

GREATER **LONDON** AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2233

Title: Appointment of the London Development Panel 2

Executive Summary:

The Mayor has identified London's housing crisis as the single biggest barrier to prosperity, growth and fairness facing Londoners. His draft London Plan sets out a wide range of policies to significantly increase the supply of housing in the capital. It includes identified capacity for 65,000 new homes a year and a long-term strategic target for 50 per cent of all new homes built being genuinely affordable. The release of surplus, publicly-owned land for residential development has a key role to play in meeting these targets. Recognising this, a new London Development Panel will be established and will become a key tool in accelerating the delivery of new homes on public land.

The new London Development Panel, known as LDP2, will be a framework of 30 well established developers, house builders, contractors and Registered Providers of Social Housing who have been carefully selected through a competitive procurement process. The panel will offer comprehensive development and construction services and can be used by all public landowners in London, providing a streamlined and efficient method for selecting development partners for their sites.

The process to select the preferred panel members for LDP2 was approved under MD2068 and has now been completed. This decision form asks the Mayor to approve the appointment of the preferred bidders.

Decision:

That the Mayor approves the appointment of the 30 preferred bidders to the new London Development Panel 2, selected on the basis that they offered the most economically advantageous tenders.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

23/4/18

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 The draft London Plan identifies capacity for 65,000 new homes a year and a long-term strategic target for 50 per cent of all new homes delivered to be genuinely affordable.
- 1.2 Public land assets have a key role to play in meeting these targets and the Mayor is working closely with public land owners to identify surplus sites and bring them forward for development. The new London Development Panel (“LDP2”) will support and facilitate this process; it will be a fully OJEU compliant framework panel of prominent developers which public landowners can access and use to accelerate the appointment of development partners to deliver housing on their sites.
- 1.3 LDP2 follows the success of LDP1, which expired in November 2017. LDP1 was successfully used to appoint development partners by a wide range of public sector bodies for numerous sites in London from large-scale, multiphase, development opportunities to contracting opportunities for small residential schemes. Examples include:
 - *Stephenson Street, West Ham* - This ten hectare GLA-owned site is located opposite West Ham tube station. It will deliver 3,750 dwellings including a range of educational, community and ancillary commercial uses;
 - *Beam Park, Dagenham* – This extensive former industrial site will be comprehensively regenerated to deliver circa 2,800 new dwellings, a new C2C station and two new primary schools;
 - *Silvertown Way, Canning Town* – This will deliver circa 950 new dwellings, a hotel, gym, retail space and affordable work space;
 - *Hounslow Town Primary School* - This project includes the construction of a new primary school on part of an existing school site and on adjacent council land. 284 dwellings will also be delivered as part of the scheme.
- 1.4 Consultation with public sector landowners across Greater London has indicated clear support for the procurement of a new panel to support the delivery of new residential-led development over the next four years.
- 1.5 Any GLA sites progressed through the Panel will be subject to the GLA’s decision-making process in the normal way.

2 Rationale for LDP2

- 2.1 European Union public procurement law regulates the purchasing of contracts for goods, works or services by public sector bodies. In England, this is implemented by the Public Contracts Regulations 2015 (“Regulations”). Where the contract value for certain public goods, works or services exceeds a certain threshold, the Regulations require public bodies to publish a contract notice in the Official Journal of the European Union (OJEU) and follow one of the prescribed forms of tendering procedures.
- 2.2 If land is disposed with conditions attached, such as an obligation to deliver housing on a site within a prescribed timeframe, a full OJEU compliant procurement process is required. As such, public landowners seeking to appoint and contract with developers to deliver housing on their sites will usually need to select their preferred developer using a full OJEU compliant procurement procedure. This process can be time consuming, costly and requires significant resource to manage the process.

- 2.3 An alternative is to select a developer from a framework panel, following a shorter mini-competition process. Framework panels enable the award of individual contracts without going through a full OJEU compliant procurement process each time. A framework panel is therefore expected to speed up the procurement process, increase efficiency and significantly reduce costs by pre-qualifying panel members under set terms and conditions.
- 2.4 The new London Development Panel 2 is one of these framework panels. Given the pressing need to accelerate the delivery of new homes, the panel will be a valuable tool for the efficient delivery of new homes on public land. Recognising this, the Mayor has committed to establishing a new London Development Panel and gave approval to procure it in December 2016 (MD2068).
- 2.5 The new panel will incorporate the following key features:
- It will be a framework for delivering residential-led development to support the Mayor’s ambitions for surplus public land in London;
 - It will be available to all public landowners and Registered Providers of social housing (“RPs”) in London;
 - It will be a single Lot framework comprising 30 Panel Members;
 - It will offer a comprehensive range of development services including design, planning, site preparation, construction, marketing, sales and estate management services;
 - It can deliver a wide range of tenures including private sale, affordable, private rented and specialist accommodation;
 - It will offer a streamlined, clear and flexible process for public land owners to appoint development partners for their sites through incorporating a defined mini-competition process and a standard set of call-off contracts which are designed to adapt to the size and complexity of the scheme being procured;
 - It can be used for both development and contracting opportunities;
 - It can be used for projects of varying scales – from small contracting opportunities through to long-term, multiphase regeneration projects;
 - It will allow landowners to take a longer-term income from their development projects and/or a capital receipt.

3 Procurement process

Standard Selection Questionnaire

- 3.1 A full OJEU compliant procurement exercise has been undertaken to select the 30 preferred bidders. Firstly, a notice was published in the European Journal in July 2017 which alerted the market to GLA’s intention to procure the panel, set out what the panel will do and invited parties who were interested in becoming panel members to submit a response to a Standard Selection Questionnaire (SSQ).
- 3.2 The SSQ required bidders to provide information about their organisation including:
- Their organisational structure;
 - Their technical expertise and track record of delivering residential-led development;
 - Their financial strength and capacity.
- 3.3 SSQ responses were assessed against set criteria which were made available to bidders when the procurement exercise began. Fifty-four SSQ responses were received from a mix of house builders, RPs, contractors and consortia. Following assessment, a shortlist of 42 bidders were invited to tender (ITT). The 42 were shortlisted on the basis that they met the GLA’s requirements in the SSQ and achieved the minimum technical score required in the SSQ.

Invitation to Tender

- 3.4 Shortlisted bidders were invited to tender in October 2017.
- 3.5 Call-off mini-competitions from a multi-supplier framework such as this must be consistent with the award criteria used to procure the framework itself. The GLA therefore developed a 'case study' development brief based on a hypothetical public land disposal. Bidders were expected to submit a hypothetical residential-led development proposal for a site, just as they would in mini-competitions when the panel is 'live'.
- 3.6 To ensure this requirement was realistic but also fair and equal, the GLA identified a 'real' site that was not yet ready to come to the market. To this end, the GLA worked with the LLDC to identify a development parcel within one of the five new neighbourhoods in the Queen Elizabeth Olympic Park.
- 3.7 The development brief for the site, located within the 'Pudding Mill Lane' neighbourhood, was largely based upon the outline planning consent for the site, which is set out in the Legacy Communities Scheme. However, for the purpose of the tender exercise, a number of assumptions were made, in order to provide some parameters within which bidders were to respond.
- 3.8 Within this context, bidders were required to propose a residential-led scheme for the site. The requirement was to submit a technical response and a financial offer for the site.
- 3.9 The technical element sought to understand what the bidders would deliver on the site as well as their approach to the design, development and overall delivery of their scheme. Bidders were also required to submit a hypothetical financial offer for the site, based on a residual land value calculation, and their approach to securing funding for the development.
- 3.10 The requirements and their respective weightings are set out in the table below.

Section	Requirement	Weighting
SSQ	Confirmation that bidders' circumstances have not changed since submission of their SSQ.	Pass/Fail
Commercial	Confirmation that bidders' accept the terms and conditions of the framework agreement.	Pass/Fail
Technical	Masterplanning Approach	20%
	Strategy for achieving planning permission	10%
	Project management approach	10%
	Project delivery programme	5%
	Marketing, sales and letting approach	2.5%
	Estate management strategy	2.5%
	Health and safety strategy	5%
	Risk assessment	5%
Financial	Funding strategy	10%
	Financial offer for the site and supporting development appraisal	30%

- 3.11 Tenders were received from 40 of the 42 shortlisted bidders.

Evaluation Criteria

- 3.12 Tenders were evaluated against a pre-disclosed award criteria and a pre-determined methodology, consistent with the underlying principles of the Regulations. That is, transparency, proportionality, non-discrimination and equality of treatment.

Compliance

- 3.13 Firstly, tenders were checked for compliance to ensure they complied with the requirements of the ITT. Bidders were also required to accept the terms of the framework agreement (the binding agreement they will sign to become a panel member) and confirm that their circumstances had not changed since submission of their SSQ.
- 3.14 One tender was found to be non-compliant and as such, the bidder was disqualified.

Technical Evaluation

- 3.15 The technical part of the tenders were also assessed using a geared scoring scale of 1, 4, 9, 16 or 25 (where 25 is the highest possible score). Each requirement within the technical element of the bid had its own definition for each score to maximise transparency.
- 3.16 The master planning approach, health and safety and risk assessment requirements also had a minimum score threshold of nine. This reflects the relative importance of these areas.
- 3.17 Nine bidders did not meet the minimum threshold score of nine in the masterplanning approach requirement. These bidders were therefore disqualified.
- 3.18 Despite the existence of pre-disclosed award criteria, the evaluation of quality inherently has a degree of subjectivity. To ensure the evaluation was fair and equal, under advice from TfL Procurement, each sub-section of the quality element was evaluated by a group of assessors. Following the individual evaluation exercise, the assessors met to discuss their independent scores and comments in order to agree on a consensus score to be taken forward.

Financial Evaluation

- 3.19 The funding strategy and financial offers were assessed by the GLA. The figures and assumptions in the bidders' development appraisals were assessed for completeness, credibility, robustness and reasonableness. This was to ensure parity amongst tender responses and to provide confidence in bidders' understanding and financial approach to the case study and the quantum and risk of the RLV. The extent of the 'risk' of the inputs and assumptions being commercially unrealistic and the RLV not being achievable were assessed. The following aspects of bidders' financial offers were assessed in the evaluation:
- The robustness, appropriateness and adequacy of any assumptions and allowances used to inform the values and costs;
 - The robustness and appropriateness of any assumptions used to inform financial positions, including leasing and sales strategy, sales rate, pricing and phasing;
 - The robustness and credibility of the financial approach and structure;
 - Consistency with other aspects of their tender;
 - The extent and how realistic / appropriate any or all of the following hurdle rates are:
 - IRR where the development proposal is to be internally funded including the Tenderer's discount rate, the period over which the cashflow is to be discounted, the circumstances (if any) in which the Tenderer's discount rate may change;
 - Profit on GDV;
 - The extent and robustness of any contingencies.
- 3.20 Following this assessment a 'risk score' was allocated in accordance with the extent of risk across the overall figures and assumptions within the bidder's offer and in accordance with the table below.

Classification	Risk Score
No or Minimal Risk	1.0
Minor Risk	0.9
Mid Level of Risk	0.75
Significant Risk	0.55
High Risk	0.3
Unacceptable Risk	0

- 3.21 Where a bidder did not achieve a risk score of '0.75' (Mid Level of Risk) or better, the GLA reserved the right to disqualify the bidder, or award zero marks for the financial submission. All bidders achieved a risk score of 0.75 or better.
- 3.22 Bidders' RLVs were then multiplied by the risk score to create an Adjusted RLV. The bidder with the highest Adjusted RLV was then allocated the highest possible score. The Adjusted RLV of other bidders were then scored relative to the highest Adjusted RLV.
- 3.23 The assumptions behind the financial offers made at this stage will be carried forward as baseline figures for future reference at project specific mini-competition tenders. This will be achieved by appending the proposed sales values and construction costs (per square foot), and overheads and profit (as a percentage of Gross Development Value) to each successful bidder's framework agreement. While it is acknowledged that costs and values are likely to vary between sites and across time, the baseline figures will be used as a reference point, and panel members may be asked to provide a justification for any variation to these figures in mini-competitions.
- 3.24 The 30 compliant bidders who submitted the most economically advantageous tenders are recommended for selection as panel members. These bidders are listed in Appendix 1.
- 3.25 The preparation of procurement material and the evaluation of tenders has been undertaken by existing staff resources within the GLA, the London Legacy Development Corporation and Transport for London development teams. An external development advisor was appointed to support the assessment of the financial offers. External expertise was also sought to assess the health and safety strategies contained within the tenders. GLA's finance team reviewed the financial standing of bidders at the SSQ stage. Procurement support and legal advice has been provided under the GLA's shared services agreement with TfL alongside external legal advice.

4 Next steps

Framework Agreement

- 4.1 Upon receipt of Mayoral approval to appoint the 30 preferred bidders to the panel, bidders will be notified of the outcome of the assessment process. Following the statutory 10 day stand-still period, the GLA will then enter a framework agreement with each of the successful bidders. The framework agreement is a contract between the GLA and the successful bidder; it documents the terms and conditions of panel membership and the role and responsibilities of panel members. When all 30 framework agreements have been entered the panel will be 'live' and mini-competitions can commence.
- 4.2 It should be noted that the suspension and termination provisions within the Framework Agreement give the GLA the ability to suspend a Delivery Partner (this includes Lead Panel Members, Qualifying Consortium Members and their respective affiliates) from taking part in mini-competitions and/or terminate a Delivery Partner's framework agreement in a range of scenarios including the following:

- Material or persistent breach of the obligations within the framework agreement, where the breach cannot be, or has not been, remedied;
- Insolvency (this also applies to Consortium Members in certain circumstances and Guarantors where applicable);
- Where a Delivery Partner call-off contract has been terminated;
- Where a Delivery Partner or Consortium Member is convicted of any of the offences listed in regulation 57(1) and/or 57(4) of the Procurement Regulations. This includes corruption, bribery, fraud, theft, tax offences, money laundering and terrorism. GLA can also suspend a Delivery Partner from entering a call-off contract where a public authority has commenced action or is threatening to commence action in relation to these offences;
- Where the GLA considers that any of the situations referred to in regulation 57(8) of the Procurement Regulations has arisen at any time in relation to the Delivery Partner or any Consortium Member. This includes situations where they have shown significant or persistent deficiencies in performance under a prior public contract which led to the early termination of that contract, damages or other comparable sanctions;
- Where the Delivery Partner or any Consortium Member does anything or is found to have done anything which:
 - adversely affects the GLA; or
 - could adversely affect the reputation of the GLA.
- Where the Delivery Partner or Consortium Member no longer meet the minimum standards or thresholds set out in the SSQ for whatever reason at any time for the duration of the Panel;
- Where the Delivery Partner becomes a Prohibited Person.

Panel Management

- 4.3 Once the panel is live, officers in the GLA's Housing and Land Directorate will provide briefings for public landowners in London to alert them to the services the panel offers and promote its usage.
- 4.4 GLA officers will also manage the framework. In order to use the panel, public landowners are required to sign an access agreement with the GLA on a site by site basis. Officers will monitor the use of the panel and report on its usage to the senior management team in the directorate once a year.
- 4.5 The panel has a four year lifespan, with an option to extend it by a further year if required.

Activity	Timeline
Bidders notified of outcome	30 th April 2018
Stand-still period	Ends 11 th May 2018
Framework Agreements entered	15 th June 2018
Panel commences	15 th June 2018
Panel expires	14 th June 2022

5 Risks

- 5.1 The key risks associated with LDP2 are summarised as follows:

- Any procurement exercise gives rise to a risk of legal challenge. The procurement of the panel is being supported by the GLA's procurement agents and legal advisers. External legal advice has also been sought specifically related to minimising the

procurement risks associated with the establishment of the panel. This advice has been followed to ensure that the procurement process is transparent, fair and equal, and in line with the Public Contracts Regulations 2015;

- There is a small risk that use/take-up of the panel will be low, particularly in its early days. To mitigate this, the GLA will work up and execute a communications plan when the panel goes live to promote its benefits to public landowners and help develop a pipe-line of sites to bring to the panel. Furthermore, the GLA is already aware of a number of opportunities which will be offered to the panel in its first 6 months;
- The panel can be used by public landowners across London. The panel has been procured on the basis that it will generate circa £20bn of gross development value through residential-led schemes which panel members will deliver. It is important that the schemes being procured via the panel are known to GLA to ensure the panel is being used for its intended purpose. To ensure this, public landowners wishing to use the panel must obtain the GLA's permission to do so and provide details on what is being proposed on a scheme by scheme basis. This will allow GLA to collect data on the schemes and ensure the panel is being used for its intended purpose.

6 Equality comments

- 6.1 It is not anticipated that establishment of LDP2 will have a negative impact on any groups identified under the Equality Act 2010.
- 6.2 When the GLA uses the panel to select development partners for its sites, the equalities impact of the proposed scheme will be assessed as part of the approval process.

7 Financial comments

- 7.1 There are no direct financial implications resulting from this decision.
- 7.2 London Development Panel 2 (LDP2) is a successor to LDP1 which expired in November 2017.
- 7.3 LDP2 will be a framework panel of prominent developers which public landowners can access and use to accelerate the appointment of development partners to deliver housing on these sites.
- 7.4 The establishment of the panel will reduce duplication of procurement effort in establishing suitable development partners for public bodies in London and should reduce the time needed for procurement exercises for development projects where the panel is used.
- 7.5 Ongoing monitoring of the viability of companies appointed will be required for the lifespan of the panel to ensure that the framework remains current and useful.
- 7.6 Any costs of establishing and maintaining the panel additional to the use of in-house and shared service resources will be covered by a separate Decision.

8 Legal comments

- 8.1 Section 30 of the Greater London Authority Act 1999 (as amended) (GLA Act) gives the Mayor a general power to do anything which he considers will further one or more of the principal purposes of the GLA as set out in section 30(2) which are:
 - i. Promoting economic development and wealth creation in Greater London;
 - ii. Promoting social development in Greater London; and
 - iii. Promoting the improvement of the environment in Greater London

and, in formulating the proposals in respect of which a decision is sought, officers confirm they have complied with the GLA's related statutory duties to:

- Pay due regard to the principle that there should be equality of opportunity for all people;
- consider how the proposals will promote the improvement of health of persons in Greater London, promote the reduction of health inequalities between persons living in Greater London, contribute towards the achievement of sustainable development in the United Kingdom and contribute towards the mitigation of or adaptation to climate change in the United Kingdom; and
- Consult with appropriate bodies.

8.2 Sections 1 to 3 of this report indicate that the Mayor has the power to proceed to make the decisions as requested within this report.

8.3 External legal advisors Herbert Smith Freehills have provided supporting legal advice.

Appendices and supporting papers:

Appendix 1: Preferred bidders, recommended to be appointed as panel members

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? YES

If YES, for what reason:

To complete the procurement process for the panel. Part 1 should be deferred until all framework agreements have been signed and the contract award notice has been published.

Until what date: 30 June 2018 (review on this date)

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Lauren Noble has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

David Lunts has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

James Murray has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 16 April 2018.

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

M. D. Ollé

Date

16.4.18

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

D. Bellamy

Date

16/4/2018.

Appendix 1: Preferred bidders, recommended to be appointed as panel members

A2Dominion Housing Group Limited
BDW Trading Ltd
Be Living Limited
Bellway Homes Limited
Catalyst Housing Limited
Countryside Properties (UK) Ltd
Durkan Limited
Engie Regeneration Consortium (Engie Regeneration Ltd, HUB Residential Ltd, Delancey Real Estate Asset Management Limited)
Galliford Try Partnerships Ltd
Hadley Property Group Holdings Limited
Higgins Group PLC
Hill Holdings Ltd
Hyde Housing Association Limited
Lendlease Europe Holdings Limited
London & Quadrant Housing Trust
Morgan Sindall Consortium (Lovell Partnerships Ltd, Muse Developments Ltd, Morgan Sindall Investments Limited, Morgan Sindall Construction & Infrastructure Ltd)
Native Land
Notting Hill Genesis
Optivo
Peabody Trust
Pinnacle Group Ltd
Prospect House Consortium (Stanhope Plc, Network Homes Ltd, Laing O'Rourke Construction Limited)
Quintain Projects Limited
Redrow Homes Limited
Rydon Construction Ltd
Swan igloo Consortium (Swan Housing Association, igloo Regeneration Ltd)
Telford Homes PLC
The Berkeley Group plc
U and I Group Plc
United Living (South) Ltd

