

**REQUEST FOR DIRECTOR DECISION – DD1363**

**Title: Mayor's Housing Covenant 2015-18: Revolving Fund - Entry into Legal Agreement with Gentoo Genie**

**Executive Summary:**

MD1425 approved the selection of two housing providers, including Gentoo Genie Limited, for the allocation of up to £50m funding under the Mayor's Housing Covenant 2015-18 (Revolving Fund), subject to the successful completion of contract negotiations.

Contract negotiation on a Development Facility Agreement has now successfully concluded and a Director Decision is required, in line with MD1425, to approve entry into legal agreements with Gentoo Genie Limited, which makes available £40m of funding under the Mayor's Housing Covenant 2015-18 (Revolving Fund) to deliver 500 homes by 2018, and up to a further 1,500 homes within ten years.

**Decision:**

That the Executive Director approves:

- entry by the GLA into a Development Facility Agreement with Gentoo Genie Limited (the Parent) and Just Ask Genie Limited (the Developer) and any other legal agreements required in relation to the GLA's security in respect of the same, as summarised in Part 2 of this Director Decision form, in accordance with the delegation agreed in MD1425.
- expenditure of up to £40m from the Mayor's Housing Covenant 2015-18 (Revolving Fund), in accordance with the delegation agreed in MD1425, and the setting up of a Charged Account to safeguard GLA investment.

**AUTHORISING DIRECTOR**

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.  
It has my approval.

**Name:** David Lunts

**Position:** Executive Director Housing and Land

**Signature:**

**Date:**

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 The Mayor's Housing Covenant 2015-18 (Revolving Fund) programme was launched in December 2013 as part of the Mayor's work to maximise delivery of affordable housing in London. The programme invited expressions of interest from housing providers for innovative ways of delivering affordable housing through a Revolving Fund.
- 1.2 Housing providers were invited to submit expressions of interest for funding to deliver homes to complete by March 2018. The Revolving Fund makes further provision to allow initial investment drawn down in 2015-18 to be recycled to deliver additional affordable homes after March 2018 in accordance with the terms and conditions agreed with the GLA. The capital sums invested by the GLA will be recovered and paid back to the GLA at the end of the agreed fund term, typically a ten year period.
- 1.3 The first stage of due diligence concluded at the end of May 2014, with MD1379 approving five proposals for taking forward to a second stage of due diligence. The second stage of due diligence addressed commercial, technical, legal, and regulatory matters. The second stage concluded at the end of September 2014. Two bids (Big Issue Invest and Gentoo Genie) were selected to enter into final contract negotiations.
- 1.4 On 5 January 2015, MD1425 approved the selection of Big Issue Invest and Gentoo Genie for the allocation of up to £50m funding under the Mayor's Housing Covenant 2015-18 (Revolving Fund), subject to contract negotiations being successfully concluded and the terms of the agreements finalised to the satisfaction of GLA. Authority was delegated to the Executive Director of Housing and Land in consultation with the Deputy Mayor for Housing, Land and Property to approve entry into the legal agreements.
- 1.5 Final contract negotiations have now been concluded with Gentoo Genie and it is proposed that the GLA will enter into a Development Facility Agreement with Gentoo Genie Limited and Just Ask Genie Limited (the Developer, a wholly-owned subsidiary of Gentoo Genie Limited). It is further proposed that the GLA enters into various additional agreements to ensure that the GLA has adequate security in respect of this funding; this security is described in paragraphs 1.6 and 1.7 below and in Part 2. As noted previously, the Gentoo Genie proposal involves a revolving loan from the GLA, which would not benefit from interest but which must be repaid in full within ten years. GLA makes payments to Gentoo Genie or Just Ask Genie, once certain conditions are satisfied in relation to each scheme proposed by Gentoo, with drawdown to meet development costs, as defined in the Development Facility Agreement.
- 1.6 It is intended that net proceeds (after the repayment of amounts due to any senior lender) from the disposal of the initial units built would be reinvested in further schemes to deliver significantly more homes than the initial number proposed. Gentoo must pay all net receipts into an account charged in favour of the GLA. GLA will have a debenture over Just Ask Genie (subordinated to the senior lender) and as Gentoo Genie or Just Ask Genie acquires a site, it will grant a legal charge in favour of GLA over that site (again subordinated to the senior lender).
- 1.7 Drawdown of funding is also conditional upon Gentoo Genie satisfying a condition that senior lender debt funding is in place (if required in respect of a scheme). An intercreditor agreement will be entered into between the GLA, Gentoo Genie, Just Ask Genie and the senior lender which will set out the rights of the respective lenders to the Gentoo Genie schemes.

- 1.8 The Development Facility Agreement has been drafted by Trowers & Hamblins LLP on behalf of the GLA, which fully reflects this proposal and suitably protects the GLA's position. Further details of the key terms are set out in Part 2.
- 1.9 Due diligence and contract negotiations with Big Issue Invest remain ongoing. It is anticipated that GLA will be able to contract with them over the course of the summer, for which a further approval will be sought.

## **2. Objectives and expected outcomes**

- 2.1 It is recommended that GLA enter into legal agreement with Gentoo Genie Limited (the Parent) and Just Ask Genie Limited (the Developer).
- 2.2 Gentoo Genie Limited will provide Londoners with the opportunity to acquire ownership of a property without the need for a mortgage or a deposit, through its Home Purchase Plan product. The properties will be constructed or acquired by the Developer and/or Parent, before being owned by (or transferred to) the Parent while a Home Purchase Plan is agreed with a resident.
- 2.3 The GLA's investment will deliver 500 homes between 2015 and 2018, and up to a further 1,500 new homes within ten years. The investment will help to deliver two key priorities of the Mayor's Housing Strategy: increasing housing supply to levels not seen since the 1930s, and better supporting working Londoners and helping more of them into home ownership.
- 2.4 It is anticipated that the allocation to Gentoo Genie will create 2,700 jobs and support 300 apprenticeships. These outputs are contractually required from Gentoo Genie, and will be monitored on an ongoing basis.

## **3. Equality comments**

- 3.1 The Mayor's Housing Covenant 2015-18 (Revolving Fund) programme implements the policies and priorities set out in the Mayor's London Housing Strategy. In January 2014, the GLA published an Integrated Impact Assessment (IIA), including an equalities impact assessment, of that strategy. The policies related to increasing housing supply, of which this paper relates, were covered by the IIA for the Further Alterations to the London Plan.
- 3.2 The IIA concluded that updating housing projections and targets would support the delivery of sufficient housing and may help stabilise housing prices, supporting equal opportunities throughout communities. Furthermore, the provision of housing, including maximising the delivery of affordable housing would be in line with other policies of the Plan (e.g. Policy 3.5), ensuring that the needs of different groups are taken into account in the housing design.
- 3.3 GLA investment into Gentoo Genie addresses the need within the market place for a home ownership product targeted at those within the Mayor's household income ranges but those that would not be able to access shared ownership as they do not have a sufficient deposit. This enhances the GLA's product range and makes the suite of intermediate housing products more equitable and more applicable to the thousands without sufficient deposits, keeping many households in the capital as the access point to the home is more achievable.

## **4. Other considerations**

- 4.1 Further due diligence has resolved the issues highlighted in MD1425 in relation to:

- i. Robust evidence of strategic relationships with key stakeholders in London that would enable delivery on the scale proposed. This has been provided by Gentoo Genie to the satisfaction of GLA officers.
- ii. EU State Aid compliance confirmation. Advice has been received from the GLA's external lawyers and incorporated into the contract.
- iii. Stamp Duty Land Tax treatment (SDLT) of Home Purchase Plans. Agreement has been reached with Gentoo Genie to ensure that SDLT does not restrict the access point to the product to a level that renders the scheme unviable in London.

Further details of this due diligence are set out in Part 2.

4.2 Final contract negotiation has confirmed GLA will receive an appropriate level of security on its investment. Further details about the GLA's approach to safeguarding this investment are set out in Part 2.

4.3 Further risks have been mitigated as follows:

4.3.1 Risk: Gentoo Genie fails to deliver the homes forecast in the proposals

Mitigation: Strong programme management arrangements have been agreed, including formal quarterly funding agreement reviews. Pipeline sites and substitutes will be managed to ensure that slippage or non-delivery is mitigated with viable replacement schemes.

4.3.2 Risk: Long-term management and recovery of investment

Mitigation: Robust legal agreements will be put in place to govern how parties manage investment for the duration of the fund term, including how and when investment is drawn down against project costs. Clear reporting and monitoring arrangements will proactively track and manage investment, supported by appropriate security packages to mitigate the risk of event(s) of default.

## **5. Financial comments**

5.1 The funding for up to £40m of loans is available from existing housing budgets as agreed by MD1425. This will part-fund schemes (anticipated to be 35%, which will be the maximum allowable) during the development phase at which point a long term investor will back the sales model that Gentoo Genie operates to provide affordable housing.

5.2 GLA revenue expenditure is not forecast to exceed the £120,000 agreed by MD1425.

5.3 Further finance comments are provided in Part 2.

## **6. Legal comments**

6.1 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. The principal purposes, as set out in section 30(2), of the GLA Act are:

- 6.1.1 promoting economic development and wealth creation in Greater London;
- 6.1.2 promoting social development in Greater London; and
- 6.1.3 promoting the improvement of the environment in Greater London

- 6.2 and, in considering the proposed agreement described in this Director Decision form, officers confirm they have complied with the GLA's related statutory duties to:
- 6.2.1 pay due regard to the principle that there should be equality of opportunity for all people;
  - 6.2.2 consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom; and
  - 6.2.3 consider consulting with appropriate bodies.
- 6.3 Given the above, Section 34 of the GLA Act, which allows the Mayor to do anything which is calculated to facilitate or is conducive or incidental to the exercise of any of his functions (including his functions under section 30), and the Mayor's powers (under Section 38 of the GLA Act) to delegate to any GLA member of staff functions of the GLA that are exercisable by him, the foregoing sections of this form indicate that the decision requested falls within the above statutory powers of the GLA exercisable by the Executive Director of Housing and Land, in consultation with the Deputy Mayor for Housing, Land and Property (pursuant to the delegated authority granted under MD1425).
- 6.4 External legal support has been procured from Trowers and Hamlins LLP who have been appointed by Legal to act for the GLA in the drafting and negotiation of the legal agreement with Gentoo Genie Limited and Just Ask Genie Limited and in relation to the state aid due diligence. Further legal comments appear in Part 2.

## 7. **Planned delivery approach and next steps**

<b>Activity</b>	<b>Timeline</b>
Gentoo Genie enter into contract with GLA	June 2015
Announcement at Chartered Institute of Housing conference	24 June 2015
Revolving Fund begins to operate with funds drawn down	August 2015
GLA undertake strategic review of Revolving Fund principles and progress to determine success and replicability to further deliver Mayor's strategic objectives	March 2016
Revolving Fund investment fully recovered	End of March 2025

### **Appendices and supporting papers:**

**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**

To enable the GLA to manage announcements in relation to the allocations.

Until what date: 24 June 2015

**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 YES**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Andrew Williams has drafted this report in accordance with GLA procedures and confirms that:

✓

**Assistant Director/Head of Service:**

Jamie Ratcliff has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

**Financial and Legal advice:**

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

**Date**