

PART 2 – CONFIDENTIAL FACTS AND ADVICE

DD2295

London Development Panel 2 Resource Approval

This information is not suitable for publication until the stated date because:

This part of the paper includes sensitive information relating to the outcome of the procurement of LDP2.

Date at which Part 2 will cease to be sensitive or when this information should be reviewed with a view to publication: 10/08/2022

Legal adviser recommendation on the grounds for not publishing information at this time:

The contents of Part 2 include sensitive information which related to the GLAP's commercial interests in the form of pricing for advisory services from third parties, the disclosure of which could prejudice those interests. For those reasons it is considered that the information contained in this report and appendices is exempt from publication in reliance upon the exclusions contained in section 43 (2) (Commercial Interests) of the FOI Act 2000 and because the public interest in withholding the information outweighs the public interest in releasing it.

Legal Adviser - I make the above recommendations that this information is not suitable for publication at this time.

Name: Claire Mason

Date: 12/10/18

Once this form is fully authorised, it should be circulated with Part 1.

Decision and/or advice:

Clearly set out the decision or sensitive advice which is not suitable for publication.

1. Expenditure Increase

- 1.1 MD 2068 and MD 2191 provided approval for a total of £270,000 of expenditure to support the procurement process for LDP2 across 2016/17, 2017/18 and 2018/19. This is to fund the following:
- Legal support – General legal advice including advising on procurement regulations, reviewing the tender documents and preparing the framework agreement;
 - Development and specialist consultancy support – advising on the preparation of the tender documents and the assessment of tenders; and

- Comms – advertising the procurement opportunity in trade press and mainstream media
- 1.2 This was based on an estimate of the level of support required before the advisors had provided their fee estimates for the work.
- 1.3 This paper seeks approval for a further £55,000 of project revenue spend. This increase is required to cover the cost of significant additional legal support than originally envisaged.
- 1.4 Following Mayoral Decision 2233, which provided approval to appoint 30 compliant bidders to the Panel, a further decision was taken to suspend entering a Framework Agreement with Rydon Construction Limited, for the reasons set out in MD 2307. In doing so, significant procurement and litigation advice was required from GLA’s external lawyers and Counsel to understand and put in place a strategy to mitigate the legal risks of the decision.
- 1.5 In addition, when GLA notified the bidders of the outcome of the tender process, it received multiple threats of procurement challenge from a number of disgruntled unsuccessful bidders. Three of the ten unsuccessful bidders instructed lawyers, threatened to lodge claims against the GLA’s decision not to award a place on the panel to them and produced substantial rebuttals to GLA’s decision notices. To avoid claims being lodged, GLA acted swiftly which required extensive litigation and procurement advice from external lawyers in preparing responses to these rebuttals in a timely and ultimately successful manner.
- 1.6 Failure to do so would have very likely resulted in court claims being lodged by the unsuccessful bidders which would have prevented the Panel from going ‘live’ and resulted in significant legal costs for the GLA to defend its decision in court.
- 1.7 These costs were not anticipated when budget estimates for the procurement of the Panel were first produced.
- 1.8 Headroom in the Land and Property Programme budget has been identified to cover this additional expenditure.

2 Finance Comments

- 2.1 This paper seeks approval for a further £55,000 of project revenue spend. This increase is required to cover the cost of additional legal support which is greater than originally envisaged. MD 2068 and MD 2191 approved £270,000 of expenditure to support the procurement process for LDP2 across 2016/17, 2017/18 and 2018/19.
- 2.2 The revenue spend of £55,000 will be allocated from the Housing & Land Management and Consultancy budget for 2018/2019.
- 2.3 Any changes to the above proposal, including request for additional funds and/or continuation beyond the period stated above, must be subject to further approval via the Authority’s decision-making process.