satisfactory and gives no cause for concern.

5. ANTICIPATED OUTCOMES OR IMPACT

- 5.1 Milestone Infrastructure Ltd will replace Skanska Construction UK Ltd as the contractor providing the services under the existing contract. No contract value or performance measures are changing as a result of this novation

6. REASON FOR THE RECOMMENDATION

- 6.1 The provision of the services contained within this contract are an essential part of the delivery of Highways Services as part of Peterborough's statutory role as a Highways Authority.

- 6.2 M Group Services delivers a range of essential infrastructure services within the water, energy (retail and infrastructure) transport and telecommunication industries in UK & Ireland. M Group Services, a trusted employer to c. 9,000 skilled specialists working from 100 locations, operates a divisional structure aligned with its end markets.

7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 The only alternative option considered was to refuse the novation. However, this option was rejected because there is no reasonable reason to object to the proposed transfer of responsibility for the delivery of the requirements within the contract. To not novate the contract would mean that in the short term Skanska would have to continue providing the service which would have a significant detrimental impact on the service provided to our communities.

8. IMPLICATIONS

Financial Implications

- 8.1 It is not anticipated that there will be any financial implications involved with this proposed change.

As detailed above the Council's finance team have undertaken a thorough assessment to ensure the robust financial position of M Group and its trading company Milestone Infrastructure Ltd and are satisfied with this. All liabilities for past and ongoing work will be held by Milestone from the 1st of April 2021 giving the Council security should any issues arise.

Legal Implications

- 8.2 Regulation 72 (1) (d) (ii) of the Public Contracts Regulations 2015 permits a new contractor to be replaced following an acquisition and subject to the new contractor fulfilling the criteria for qualitative selection initially established when the initial contract was procured.

Skanska currently occupy parts of Dodson House and Sand Martin House and the whole of the Depot in Dodson Way in conjunction with the provision of the services under the Highways contract. In order to protect the Council's property interests the novation of the contract to Milestone will exclude the security of tenure provisions of Part II of the Landlord and Tenant Act 1954 in relation to their occupation of the Council's properties and the opportunity will be taken to update some of the terms within the current contract to reflect the current property arrangements.

The Council granted a Lease of the Depot to Skanska which provides that the Lease can only be transferred to another party in accordance with the terms of the Highways contract. The Highways contract permits assignment provided that the Council gives its consent (which it cannot unreasonably withhold or delay). The Lease will therefore need to be formally transferred to Milestone if the novation of the contract is approved. The term of the Lease is in line with the Highways contract and can be terminated upon notice by the Council in the event that the Highways contract is terminated before the contract expiry date.

In addition, Milestone is required to obtain the Operator's Licence referred to in paragraph 3.4 above before it can operate from the Depot at Dodson Way and this will need to be provided to the Council before the Highways contract is novated and the Lease of the Depot at Dodson Way transferred, to ensure that Milestone have complied with and meet the requisite statutory requirements to operate from the Depot.

The novation agreement includes specific clauses assuring the Council that any liability for past and ongoing operations undertaken as part of the existing highway contract transfer to Milestone as if they had originally been contracted to undertake the services.

Equalities Implications

- 8.3 It is not anticipated that there will be any equalities implications involved with this proposed change.

Carbon Impact Assessment

- 8.5 It is not anticipated that there will be any carbon impacts involved with this proposed change.

9. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

- 9.1 None

10. BACKGROUND DOCUMENTS

- 10.1 None

11. APPENDICES

- 11.1 None