SPECIAL MEETING AGENDA

1. MEMBERS’ CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Cabinet are asked to consider whether they have any disclosable pecuniary and/or any other relevant interest, in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

2. WIRRAL GROWTH COMPANY

Cabinet Report (Pages 1 - 18)
Appendix A – Invitation to Submit Final Tender (ISFT) (Pages 19 – 70)
Appendix B – 11 Priority Sites Boundary Plans (Pages 71 – 82)
Appendix C – Overview of Principal Legal Documents (Pages 83 – 89)
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Councillor Phil Davies, Leader of Wirral Council, said:

“The Wirral Growth Company will create **thousands of jobs** for local people. It will drive huge **growth in the local economy** and it will help fund **local public services** by bringing income to the council.

The Growth Company is perhaps the most ambitious, entrepreneurial and impactful programme the council has ever embarked upon and makes a significant step in achieving a host of the council’s 20/20 pledges.

It will help us create jobs. It will stimulate economic growth, build new houses, kick-start regeneration at key sites throughout the borough, and provide a long-term, substantial revenue stream to help us replace some of the funding we have lost through austerity policies.

This programme will, over the next few years, help create more than 3,000 new jobs for local residents. Jobs in construction, retail, hospitality and tourism will see a huge boost throughout our borough as our regeneration plans are kick started through the Growth Company.

It is also vital to help us support our existing local services, which have been decimated by austerity policies since 2010. The Growth Company will facilitate millions of pounds of new investment into the borough, of which the council will directly benefit through its participation in the Growth Company. New money will be brought into the council every year, money which will be immediately reinvested into local services and making sure Wirral remains a fantastic place to live and visit.

The Growth Company is a Joint Venture Partnership – we have the land and buildings, our partner will bring investment and expertise. In essence, we will pool our resources, get new developments built and share the benefits.
These developments— in Birkenhead Town Centre, Bromborough, Bebington, Moreton and Wallasey— cannot be developed by the council alone. We do not have the resources, the skills or the capacity to achieve regeneration on this scale without a major developer working alongside us. Wirral Growth Company will also bring new ideas and energy to delivering regeneration in New Ferry, devastated by the gas explosion nearly a year ago and still awaiting any offer of support from central government.

The Growth Company will be able to use these sites and develop them. It will see us be able to create new retail centres, housing developments, leisure facilities; bringing with them hundreds of jobs in the construction phase and then even more when they open their doors to the public.

This programme will provide real benefits for the council, the borough and the entire City Region. We are now in the position to take a leading role in creating the Wirral we want to see for our residents."

1. REPORT SUMMARY

1.1 The purpose of this report is to inform Cabinet of the progress made in regard to the procurement process for the appointment of a Joint Venture partner and to make an award to the winning bidder to join the council to establish the proposed Limited Liability Partnership to be named Wirral Growth Company.

1.2 On 19th June 2017, Cabinet agreed to establish a Joint Venture (JV) company to lead the regeneration of key sites within the borough. Cabinet recognised that by utilising the council’s asset base, there was potential to leverage considerable investment, capacity and expertise to fund a significant programme of regeneration across a range of key strategic development sites.

1.3 It was agreed that the council would form a joint venture with a partner in the form of a Limited Liability Partnership (LLP) which would involve each party holding equal ownership within governance arrangements that protect the council’s statutory duties to receive best consideration for land, ensure transparency/accountability and take public law decisions unfettered. There would be an asset transfer between the council and the JV in respect of the council’s investment properties & land and in consideration, the council would receive equity to be matched by the partner and a secure loan note structure in respect of the balance of its investment. The council’s development sites would then be transferred to the JV on a site by site basis subject to the satisfaction of pre-development conditions around viability, achieving best consideration and the council’s strategic regeneration framework. The JV would deliver the development sites through a combination of funding streams including equity funding from the partner, recycled returns from other sites and third party development finance. The council would also receive financial returns in accordance with the loan note structure, land receipts and the performance of the JV.

1.4 Following Cabinet approval, the council has undertaken an OJEU procurement process for the appointment of a JV partner using a works concession based on competitive dialogue. Through this process and following a pre-qualification stage, two short-listed bidders (with sufficient experience, capability and capacity for the JV model) have participated in the detailed dialogue stage and developed and refined their proposals for the JV. The competitive dialogue stage was formally
closed on 15\textsuperscript{th} December 2017, and the two bidders were invited to submit their final tenders by 3\textsuperscript{rd} January 2018.

1.5 As part of the dialogue process, bidders were required to prepare, refine and submit the following documents:

- Business Plan for the JV
- Site specific proposals for 11 key sites sited in Birkenhead, Bromborough, Bebington, Moreton and Wallasey
- Funding proposal for a Commercial Centre in Birkenhead
- Full legal mark up of all the proposed company documentation
- Mobilisation Plan
- Financial Model

1.6 The bids received have been evaluated by the council’s project team comprising representatives from Finance, Legal, Procurement, Assets, Growth and Transformation in conjunction with the council’s external advisors Bevan Britten (legal) and GVA (commercial, finance and property).

1.7 The Invitation to Submit Final Tender specification can be found at Appendix A. Twenty six questions were asked of bidders through a set of criteria that were weighted towards those questions that were judged to be most important. There was a 70/30 split between Quality (70) and Finance (30) and this reflected the ambition to create a broad purpose regeneration company rather than one based on simply creating profit.

1.8 On completion of this process, the council and its external advisors have undertaken a review of the integrity of the OJEU procurement process and robustness of the decision to recommend Bidder A as the preferred partner to establish a joint venture partnership.

1.9 In light of recent changes in the market place, the council has undertaken a further due diligence assessment on Bidder A. Therefore, assessments of the preferred bidder and its directors have been made by Standard & Poor, Moody’s and Experian. The preferred bidder is judged to have a very strong financial standing.

1.10 Subject to the standstill period, the council would then execute the documentation with Bidder A, work up the proposals for specific sites further and refine the Business Plan by the end of May 2018 to allow planning applications for the first tranche of sites to be submitted in the summer.
2. RECOMMENDATION/S

It is recommended that Cabinet:

1. Award the works concession to Bidder A to form a JV LLP with Wirral Borough Council and following standstill, delegate responsibility to the Director for Corporate Resources & Reform to conclude and to deal with any issues arising out of the procurement process.

2. Note that the new joint venture vehicle in the form of a limited liability partnership, will be called ‘Wirral Growth Company’ (WGC).

3. Authorises Director of Law and Governance to sign the documentation establishing the WGC and affix the Council's seal once the standstill period has completed.

4. Requests officers to bring forward for Cabinet approval within three months:
   
   (a) the business plan for the first 3 years of operation of the WGC, recognising that the number and identity of initial sites brought forward may be different from the 11 priority sites tested during the procurement process;

   (b) the Site Development Plans for the sites to be developed initially, particularly those that are capable of being progressed immediately with a view to transferring them to WGC (or an appropriate subsidiary) through relevant disposal arrangements to include freehold, building lease and licence as appropriate at the relevant time, subject to best consideration and any necessary approvals or consents and vacant possession being obtained;

   (c) the acquisition of land and assets should any further land be required for development at this stage;

5. Approve the grant of insurance and an indemnity to the Council's Directors appointed onto the Board of WGC from time to time.

6. So as to provide for appointments which are in furtherance of the exercise of an executive function, including the appointment of representatives on the WGC, recommend to Council that Paragraph 16 of Responsibility For Local Choice Functions at Table 1 of Part 3 of the Council's Constitution be amended so that the decision making body for the appointment to a body or office reads ‘The Council or in respect of executive functions the Leader or Cabinet’

7. Approve the release of up to £3m of capital funding already approved for strategic acquisitions to be invested in the JV.

8. To note the requirement set out in Section 6 to fund additional council resources in the planning, transport, growth and transformation teams and to agree that this is met from the future WGC distributions to the council and is supported from contingencies/balances pending anticipated distributions.

9. Note that the Leader will approve any reserved matters that may require Cabinet approval from time to time.
3. EXEMPT INFORMATION

3.1 This report contains exempt information in the Background Paper as defined in Schedule 12A of the Local Government Act 1972. It is in the public interest to exclude the press and public under Paragraph 3 ‘Information relating to the financial or business affairs of any particular person (including the authority holding the information).

3.2 Background Paper A includes the preferred bid and is commercially sensitive.
SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

1.1 The procurement process for the JV partner, the appointment of a preferred bidder and the subsequent establishment of an LLP to be called Wirral Growth Company will enable the council to form a partnership with the selected partner utilising the council’s asset base, the partner’s equity funding and expertise plus third party finance to deliver key regeneration and financial benefits to the Borough in accordance with the key objectives of the Growth Strategy.

1.2 Wirral Growth Company will deliver significant economic regeneration benefits for the borough and provide significant social value. It will provide more than £1m for investment to make use of underused assets ahead of redevelopment (meanwhile uses) and provide the council with a sustainable long-term income stream. Additionally this initiative will support the delivery of numerous 20/20 pledges.

2.0 OTHER OPTIONS CONSIDERED

2.1 The council could decide not to continue the procurement process and not to appoint a preferred bidder. However the abandonment of the procurement process would not deliver the council’s strategic objectives or regeneration benefits for the borough as detailed in this report.

2.2 The alternative options to the procurement and establishment of a JV were considered and rejected by Cabinet on 19th June 2017. None of these options would deliver the same level of benefits for the borough or within the same timescales as the proposed JV.

2.3 In particular, it was recognised that the council does not have the skills, resources or finance to undertake the planned scale of development on its own.

3.0 BACKGROUND INFORMATION

3.1 On 19th June 2017, Cabinet considered and approved a Full Business Case to create a Joint Venture Property Company. The Director of Corporate Resources and Reform was authorised to commence and conduct an OJEU works concession competitive dialogue process to identify a partner.

3.2 The Competitive Dialogue procedure was chosen because it is the most suitable procurement approach where there is a need for the buying organisation (the council) to discuss aspects of the proposed solution with bidders. Its use is limited to ‘particularly complex’ contracts where the council cannot define in absolute terms what its requirements are.

3.3 The Competitive Dialogue Board was established to oversee the procurement process chaired by the Director of Corporate Resources & Reform. The Board has included senior staff and officers drawn from the bid assessment team. All aspects of the procurement process have been overseen by the council’s procurement and legal teams supported by external legal advice from BevanBrittan. The Chest has been used to communicate with bidders and all competitive dialogue meetings have been minuted.
3.4 The bid assessment team included staff from the council’s growth, legal, procurement, transformation and finance teams supplemented by advisors from GVA and Bevan Brittan.

3.5 An OJEU Concession Notice was issued on 4th July 2017 and a four stage procurement process commenced as follows;

1. Selection Questionnaire (SQ)
2. Invitation to Participate in Dialogue (ITPD)
3. Invitation to Continue Dialogue (ITCD)
4. Invitation to Submit Final Tender (ISFT)

**Part One - Selection Questionnaire Stage**

3.6 On 21st August 2017, four consortia responded to the OJEU Concession Notice. All were of significant scale both in terms of development ability and investment strength. Ahead of scoring the questionnaires, a comprehensive due diligence exercise was undertaken. This involved a range of agencies including Standard & Poor, Moodys and Experian. The due diligence assessed company performance, financial standing and the conduct of directors. Additionally a review was undertaken of the bidders Health & Safety and Social Value track record. No issues were identified with any of the bidders, in fact they were judged to be some of Strongest UK and International regeneration specialists.

3.7 The bids were scored as follows

<table>
<thead>
<tr>
<th>Bidder</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
</tr>
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<tbody>
<tr>
<td>Score</td>
<td>70.66%</td>
<td>66.48%</td>
<td>65.60%</td>
<td>59.02%</td>
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</table>

3.8 Following completion of SQ scoring, it was agreed that all four bidders be invited to proceed to the next stage of the process.

**Part Two – Invitation to Participate in Dialogue (ITPD) Stage**

3.9 Bidders were issued with an Invitation to Participate in Dialogue (ITPD) on 31st August 2017. The ITPD restated the needs and requirements of the council based around weighted criteria and an evaluation methodology.

3.10 The ITPD was weighted 70% on quality and 30% on finance. The proportion of scores allocated to these categories was determined by the objectives set for the JV. These were drawn from the WBC Growth Strategy and Strategic Regeneration Framework and included;

- Secure local economic growth, job creation and training and skills development opportunities for Wirral residents
- Make a positive contribution towards delivery of the local authority’s Asset Transformation Programme.
- Contribute to ensuring that businesses encouraged to invest in the Wirral have access to property that meets their needs and delivers business rate growth.
• Better utilise the Council's assets to drive socio-economic change to secure a sustainable future for the benefit of the community.
• Maximise the Council’s financial return from the disposal of its land and property assets, with a preference to generate secure revenue income streams.
• Positively contribute towards the Council’s Medium/Long Term Financial Strategy (LTFS).
• Improve the environment.
• Ensure the Council is not exposed to undue financial risk.
• Comply with its obligation to obtain best consideration reasonably obtainable on a disposal of its land.
• To ensure and encourage additional private sector investment, capacity and capability is enabled to support the broad regeneration objectives of the Council.

ITPD: Quality Evaluation

3.11 The criteria within the tender were weighted on the basis of the attributes and outcomes that were most important to the council. Emphasis was placed on partnering, a test of the bidders track record to date in partnering with public sector organisations to deliver tangible outcomes. The quality of master-plans for the key priority sites was also prioritised and these plans, in addition to the proposed overall financial model enabled bidders to complete a business plan that would form the starting point for the first three years of development activity.

3.12 A fourth key criterion was social value. Here the council was assessing a bidders commitment to recruiting local labour and using local supply chains. The council was looking for progressive working practices such as adoption of quality skills training & accreditation programmes, apprenticeships and adoption of the living wage.

ITPD: Financial Evaluation

3.13 Bidders were required to submit financial proposals in respect of the JV. These proposals were in the form of a financial model that would detail quantum, quality and phasing of the initial priority site developments to be undertaken by the JV. Bidders were asked to detail the infrastructure costs to be incurred and the assumptions that underpinned their development costs. The council was seeking to secure a partner that could provide a robust and credible financial approach with shared risk and reward. In order to be able to compare financial models, 11 priority sites were identified and bidders were asked to base their financial models on only these sites. The 11 sites were based in Birkenhead, Moreton, Bromborough, Bebington and Wallasey. These sites enabled the council to assess how the bidder would approach retail, commercial, industrial and residential development in addition to specialist development such as leisure and extra-care. Boundary line plans for these sites can be found in Appendix B.

3.14 On 31st August 2017, all bidders were invited to submit an initial tender. Ahead of the tenders being received, one bidder voluntarily withdrew from the process. On 26th October 2017, three consortia submitted bids. The following scores were agreed.

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<thead>
<tr>
<th>Bidder</th>
<th>A</th>
<th>B</th>
<th>C</th>
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<tbody>
<tr>
<td>Score</td>
<td>59.46%</td>
<td>52.11%</td>
<td>49.31%</td>
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</table>
3.15 On 8\textsuperscript{th} November, Bidder C was advised that they would not be proceeding to the next stage of the process.

*Part Three - Invitation to Continue Dialogue (ITCD) Stage*

3.16 The two short-listed bidders were issued with an ITCD and competitive dialogue commenced on 10\textsuperscript{th} November 2017. The schedule of competitive dialogue meetings was used to ensure that bidders understood the council's objectives and to ensure that the council evaluation team tested all aspects of the bidders approach to the JV. The schedule of meetings was as follows.

<table>
<thead>
<tr>
<th>Ref</th>
<th>Date</th>
<th>Bidder Co Name</th>
<th>Purpose of Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITCD001</td>
<td>10/11/2017</td>
<td>Bidder A</td>
<td>Competitive Dialogue: ITPD Debrief</td>
</tr>
<tr>
<td>ITCD002</td>
<td>10/11/2017</td>
<td>Bidder B</td>
<td>Competitive Dialogue: ITPD Debrief</td>
</tr>
<tr>
<td>ITCD003</td>
<td>15/11/2017</td>
<td>Bidder A</td>
<td>Competitive Dialogue: Masterplanning</td>
</tr>
<tr>
<td>ITCD004</td>
<td>17/11/2017</td>
<td>Bidder B</td>
<td>Competitive Dialogue: Masterplanning</td>
</tr>
<tr>
<td>ITCD005</td>
<td>20/11/2017</td>
<td>Bidder A</td>
<td>Competitive Dialogue: SIF, Grants and Funding discussion</td>
</tr>
<tr>
<td>ITCD006</td>
<td>22/11/2017</td>
<td>Bidder B</td>
<td>Competitive Dialogue: SIF, Grants and Funding discussion</td>
</tr>
<tr>
<td>ITCD007</td>
<td>24/11/2017</td>
<td>Bidder A</td>
<td>Competitive Dialogue: Masterplanning &amp; Meanwhile Uses</td>
</tr>
<tr>
<td>ITCD008</td>
<td>27/11/2017</td>
<td>Bidder A</td>
<td>Competitive Dialogue: Finance</td>
</tr>
<tr>
<td>ITCD009</td>
<td>29/11/2017</td>
<td>Bidder B</td>
<td>Competitive Dialogue: Finance</td>
</tr>
<tr>
<td>ITCD010</td>
<td>01/12/2017</td>
<td>Bidder B</td>
<td>Competitive Dialogue: Clarifications</td>
</tr>
<tr>
<td>ITCD011</td>
<td>04/12/2017</td>
<td>Bidder A</td>
<td>Competitive Dialogue: Finance and Masterplanning</td>
</tr>
</tbody>
</table>
3.17 During the competitive dialogue phase, in addition to the core bid assessment team, further council staff were included in the dialogue sessions. These staff were drawn from the growth, planning and transport functions to provide additional assurance that the council fully understood all impacts of the bidder’s proposals.

3.18 Competitive dialogue was closed on 8th December and both bidders were invited to proceed to the next stage (ISFT).

Part Four - Invitation to Submit Final Tender (ISFT) Stage

3.19 On 3rd January 2018, Final Tenders were received from both bidders. The bid assessment team analysed and scored the bids over four weeks. The following scores were agreed:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>A</th>
<th>B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Score</td>
<td>64.55%</td>
<td>59.45%</td>
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</tbody>
</table>

3.20 On 9 February 2018, a recommendation was made to the Competitive Dialogue Board to proceed with Bidder A as the preferred bidder and this was agreed. Some of the key attributes of the preferred bid were;

ISFT: Quality Submission

3.21 Bidder A evidenced that it had a strong track record in delivering successful partnerships with the public sector and it would bring the skills, experience and learning from those other partnerships to Wirral. The assessment team identified that Bidder A had a very clear resourcing strategy and in particular their approach to supply chain management and procurement was strong.

3.22 Bidder A demonstrated a greater level of detail in respect of the project planning for both pre- and on-site construction phases. In addition their KPIs were comprehensive and robust.

3.23 Both bidders submitted masterplans that exceeded expectations. Bidder A set out a number of innovative and ambitious proposals and had a particularly strong proposal around meanwhile uses. A number of Bidder A’s proposals offered flexibility to adapt to emerging changes in the market place.

3.24 Bidder A had a stronger proposal for the wider Birkenhead regeneration providing a clear vision for the town centre. These proposals presented a balance around creating a ‘destination’ alongside a revitalised town centre and thoughtful strategy around transport improvements.
At the outset of competitive dialogue, the council clearly stated that a key objective, in establishing the JV, was to enable development across the borough including areas where development may not be currently commercially viable but where there were clear regeneration benefits. It was anticipated that bidders would seek to address the viability challenges through how they structured their business plan propositions.

Bidder A’s approach to the viability challenge was to promote a cross-subsidisation mechanism, in particular using the value driven through the Birkenhead Commercial District to support wider development across the borough and in particular, sites in Wallasey. The assessment team considered that this strategy was commercially robust and aligned with the objectives of the council.

Bidder A submitted a robust and coherent Business Plan that was well set out and evidenced. It included most of the elements that would be expected from a Business Plan. There were robust and consistent links between the masterplan, delivery programme and explanation as to how the phasing and drawdown of additional sites could add value to the JV. The overall business plan is predicated on a clear 50/50 joint venture arrangement in all aspects of finance and delivery. This bid was very clear about what the bidder was expecting from the Council in support of the JV.

The key outputs from the 11 phase one priority sites from the preferred bidder are:

- 334,000sqft Grade A office floorspace (with ground floor retail uses)
- 51,000sqft market facility
- New cinema and leisure facility
- 920 spaces within 2x Multi-Storey Car Parks
- 150 family houses, 52 town houses, 60 apartments (262 units in total)
- 312,000sqft industrial floorspace
- An extra care development at Moreton

Bidder A proposed a greater quantum of development within Phase 1, although it was noted that completion in 2022 was one year later than Bidder B.

The funding strategy submitted by Bidder A requires the council to provide equity on a 50/50 basis for each development. On the premise that the council has the ability to provide this cash injection then this strategy allows the council to generate a margin between the rates that it is able to borrow at and the commercial rates that it would lend into the JV. This will be a revenue return to the council as opposed to Capital which would be beneficial to the council given the revenue budget constraints that it is facing.

Bidder A proposed the development of 353,705sqft of commercial office floorspace in addition to the office space to be accommodated by civic users. The bid
assessment team considered that this demonstrated considerable leverage and an ability to attract other occupiers.

3.32 Based on the business plans submitted, Bidder A requires a Council cash injection whereas Bidder B requires land investment as security for the cash equity that it would put into the JV on the Council’s behalf. In terms of the peak exposure, Bidder B had a peak security requirement of £7.5m whereas the peak cash requirement from Bidder A is only £3.96m. Therefore, under the worst case scenario where the market crashes and the developments stall then Bidder A’s proposal has a lower peak risk exposure.

3.33 The total returns from the proposed development of the 11 priority sites assessed under Bidder A’s proposals is c£30.4m. This is broken down as follows:

- Land Value (Capital) - £17.7m
- Profit (Revenue) - £11.7m
- Loan Note Interest - £0.8m

3.34 The majority of the financial returns from Bidder A are delivered to the council in the first couple of years of the JV being established. In fact, £27.8m would be received by 2021.

3.35 Within 3 months, council officers will bring a report back to Cabinet which sets out the business plan for the operation of the WGC. This will provide a detailed analysis and will set out the council’s financial commitments during this early stage.

3.36 During the competitive dialogue stage the council’s legal advisors, Bevan Brittan set out the full range of documents referred to in the attached Overview of the Principal Legal Documents. During the dialogue stage bidders were asked to itemise the acceptance of the council’s terms or propose amendments to those terms, based on: those that were of most importance to the bidder; those they would wish to have changed; and the minor or consequential changes the bidder would like to see reflected in the documentation.

3.37 In a couple of places the bidders were required to negotiate figures for the interest rate on loans to the WGC and the share of WGC capital it would contribute should the JVLLP fail for any reason.

3.38 In their final submissions, bidders were required to reflect the situation reached at the end of the dialogue stage and the position statement posted by the council on the Chest to confirm the parts of the documents that the council agreed could be changed by each bidder. Through this process each bidder ends up with a set of documentation that is bespoke to them.

3.39 During the preferred bidder stage the council confirmed that the bidder would sign up to the documentation as agreed through the competitive dialogue and final tender stages.
Summary

3.40 The council has set out a compelling case for economic growth in the Wirral through its Growth Strategy and Strategic Regeneration Framework. Both of these documents shaped the case that was made in previous Cabinet papers to establish a Growth company in order to lead the achievement of these ambitions. This paper sets out the process to secure a preferred partner and recommends that Bidder A be awarded a contract.

3.41 The work on refining what is developed and where will begin in the next phase and this process will involve considerable consultation with residents, communities, partners, businesses and elected members.

4.0 FINANCIAL IMPLICATIONS

4.1 Entering into this partnership will bring significant financial benefits in terms of capital receipts and company dividend. The WGC enables the council to generate its own resources to support sustainability and financial resilience for the longer term. The 2018/19 budget is underpinned by a significant use of one-off resources to protect front-line services and to manage service demand in support of our 20 pledges. The income receivable from the Growth Company is intended to ‘pay back’ these resources to ensure the council remains financially resilient.

4.2 Additional business rates and council tax receipts will be generated as a result of the direct investment of the WGC. This will provide sustainable funding to support of the key strategic priorities; the 20 pledges and service pressures. The quantum and timing of these will be dependent upon the Business Plan which will be subject to future member approval.

4.3 There will be no impact on the council’s budget with regard to the staff working on behalf of the Growth Company as these will all be funded from the income it generates and in return will realise social, economic and financial benefits for the council.

4.4 The Growth Company will enable the creation of a civic campus in central Birkenhead. This will increase footfall creating a positive impact on businesses and help to further regenerate the town centre. The Civic campus will enable efficiencies to be made to the cost of running the council estate. This will be subject to a future separate report to members.

4.5 To realise the benefits the council will need to carry some significant risk. The Birkenhead Commercial District proposal requires the council to enter into a head lease rental agreement. This involves the council acting as guarantor for a quantum of development whereby the council would be required to make good any rental void arising from unlet office space. Conversely, the council will have the opportunity to make a return from rent levels above the head lease rent. The head lease will also leverage additional private sector investment to support wider and accelerated regeneration of otherwise unviable sites. The risk may be mitigated as the council will decide on the acceptable level of space to be underwritten and by working with other public sector partners and seeking commercial opportunities to determine the viability of development and in maximising occupancy levels.
5.0 LEGAL IMPLICATIONS

5.1 The Council has a duty to efficiently manage its assets and has wide powers to acquire, hold, appropriate, develop and dispose of land under Sections 120 – 123 of the Local Government Act 1972, Part 2 of the Housing Act 1985, the Local Authorities (Land) Act 1963 and the Town and Country Planning Act 1990 (amongst other powers). Section 1 of the Local Government Act 2011 also contains the Council general power of competence to do anything that an individual may do, providing this is not constrained by legislation. These powers are also supported by section 111 Local Government Act 1972, the power to do anything that is calculated to facilitate or is conducive or incidental to the exercise of any of the council's functions. This power is often used to support the form of any delivery vehicle, or in the alternative section 1 Localism Act, whether that be a company or an LLP.

5.2 Section 4 Localism Act 2011 provides that if an authority is exercising the general power of competence in section 1 for "a commercial purpose" then the local authority must do it via a company rather than an LLP. In the last few weeks there has been some helpful judicial interpretation of "commercial purpose" in the case of Gordon Peters v London Borough of Haringey with Lendlease Europe Holdings Limited as an interested party [2018] EWHC 192 (Admin) 8 February 2018. That case challenged Haringey's powers to enter into a corporate JV structured as an LLP. However, the High Court ruled that LLPs can lawfully be used where the local authority's primary or dominant purpose is not a "commercial purpose". Although it was anticipated that the joint venture LLP with Lendlease would generate profits for Haringey, the primary purposes for entering the JV LLP were much broader, including bringing much needed finance, experience and expertise to the task of developing the Council's land for its better use, to achieve the Council's strategic aims in housing, affordable housing and employment.

5.3 There were also challenges based on failure to properly consult under s3 Local Government Act 1999 (which was considered to be out of time), breach of the Public Sector Equality Duty and an allegation that the decisions should have been taken by Council not the Cabinet under the Functions & Responsibilities Regulations 2000 (all of which were dismissed by the Judge). Whilst the judgment is welcomed the Council must ensure that it continues to act in accordance with its statutory duties, particularly in connection with its equalities and consultation obligations when individual sites come forward for development.

5.4 In this instance Wirral council is progressing this project for the strategic objectives set in February 2017 and underpinning the decision to procure a partner of 19th June 2017, providing an ‘opportunity for the council to drive economic growth in the Wirral by playing a leading role in the redevelopment of a number of sites across the area’, and the primary purposes of the project are not therefore commercial within the meaning of section 4. The objectives are also included in the attached ISFT at Q2.1.

5.5 A Limited Liability Partnership is a corporate entity in which two or more partners agree to go into partnership with a view to making a profit. LLPs are regulated by legislation in a similar way to a company, e.g. an LLP must file annual accounts and details of membership with Companies House. In an LLP the members have the
benefit of limited liability: that is, protection from personal liability for any debts or claims made against the LLP provided they act within the powers and the constitution of the LLP.

5.6 To enter into this proposed LLP it will be necessary to enter into binding legal agreement with the Partner which set out the terms of the partnership. The Partnership Agreement will commit both parties to a number of obligations in terms of establishing management and decision-making structures, but it does not commit the council to make any financial commitment to the LLP.

5.7 Whilst the duties of the type owed by directors of a limited company are not owed by the members of an Limited Liability Partnership (LLP), council officers and Members nominated to the WGC LLP Board will owe general fiduciary duties to the LLP, such as a duty to avoid conflict and duty not to profit personally from being a member of the LLP. It is normal for such obligations to be imposed on the members, via the Partnership Agreement, to act in the best interests of the LLP and not to act in conflict with its interests. While these duties will legally be owned directly by the members of the LLP, the persons administering the LLP on behalf of the council will need to act in accordance with these duties. Therefore, careful consideration should be given to the appropriate skills required for these roles.

5.8 It should be noted that the Partnership Agreement provides flexibility for nominees to be removed and replaced at any time by the council if this is required.

5.9 In light of their position on the WGC LLP Board, all individuals should, when engaged in business, make appropriate declarations as to their interest in the Wirral Growth Company LLP and refrain from decision-making on matters relating to the affairs of the WGC LLP if they are on the board.

5.10 Currently, the Council’s Constitution at Paragraph 16 of Table 1 (Responsibility For Local Choice Functions ) of Part 3, states that the "appointment of any individual:-

(a) to any office other than an office in which he is employed by the authority;

(b) to any body other than:

(i) the authority;

(ii) a joint committee of two or more authorities; or

(c) to any committee or sub-committee of such a body,

and the revocation of any such appointment “is a decision to be made by full Council. As a local choice function It is open to the Council to determine that this is a decision that may be made by the Council, the cabinet (executive leader) or, as suggested in this report, for the purposes of executive functions the Leader or Cabinet.

5.11 The council’s insurance and indemnity arrangements will need to be extended to cover any actions or inaction of Member and Officer representatives of the LLP pursuant to section 39 of the Local Government (Miscellaneous Provisions) Act 1976, section 265 of the Public Health Act 1875, section 101 of the Local

5.12 In relation to specific projects that the LLP may take forward, every potential asset disposal or development will need to be assessed individually to ensure legal compliance and this will happen as sites are brought forward for development through the site development planning process set out in the business case presented to Cabinet in June 2017.

5.13 An overview of the Principal Legal Documents can be found at Appendix C.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 The JV will have an impact on Council staff. The scale of developments proposed will increase the work of the planning, transport and asset management teams in particular. There will also be an increase in demands to develop SIF bids for transport infrastructure projects. Given the nature of the JV’s proposals, there is a need to consider the creation of a Major Developments Team to coordinate activity in relation to the JV. Although the council will generate increased planning fee income as a result of this work, this will not be sufficient to fund the additional posts that will be required. It is proposed that additional posts are funded from the annual dividend that is received from the JV.

6.2 No council staff will be transferred to the JV.

6.3 Subject to Cabinet approval, assets will be drawn down into the JV. However this will be done after site development plans and business cases are completed and will be subject to Cabinet approval.

6.4 It should be noted that the preferred bidder (and reserve bidder) identified additional council sites within their submission that it considers to be important in delivering “more comprehensive regeneration”. Further work on these sites will be undertaken and again will be subject to Cabinet approval.

7.0 RELEVANT RISKS

7.1 There is a positive opportunity risk for the council and its partner to significantly regenerate the borough, unlocking currently uneconomical sites. This will improve the borough’s long term economic viability, providing future sustainable income streams.

7.2 The council in entering into a joint venture partnership will be taking inherent financial risk, although this can be reduced through effective mitigations. Of particular significance is the head lease risk outlined under financial implications. Other financial risks could impact the viability of development sites particularly unexpected interest rate fluctuations; lower than anticipated land values; and uncertainty over market demand. These risks are mitigated through thorough investment appraisal, market analysis and procurement of independent specialist advice as part of development plan approval.
7.3 Once approved, individual development plans are exposed to further financial risk potentially through cost overrun and programme slippage. These risks again will be assessed as part of developing the business plan and can be mitigated through JV board governance, effective performance and programme management, contingency planning and a responsive partnership working at pace.

7.4 Subject to the approval of the recommendation we will enter a 10 clear calendar day standstill (Alcatel) period. As with all procurement processes there is a risk that during this period the decision of the preferred bidder is challenged. This risk has been mitigated by ensuring that robust and transparent procurement processes have been followed throughout and an additional review of the process carried out. A summary of the process followed is detailed in Section 3.

7.5 Further risks to the Programme were identified in the business case agreed by Cabinet in June 2017.

8.0 ENGAGEMENT/CONSULTATION

8.1 Wirral Council has undertaken communication and engagement with residents about the proposed Wirral Growth Company.

8.2 In addition to media articles and advertisements in local and regional press and Wirral Council’s in-house publication, Wirral Constituency Committee organised a series of Town Conversations across the 5 sites identified for early development. These meetings took place in September and October 2017 at the start of the procurement process and a second round of Town Conversations are proposed for spring 2018 when the formal process is complete.

8.3 A communications plan has been developed by Wirral Council Marketing and Communications and will use local media, social and digital media as well as other Council controlled channels to continue to inform residents and businesses about Wirral Growth Company.

8.4 It is also worth reiterating, any development plan or proposal will also have to be shared with residents and consulted on in accordance with national planning policy guidelines.

9.0 EQUALITY IMPLICATIONS

9.1 Equality Impact Assessment can be found at \\
\[wa10201\wa10201\data\shared\WGC Members Briefing 2018

REPORT AUTHOR: Sian Hartley
Programme Manager

REPORT SPONSOR: Paul Satooor
Director of Corporate Resources and Reform
APPENDICES

Appendix A – Invitation to Submit Final Tender (ISFT)
Appendix B – 11 Priority Sites Boundary Plans
Appendix C – Overview of Principal Legal Documents

REFERENCE MATERIAL

**EXEMPT** Background Paper (Bidder A: Final Tender) can be found at –  
\wa10201\Wa10201Data\Shared\WGC Members Briefing 2018

Additional background papers can be found at –  
https://www.wirralwellmade.com/downloads/

SUBJECT HISTORY (last 3 years)

<table>
<thead>
<tr>
<th>Council Meeting</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategic Options Report to Cabinet</td>
<td>27th February 2017</td>
</tr>
<tr>
<td>Property Company Full Business Case to Cabinet</td>
<td>19th June 2017</td>
</tr>
</tbody>
</table>
Wirral Metropolitan Borough Council

INVITATION TO SUBMIT FINAL TENDERS ("ISFT")

Wirral Growth Company- Property/Asset JV
This Invitation To Submit Final Tenders (ISFT) has been prepared by Wirral Borough Council (of Hamilton Street, Birkenhead, CH41 6BU, UK) ("the Authority") and is for use by those invited to bid for the Wirral Growth Company - Property/Asset JV, their professional advisers, and other parties essential to preparing the bid for the project and for no other purpose.

You are deemed to fully understand the process that the Authority is required to follow under relevant European and UK legislation, particularly in relation to public procurement rules.

Bidders' attention is drawn to the further notices set out in Appendix 1 (Important Notices) which form part of the conditions of participation in this procurement process.

**KEY DEADLINES**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 p.m. Thursday 21(^{st}) December 2017</td>
<td>Deadline for clarification questions from Bidders.</td>
</tr>
<tr>
<td>10 a.m. Wednesday 3(^{rd}) January 2018</td>
<td>Deadline for submission of Final Tenders to be returned to Authority</td>
</tr>
</tbody>
</table>
1 INTRODUCTION

General


1.2 Two Bidders, including your organisation/consortium, have been invited to submit final tenders. This Invitation To Submit Final Tenders (ISFT) provides further details of the process.

1.3 It should be noted that the return deadline for Bidders' final responses to the ISFT is **10am Wednesday 3rd January 2018**.

Competitive Dialogue

1.4 This procurement is to achieve the selection of a provider to partner with the Authority to form a long term corporate joint venture property vehicle or partnership to secure the investment, skills and expertise to deliver Wirral's regeneration and Council asset transformation strategy ("the Project").

1.5 The Authority is procuring the Project using an approach similar to the Competitive Dialogue procedure (as described in Regulation 30 of the Public Contracts Regulations 2015 (as amended)), which provides the opportunity for a structured approach to procurement. The Authority reserves the right to deviate from the formalities of the Public Contracts Regulations 2015 (as amended) in conducting the competition due to the flexibilities permitted by the Concession Contracts Regulations 2016.

1.6 The ISFT aims to:

- provide information to Bidders on the Project and the opportunities available;
- set out clearly the Authority’s requirements;
- provide information on the Authority’s approach to the competitive dialogue procurement process;
- set out the deliverables required from Bidders at the final stage of the procurement; and
- set out the evaluation criteria that the Authority will use to assess Bidders’ Final Tender responses.

1.7 The issue of the ISFT is an invitation to Bidders to submit Final Tenders.

1.8 Details of the submission deadline for Final Tenders can be found in **Section 3** below.
1.9 The questions that Bidders are required to answer at the ISFT Submission stage are set out in Appendix 2 (Quality Questions) and Appendix 4 (Financial Submissions) to this document.

1.10 The evaluation criteria against which Final Tenders will be assessed and the evaluation methodology applied is provided in Section 4 below.

1.11 Final Tenders should be based on the solution(s) presented and specified at the conclusion of the dialogue, contain all the elements required and necessary for the performance of the project and should meet all the Authority’s requirements. Final Tenders are expected to be final as there is limited opportunity to vary tenders after submission. However, the Authority may request Bidders to clarify, specify or optimise their tender. Any activity which leads to changes to a Bid must not change the basic features and essential aspects of a Bid, the requirements of this ISFT or distort competition.

1.12 Bidders are reminded to review all clarifications issued through the portal to ensure that clarification messages from the Authority are taken account of in their Final Tenders.

1.13 Following the submission of Final Tenders, the Authority reserves the right to undertake a process to identify a Preferred Bidder that provides the most economically advantageous tender which the Authority is minded to appoint.

1.14 Prior to contract award decision, the Authority will have to obtain approval from Cabinet.

1.15 Following appointment of a Preferred Bidder the Authority reserves the right to utilise a further opportunity to negotiate to confirm commitments contained in the tender in order to finalise terms provided, again, that there are no substantial changes to the tender, the requirements of the procurement process and that this does not risk distorting competition or causing discrimination.

1.16 The Authority reserves the right to vary the selection procedure to support continued competition, avoid unnecessary bidding costs and adhere to subsequent technical or legal guidance.

2 NEEDS AND REQUIREMENTS FOR THE PROJECT

Overview

2.1 The Authority will require Bidders to provide responses to a Sample Scheme consisting of development proposals for priority Areas. In relation to Birkenhead, the Authority has included a requirement for Bidders to set out how the priority assets might form part of a more significant development programme, incorporating public sector sites and key land assembly targets in the area between Woodside and Birkenhead Park.
2.2 The Authority has a list of 32 sites (incorporating 49 assets) which are marked for potential development.

2.3 11 of these sites, in 5 priority Areas (Birkenhead, Moreton (including Foxfield), Bebington, Wallasey and Bromborough (MoD)) are shortlisted as priority sites.

2.4 Additional assets for either development or strategic acquisition in the Borough of Wirral and Merseyside may also be identified (there is also potential for assets to be removed from the list). The JV may be required to develop other sites acquired by the Authority (or the JV) in other locations in the UK.

2.5 The priority Areas for development, and the priority sites which fall within each Area, is set out below.

<table>
<thead>
<tr>
<th>Ref.</th>
<th>Area</th>
<th>Sites (11)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Bebington</td>
<td>1) Bebington Town Hall</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bebington Town Hall and annex</td>
</tr>
<tr>
<td>2</td>
<td>Birkenhead</td>
<td>2) Birkenhead Town Hall</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3) Europa Boulevard site 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Europa Boulevard site 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Europa Boulevard site 3 (Price Street Car Park)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4) Hinson Street Car Park</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5) Market Street Car Park</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6) Treasury Building &amp; Elgin Way Carpark, Sidney Street</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7) Arrowe Hill School, Woodchurch</td>
</tr>
<tr>
<td>3</td>
<td>Wallasey</td>
<td>8) Town Hall North Annexe</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9) Town Hall South Annexe</td>
</tr>
<tr>
<td>4</td>
<td>Bromborough Area</td>
<td>10) Former Ministry of Defence Site</td>
</tr>
<tr>
<td>5</td>
<td>Moreton</td>
<td>11) Moreton Complex</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(inc. Foxfield site)</td>
</tr>
</tbody>
</table>

2.6 The following documents are key to the Project:

2.6.1 **Procurement documentation**
2.6.2 Legal documentation

<table>
<thead>
<tr>
<th>Principal legal documents</th>
<th>a) Partnership Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>b) Parent Company Guarantee</td>
</tr>
<tr>
<td></td>
<td>c) Loan Note Instruments</td>
</tr>
<tr>
<td></td>
<td>d) Security Agreements</td>
</tr>
<tr>
<td></td>
<td>e) Option Agreement (in relation to each Site transferring into the LLP)</td>
</tr>
<tr>
<td></td>
<td>f) Transfer / Lease</td>
</tr>
<tr>
<td></td>
<td>g) Development Management Agreement</td>
</tr>
<tr>
<td></td>
<td>h) Pre-Construction Agreement, Development Agreement and Building/Construction Contract</td>
</tr>
</tbody>
</table>

2.6.3 Commercial/other documentation

(a) Asset documentation for 32 sites.

2.7 These documents are included in the Concession Documents available electronically through: http://www.the-chest.org.uk. Please note there are electronic folders containing outline development briefs for the Bidders to access in respect of the five areas and sample sites.

3 TIMEFRAME AND PROCESS

Indicative Project Timeframe

3.1 The table below sets out the key dates in the procurement process.
### TIMETABLE – PROPERTY JV PROCUREMENT

<table>
<thead>
<tr>
<th>Indicative Timeframe /Date</th>
<th>Stage</th>
</tr>
</thead>
<tbody>
<tr>
<td>4th July 2017</td>
<td>Dispatch of the OJEU Notice by the Authority.</td>
</tr>
<tr>
<td>21\textsuperscript{st} August 2017</td>
<td>Deadline for SQ to be returned by Candidates to the Authority and review</td>
</tr>
<tr>
<td>31\textsuperscript{st} August 2017</td>
<td>Invitation to Participate in Dialogue (&quot;ITPD&quot;) issued by Authority to shortlisted Bidders</td>
</tr>
<tr>
<td>26\textsuperscript{th} October 2017</td>
<td>Deadline for submission of ITPD responses/outline solution tenders to be returned to the Authority</td>
</tr>
<tr>
<td>10\textsuperscript{th} November 2017</td>
<td>Commencement of second stage dialogue</td>
</tr>
<tr>
<td>w/c Monday 13\textsuperscript{th} November 2017</td>
<td>Invitation to Competitive Dialogue (&quot;ITCD&quot;) issued to two successful Bidders</td>
</tr>
<tr>
<td>8\textsuperscript{th} December 2017</td>
<td>Dialogue meetings end</td>
</tr>
<tr>
<td>11\textsuperscript{th} December 2017</td>
<td>ISFT issued to Bidders (accompanied by a Council response to the Bidders' table of proposed legal document changes).</td>
</tr>
<tr>
<td>5 p.m. Thursday 21\textsuperscript{st} December 2017</td>
<td>Deadline for clarification questions from Bidders.</td>
</tr>
<tr>
<td>10am Wednesday 3\textsuperscript{rd} January 2018</td>
<td>Deadline for submission of Final Tenders to be returned to Authority</td>
</tr>
<tr>
<td>Monday 29\textsuperscript{th} January 2018</td>
<td>Authority contract award decision (approval by Cabinet)</td>
</tr>
</tbody>
</table>

At this stage, the timetable is subject to confirmation and the Authority reserves the right to amend this indicative timeframe as the project progresses.
Access to Sites

3.2 Sites are available for inspection. Prior to any visits / inspections taking place, the Bidder should contact the Authority with a request via “The Chest” to advise of the time and date a proposed visit will take place. The Authority will arrange for a representative independent of the process, where appropriate to be available for access / directional support. The Authority will advise the bidder of any restrictions to their request with a reply via “The Chest”.

3.3 Any questions arising from the Site visits should be managed through either the Chest or the formal “Dialogue” communications where a formal record will be maintained.

3.4 The Authority would encourage the use of E. resources such as Google Maps, Google Street View and other respective Street Map sites to gain an initial view of the listed locations.

ISFT Submission

3.5 When the ISFT submission is returned to the Authority, Bidders should present their responses as per the instructions below.

• All responses should be in English, text submitted in A4, with a font size of no less than 10 and any financial references should be in Pounds Sterling.

• Completed responses should be signed by a partner or director of the Bidder (and, in the case of a Consortium, by a partner or director of each member).

• Bidders are required to submit completed responses in electronic format only and submitted via http://www.the-chest.org.uk.

• The Authority reserves the right, at its discretion, to reject Bids delivered after the date and time specified. Please see Appendix 1 (Important Notices).

• The Authority reserves the right, at its discretion, to request clarifications in writing or further relevant information from any bidder after the submission of responses.

Ongoing Questions

3.6 Any queries arising from this ISFT and the Concession Documents provided which may have a bearing on the ISFT submissions to be made by Bidders should be raised.

3.7 All queries in relation to this procurement must be made via the clarifications process through http://www.the-chest.org.uk. The Authority reserves the right not to respond to clarifications submitted after the deadline stated in the timetable above.
3.8 Where the Authority considers that questions are material to the procurement process and the fullest understanding of its objectives, these questions and their subsequent replies will be disseminated to all Bidders. The Authority will keep confidential all information relating to its dialogue in relation to Bidders' proposals and will not share this information with any other Bidder.

3.9 Bidders should note, in relation to all responses to questions that the Authority and its advisers offer no guarantee that such information in response to questions will be made available at this stage and are not warranting the accuracy of any responses.

Confidentiality and Freedom of Information

3.10 The Authority acknowledges the need during the competitive dialogue to treat Bidder’s solutions confidentially. If during the process any questions asked of or information provided to the Authority is considered by the Bidder to be confidential, the request must be clearly marked “in confidence – not to be circulated to other Bidders” and Bidders must set out the reason(s) for the request for non-disclosure to other Bidders.

3.11 The Authority will consider such requests and will act reasonably as regards the protection of commercially sensitive information relating to the Bidders but will have sole discretion as to such disclosure, subject to complying with the Authority's duties under the Freedom of Information Act (2000) and the Environmental Information Regulations (2004).

Return of Certificates

3.12 The Authority requires Bidders to make certain undertakings if they wish to remain in the competition. These undertakings include signing the following documents, which must be completed and submitted by uploading electronically via http://www.the-chest.org.uk at the ISFT submission stage. Copies of the certificates are provided in Appendix 7

- Certificate of Non-Canvassing
- Certificate of Non-Collusive Tendering
4 EVALUATION

This section sets out the evaluation criteria and selection process against which Final Tenders will be assessed.

At Final Tender stage, Bidders will be required to respond to each of the questions set out in Appendix 2 (Quality Questions) and complete in full the requirements in Appendix 4 (Financial Submission).

4.1 Compliance

4.1.1 Prior to carrying out the detailed scoring of Bids, an assessment of the Bidders’ responses to the Bid deliverables at each stage of the procurement will be made to ensure that sufficient information at the required standard has been provided as requested. Bids which are substantially incomplete or which are non-compliant with the requirements set out in the ISFT may be rejected.

4.1.2 The Authority reserves the right to call for information from Bidders to amplify and clarify their Bid responses.

4.2 Evaluation Methodology

4.2.1 Following compliance checks, each Bid will be evaluated and scored against the evaluation criteria and weightings set out in this Section below and Bidders ranked in line with their scores.

4.3 Evaluation Criteria and Weightings

4.3.1 The evaluation criteria and weightings that will be applied by the Authority for the Final Tender evaluation of the competitive dialogue procedure are shown in Table 1 below.

4.3.2 The detailed evaluation criteria (and sub-criteria) and weightings that will be applied by the Authority when evaluating the Final Tender are shown in Table 2 below.

4.3.3 The Financial Evaluation approach, methodology and sub-criteria are shown in (Appendix 3 and Appendix 4).

4.4 Scoring

4.4.1 The scoring of Bids will be based on a detailed analysis of the responses in for criteria in accordance with the methodology below.

Quality Criteria

4.4.2 In relation to the Quality criteria (and sub-criteria), each question will be scored in application of the following scoring scale:
<table>
<thead>
<tr>
<th>Score</th>
<th>Commentary</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Very weak or no answer</td>
</tr>
<tr>
<td>1</td>
<td>Weak – well below expectations</td>
</tr>
<tr>
<td>2</td>
<td>Poor - well below expectations</td>
</tr>
<tr>
<td>3</td>
<td>Poor - below expectations</td>
</tr>
<tr>
<td>4</td>
<td>Satisfactory but slightly below expectations</td>
</tr>
<tr>
<td>5</td>
<td>Meets expectations</td>
</tr>
<tr>
<td>6</td>
<td>Slightly exceeds expectations</td>
</tr>
<tr>
<td>7</td>
<td>Good - well above expectations</td>
</tr>
<tr>
<td>8</td>
<td>Very good</td>
</tr>
<tr>
<td>9</td>
<td>Outstanding</td>
</tr>
<tr>
<td>10</td>
<td>Exceptional</td>
</tr>
</tbody>
</table>

4.4.3 In applying the scoring scale, each Bid will be evaluated according to its quality and deliverability. The term ‘quality’ in this context refers to performance and fitness for purpose of the proposal and therefore covers any aspect of a submission that affects the performance of the contract. ‘Deliverability’ refers to the likelihood that all aspects of a particular submission could in fact be delivered by the Bidder concerned.

**Legal Evaluation Criteria**

4.4.4 The Council required Bidders to provide comments on the legal documentation for the Wirral Growth Company as an Interim Legal Submission by 17 November 2017 at 5.00 p.m. via the Chest.

4.4.5 Bidders were required to organise their comments and suggested changes into the following three categories:

1. Most Important: key issues/priorities/substantial drafting changes;
2. Areas for improvement/changes which are preferred but are not significant enough to fall within (1); and
3. Minor issues/insignificant drafting changes/process or routine issues

4.4.6 Bidders’ responses were required to set out their clear contractual position in respect of each issue raised.

4.4.7 The Authority has considered the Interim Legal Submission and will send to each Bidder a Position Statement setting out the Authority’s position
on the acceptability or otherwise of the Bidder’s Interim Legal Submission (informed and updated by the negotiations held in dialogue meetings).

4.4.8 **Bidders are required to provide a subsequent legal response as part of their final tender submission in the form of mark ups of the legal documents.** These mark ups which **must comply with the Authority’s requirements as set out in the Position Statement due to be sent to each Bidder.** The Authority reserves the right to reject a tender which does not comply with the Position Statement.

**Bid back items to note**

4.4.9 Bidders should note that the following bid back items are required as part of your mark-up response:

- Partnership Agreement – clause 7.6.4; bid back in terms of contribution required; and
- Loan Note Instrument – Definition of "Interest Rate".

4.4.10 Bidders should note the legal evaluation methodology below, to be applied at ISFT stage.

4.4.11 **Evaluation of all proposed amendments to the legal documents consisting of:**

(i) Partnership Agreement  
(ii) Parent Company Guarantee  
(iii) Loan Note Instruments  
(iv) Security Agreements  
(v) Option Agreement  
(vi) Transfer / Lease  
(vii) Development Management Agreement  
(viii) Pre-Construction Agreement, Development Agreement and Building/Construction Contract

shall take into account the overall impact of a number of factors including:

(ix) the degree of acceptance of the terms of the contractual documents and where amendments are made to the terms, whether the allocation of risk in respect of the project is beneficial or detrimental to the Authority; and

(x) where proposals and commitments are put forward in respect of the contractual documents whether it is beneficial or detrimental to the Authority.

4.4.12 The assessment of the contractual documents will be given a raw score of between zero and ten, this raw score will then be applied to the weighting for the Legal Criteria.
4.4.13 Amendments, proposals and commitments will be evaluated and allocated a score by reference to the degree to which such provisions conform to the provisions of the contract and the risk allocation reflected therein as well the overall benefit or detriment of the overall response.

4.4.14 The Authority will apply a lower score to those Bidders which include amendments, proposals and commitments which vary the position of the parties as set out in the contracts and either increases the risk or detriment to the Authority or decreases the risk to the contractor or which varies the position in another way unsatisfactory to the Authority. A Bidder's score may result from a single amendment or a combination of amendments.

4.4.15 In relation to the Legal Evaluation Criteria, each question will be scored in application of the following scoring scale:

<table>
<thead>
<tr>
<th>Score</th>
<th>Commentary</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Very weak</td>
</tr>
<tr>
<td>1</td>
<td>Weak</td>
</tr>
<tr>
<td>2</td>
<td>Poor - well below expectations</td>
</tr>
<tr>
<td>3</td>
<td>Poor - below expectations</td>
</tr>
<tr>
<td>4</td>
<td>Satisfactory but slightly below expectations</td>
</tr>
<tr>
<td>5</td>
<td>Meets expectations</td>
</tr>
<tr>
<td>6</td>
<td>Slightly exceeds expectations</td>
</tr>
<tr>
<td>7</td>
<td>Good - well above expectations</td>
</tr>
<tr>
<td>8</td>
<td>Very good</td>
</tr>
<tr>
<td>9</td>
<td>Outstanding</td>
</tr>
<tr>
<td>10</td>
<td>Exceptional</td>
</tr>
</tbody>
</table>

Price (financial model) Criteria

4.4.16 The Price criteria will be scored as detailed in Appendix 3 (Price Criteria Evaluation Methodology).
## Table 1: Evaluation Criteria and Weightings for the various Competitive Dialogue Stages

<table>
<thead>
<tr>
<th>Quality: Financial Split</th>
<th>No.</th>
<th>Criteria</th>
<th>Weighting for Final Tender Evaluation (ISFT Stage)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quality: 70%</td>
<td>1</td>
<td>Partnering</td>
<td>6%</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Joint Venture Business Plan</td>
<td>12%</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Development Programme Delivery</td>
<td>18%</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Market Responsiveness</td>
<td>8%</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Sample Scheme Development Proposals</td>
<td>41%</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Leisure</td>
<td>1%</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>Asset Management</td>
<td>4%</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Social Value</td>
<td>8%</td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>Legal &amp; Commercial</td>
<td>2%</td>
</tr>
<tr>
<td>Financial: 30%</td>
<td>10</td>
<td>Financial Proposals</td>
<td>100%</td>
</tr>
</tbody>
</table>
Table 2: Detailed Criteria and Weightings for ISFT Submissions Evaluation

<table>
<thead>
<tr>
<th>No.</th>
<th>Criteria</th>
<th>Criteria Weighting</th>
<th>Level 1 Sub-Criteria</th>
<th>Evaluation</th>
<th>Level 1 Sub-Criteria Weighting</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Partnering</td>
<td>6%</td>
<td>Q.1.1 Joint Venture Leadership Management and Partnership Working</td>
<td>Scored 0-10  3%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.1.2 Joint Venture Resourcing</td>
<td>Scored 0-10  3%</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Joint Venture Business Plan</td>
<td>12%</td>
<td>Q.2.1 Phased Development Plan &amp; Cash Flow Assumptions</td>
<td>Scored 0-10  12%</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Development Programme Delivery</td>
<td>18%</td>
<td>Q.3.1 Supply-Chain Selection, Co-ordination and Management</td>
<td>Scored 0-10  4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.3.2 Project, Development and Construction Project Management</td>
<td>Scored 0-10  3%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.3.3 Strategic Estates Commercial Consultancy Services</td>
<td>Scored 0-10  4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.3.4 Strategic Estates Residential Consultancy Services</td>
<td>Scored 0-10  5%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.3.5 Construction Health and Safety Approach and Measures</td>
<td>Scored 0-10  2%</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Market Responsiveness</td>
<td>8%</td>
<td>Q.4.1 Regeneration Design and Market Responsiveness in relation to mixed use in residential and commercial areas</td>
<td>Scored 0-10  4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.4.2 Regeneration Design and Market Responsiveness in relation to industrial areas and developments</td>
<td>Scored 0-10  4%</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Sample Scheme Development Proposals</td>
<td>41%</td>
<td>Q.5.1 Bebington Area Outline Master-Plan and Development Design</td>
<td>Scored 0-10  5%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.2 Part A - Birkenhead Town Centre Site Outline Master-Plan and Development Design</td>
<td>Scored 0-10  5%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.2 Part B – Strategic Birkenhead Town Centre Outline Master-Plan and Development Design</td>
<td>Scored 0 - 10  4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.3 Wallasey - Outline Master-Plan and Development Design</td>
<td>Scored 0-10  6%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.4 Bromborough Area Outline Master-Plan and Development Design</td>
<td>Scored 0-10  5%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.5 Moreton (including Foxfield) Area Outline Master-Plan and Development Design</td>
<td>Scored 0-10  6%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.6 Sample Scheme Stakeholder Engagement and Communication</td>
<td>Scored 0-10  4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.7 Continuing Engagement</td>
<td>Scored 0-10  2%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.8 Construction Programme Plans</td>
<td>Scored 0-10  2%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.5.9 Completion Sales, Leasing and Marketing</td>
<td>Scored 0-10  2%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Leisure</td>
<td>1%</td>
<td>Q.6.1 Leisure</td>
<td>Scored 0-10</td>
<td>1%</td>
</tr>
<tr>
<td>---</td>
<td>--------------</td>
<td>---------------------</td>
<td>---------------</td>
<td>-------------</td>
<td>----</td>
</tr>
<tr>
<td>7</td>
<td>Asset Management</td>
<td>4%</td>
<td>Q.7.1 Residential Estate Asset Management</td>
<td>Scored 0-10</td>
<td>2%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Q.7.2 Commercial Estate Asset Management</td>
<td>Scored 0-10</td>
<td>2%</td>
</tr>
<tr>
<td>8</td>
<td>Social Value</td>
<td>8%</td>
<td>Q.8.1 Social Value Proposal</td>
<td>Scored 0-10</td>
<td>8%</td>
</tr>
<tr>
<td>9</td>
<td>Legal &amp; Commercial</td>
<td>2%</td>
<td>Q.9.1 Acceptance of Contract documentation</td>
<td>Scored 0-10</td>
<td>2%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Total: 100%</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Financial Proposals</td>
<td>30%</td>
<td>Financial proposal</td>
<td>Scored 0-10</td>
<td>30%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Total: 100%</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX 1

IMPORTANT NOTICES

5 CONFIDENTIALITY

5.1 The procurement process may involve the Authority providing Confidential Information to the Bidders. The Bidders shall at all times:

5.1.1 treat all Confidential Information as confidential;

5.1.2 not disclose, copy, reproduce, distribute or pass the Confidential Information to any other person at any time;

5.1.3 not use the Confidential Information for any purpose other than for the purposes of making (or deciding whether to make) a Bid in relation to the Project ("Bid"); and

5.1.4 comply with the provisions of paragraph 6 below (which contains restrictions on publicity activity within any section of the media or similar)

5.2 Bidders shall ensure that, if it is a Consortium, each Consortium Member who receives any of the Information is made aware of, and complies with, the confidentiality obligations in this section.

5.3 Bidders may disclose, distribute or pass the Confidential Information to another person (including, but not limited to, for example, employees, consultants, subcontractors or advisers, the Bidder's insurers or the Bidder's funders) if either:

5.3.1 this is done for the sole purpose of enabling a Bid to be made and the person receiving the Confidential Information undertakes in writing to keep the Information confidential on the same terms as set out in this ISFT; or

5.3.2 the Bidder obtains the prior written consent of the Authority in relation to such disclosure, distribution or passing of the Information

5.4 The Authority may disclose detailed information relating to Bids to the Authority's members, directors, officers, employees, agents or advisers and they may make the key Bid documents available for private inspection by the Authority's members, directors, officers, employees, agents or advisers.

5.5 The Authority also reserves the right to disseminate Information that is materially relevant to all Bidders (even in the event that the Information has only been requested by one Bidder), subject to the duty to protect any Bidder's commercial confidence in its Bid. It is the responsibility of the Bidder to avoid such disclosure by stating in writing to the Authority that the request is clearly marked "Commercial in confidence - not to be circulated to other Bidders" and the Bidder must set out a proper and relevant reason or reasons for the request for non-disclosure to other Bidders.

5.6 The Authority reserves the right to:
5.6.1 provide general information about the successful SQ submissions to unsuccessful applicants in order to provide debriefing information in accordance with principles under EU procurement rules;

5.6.2 provide information about successful Bid(s) to unsuccessful Bidders as part of debriefing obligations under Regulation 40 of the Concession Contracts Regulations 2016 (including but not limited to the financial or price score of the successful Bid(s));

5.6.3 provide information about the winning tender to unsuccessful Bidders as part of debriefing obligations during the standstill period in accordance with Regulation 47 of the Concession Contracts Regulations 2016 (including but not limited to the financial or price score of the successful tender);

5.6.4 publish information in the Official Journal of the European Union (OJEU) in accordance with Regulation 32 Concession Contracts Regulations 2016 concerning any contract awarded (including but not limited to the value of any contract awarded).

5.7 The Authority will act reasonably as regards the protection of commercially sensitive information relating to the Bidder, subject to the Authority’s duties under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (see below).

6 FREEDOM OF INFORMATION ACT 2000 AND ENVIRONMENTAL INFORMATION REGULATIONS 2004

6.1 The Authority is subject to the requirements of the Freedom of Information Act 2000 (the "Act") and the Environmental Information Regulations 2004 ("EIR"). Accordingly, all information submitted to it may need to be disclosed by the Authority in response to a request under either the Act or the EIR (a "Request").

6.2 In making any submission during this procurement process, each Bidder acknowledges and accepts that information contained therein may be disclosed by the Authority under the Act or EIR without consulting the Bidder, although the Authority will endeavour to consult with the Bidder and consider its views before doing so.

6.3 If Bidders consider that any information made available to the Authority is commercially sensitive, they should identify it and explain (in broad terms) what harm may result from disclosure, and the time period applicable to that sensitivity. Even where information made available to the Authority is marked commercially sensitive, the Authority shall be entitled (acting in its sole discretion) to disclose it pursuant to a Request. Please also note that information marked "confidential" or equivalent by Bidders does not bind the Authority to any duty of confidence by virtue of that marking.

6.4 Exemptions to disclosure pursuant to a Request do exist and the Authority reserves the right to determine (acting in its sole discretion) whether there is any available exemption and whether to disclose any information made available to it by Bidders pursuant to any Request. If you are unsure as to the Authority’s
obligations under the Act or EIR regarding the disclosure of sensitive information please seek independent legal advice.

7  CONFLICTS

7.1 The Authority requires all actual or potential conflicts of interest to be declared and resolved to the Authority’s satisfaction prior to the delivery of a Bidder's ISFT Bid submission. Failure to declare such conflicts (including new conflicts which may arise during the competition) and/or failure to address such conflicts to the reasonable satisfaction of the Authority could result in a Bidder being disqualified at the sole discretion of the Authority.

8  CANVASSING AND NON-COLLUSION

8.1 The Authority reserves the right to disqualify (without prejudice to any other civil remedies available to the Authority and without prejudice to any criminal liability which such conduct by a Bidder or Consortium Member (as the case maybe) may attract) any Bidder or Consortium Member who (or its directors or any other person who has powers of representation, decision or control of the Bidder or Consortium Member), in connection with this ISFT:

8.1.1 offers any inducement, fee or reward to any member or officer of the Authority or any person acting as an adviser for the Authority in connection with this ISFT;

8.1.2 does anything which would constitute the offence of within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906, where the offence relates to active corruption;

8.1.3 does anything which would constitute the offence of bribery, where the offence relates to active corruption;

8.1.4 does anything which would constitute bribery within the meaning of section 1 or 6 of the Bribery Act 2010;

8.1.5 canvasses any member or officer of the Authority or any person acting as an adviser for the Authority in connection with this ISFT;

8.1.6 contacts any officer of the Authority prior to financial close about any aspect of the ISFT in a manner not permitted by this ISFT (including without limitation contact for the purposes of discussing the possible transfer to the employment of the Bidder of such officer);

8.1.7 fixes or adjusts the amount of his Bid by or in accordance with any agreement or arrangement with any other Bidder or Consortium Member of any other Bidder (other than its own Consortium Members or supply chain);

8.1.8 enters into any agreement or arrangement with any other Bidder (or Consortium Member of any other Bidder) to the effect that it shall refrain from making a Bid or as to the amount of any Bid to be submitted;

8.1.9 causes or induces any person to enter such agreement as is mentioned in either paragraph 8.1.7 or 8.1.8 or to inform the Bidder (or a Consortium Member) of doing so.
Member of the Bidder) of the amount or approximate amount of any rival Bid;

8.1.10 canvasses any person connected with this ISFT who is not one of its own Consortium Members or one of its own team;

8.1.11 offers or agrees to pay or give or does pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Bid (or proposed Bid) any act or omission;

8.1.12 communicates to any person other than the Authority the amount or approximate amount of his proposed Bid (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of a Bid);

8.1.13 enters into any agreement with any other Bidder (or a Consortium Member of any other Bidder) aimed at distorting the outcome of the competition;

8.1.14 undertakes to unduly influence the decision-making process of the Authority; or

8.1.15 undertakes to obtain confidential information that could confer upon an undue advantage in the award of the contract.

8.2 Bidders will be required to complete and submit certificates of non-collusion and non-canvasing at the Final Tender submission stage.

9 INTELLECTUAL PROPERTY

9.1 This ISFT (and all Procurement Documents) may not be reproduced, copied or stored in any medium without the prior written consent of the Authority except in relation to the preparation of a Bid.

9.2 All documentation supplied by the Authority in relation to this ISFT (and all Procurement Documents) is and shall remain the property of the Authority and must be returned on demand, without any copies being retained. Bidders are not authorised to copy, reproduce, or distribute the information in the Procurement Documents at any time except as is necessary to produce a Bid.

10 PUBLICITY

10.1 Bidders shall not undertake (or permit to be undertaken) at any time, whether at this stage or after financial close, any publicity activity with any section of the media in relation to the Project other than with the prior written agreement of the Authority. Such agreement shall extend to the content of any publicity. In this paragraph the word "media" includes (but without limitation) radio, television, newspapers, trade and specialist press, the internet and email accessible by the public at large and the representatives of such media.

11 LIABILITY OF THE AUTHORITY AND ITS ADVISERS
11.1 In the Concession Documents, “the Authority” includes all or any of the Authority and its members, officers and Advisers, and the directors, officers, members, partners, employees, other staff, agents or advisers of any such body or person.

11.2 The Concession Documents have been prepared by and on behalf of the Authority for the purposes of:

11.2.1 providing an application procedure for individuals or organisations interested in tendering for the Project; and

11.2.2 to assist persons interested in tendering for the Project role in making their own evaluation of the potential opportunity

11.3 The Concession Documents are intended only to provide a background explanation of the Project and are not intended to form the basis of any decision on whether to enter into any contractual relationship with the Authority. The Concession Documents do not purport to have been independently verified. The Concession Documents should not be relied on as an investment recommendation of the Project made by the Authority to the potential contractor.

11.4 The Authority and its Advisers:

11.4.1 do not make any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the Concession Documents provided. Any persons considering entering into a contractual relationship with the Authority should make their own investigations and independent assessment of the Authority and its requirements for this scheme and should seek their own professional technical, financial and legal advice; and

11.4.2 exclude all liability for any loss or damage (whether caused by contract, tort (including negligence), misrepresentation or otherwise) (other than in respect of fraud or fraudulent misrepresentation or personal injury or death) in relation to the Concession Documents and/or arising as a result of reliance on the information in the Concession Documents or any subsequent information made available to Bidders. Any and all liability is expressly excluded to the maximum extent permissible by law.

11.5 Only the express terms of any written contract relating to the Project (as and when it is executed) shall have any contractual effect in connection with this Project.

11.6 The publication of the Concession Documents in no way commits the Authority to award any contract to deliver the Project. The Authority reserves the right to vary or change all or any part of the procedures for the procurement process at any time or not to proceed with the procurement.

11.7 For the purposes of the procurement, all Advisers referred to in this document are acting exclusively as the advisers to the Authority and will not be responsible or owe any duty of care to anyone other than the Authority.

12 PROVISION OF FURTHER INFORMATION TO BIDDERS PRIOR TO MAKING A BID
12.1 The Authority is relying on the information provided by Bidders during the procurement process (including but not limited to Bids and SQ submissions). If, at any time during this procurement process there are any material changes to that information, the Bidder must advise the Authority as soon as practicable (even if this is prior to the submission of a Bid). Upon receipt of such information, the Authority shall be entitled to revisit the selection and/or evaluation of the Bidder and exclude the Bidder if necessary, as a result of that process.

13 BIDDING PROCESS AND COSTS

13.1 The Authority reserves the right at any time:

13.1.1 to require a Bidder and/or its Consortium Members to clarify their Bid(s) in writing and/or provide additional information (failure to respond adequately may result in a Bidder not being successful); and/or

13.1.2 to reduce the number of Bidders in the procurement process

13.1.3 to amend the terms and conditions of the procurement process;

13.1.4 not to consider Bids other than those specified;

13.1.5 to negotiate with one or more of the Bidders during the competitive dialogue to obtain arrangements which best meet its requirements;

13.1.6 to issue amendments or modifications to the ISFT;

13.1.7 to alter the timetable to contract award;

13.1.8 to cancel or withdraw from the tender process at any stage; and

13.1.9 not to award a contract.

13.2 All Bidders are solely responsible for their costs and expenses incurred in connection with the preparation and submission of Bids and participation in this and all future stages of this procurement. Under no circumstances will the Authority be liable for any costs or expenses borne by Bidders or any of its supply chain, partners or advisers in this procurement process.

14 THE AUTHORITY’S RIGHT TO REJECT BIDS

14.1 The Authority reserves the right to reject or disqualify a Bidder and/or any of its Consortium Members at any time during the procurement procedure where:

14.1.1 a Bid is submitted late, is completed incorrectly, is materially incomplete or fails to meet the Authority’s submission requirements which have been notified to the relevant Bidder;

14.1.2 the Bidder and/or any of its Consortium Members are unable to satisfy the terms of Regulation 38(8) to 38(25) of the Concession Contracts Regulations 2016 at any stage during the tender process;

14.1.3 the Bidder and/or its Consortium Members are guilty of material misrepresentation in relation to its application and/or the process (including but not limited to the SQ selection stage of the competition);
14.1.4 the Bidder and/or its Consortium Members contravene any of the terms and conditions of this ISFT; or

14.1.5 there is a change in identity, control, financial standing or other factor impacting on the selection and/or evaluation process affecting the Bidder and/or its Consortium Members.

14.2 The disqualification of a Bidder will not prejudice any other civil remedy available to the Authority and will not prejudice any criminal liability that such conduct by a Bidder may attract.

14.3 The Authority reserves the right to require Bidders at any moment during the procurement procedure to submit all or any of the supporting documents (or to supplement or clarify certificates received) where it is necessary to ensure the proper conduct of the procurement procedure for the purposes of:

14.3.1 establishing the absence of grounds for exclusions under Regulation 38(8) to 38(25) of the Concession Contracts Regulations 2016; and/or

14.3.2 establishing whether the Bidder meets (or continues to meet) the relevant SQ selection criteria relating to economic and financial standing; and/or technical and professional ability; and/or

14.3.3 establishing whether the Bidder fulfils (or continues to fulfil) the rules and criteria for reducing the number of Bidders being invited to the Competitive Dialogue tender stages of the competition.

14.4 Furthermore, before awarding the contract, the Authority reserves the right to require the Preferred Bidder to submit up-to-date supporting documents (or to supplement or clarify certificates received) for the purposes of:

14.4.1 establishing the absence of grounds for exclusions under Regulation 38(8) to 38(25) of the Concession Contracts Regulations 2016; and/or

14.4.2 establishing the continued fulfilment of the SQ stage selection criteria and requirements (including where relevant the continued possession or attainment of quality assurance standards and environmental management standards (or evidence of their equivalents)).

15 BIDDER CHANGES TO CONSORTIUM MEMBERSHIP

15.1 The Consortium Members of any Bidder and the principal relationships between Consortium Members may not be changed in relation to this procurement process unless the Authority’s prior consent has been given, and subject to:

15.1.1 any replacement Consortium Member being satisfactorily pre-qualified by the Authority; and

15.1.2 any other condition which the Authority may specify having been met.

15.2 The Authority reserves the right, at its absolute discretion, to refuse to allow any change in the Consortium Members of any Bidder and/or the principal relationships between Consortium Members.
15.3 The Authority reserves the right, at its absolute discretion, not to consider any Bid where there is a change in the Consortium Members of any Bidder and/or the principal relationships between Consortium Members.

16 GOVERNING LAW

16.1 All negotiations will be conducted, and all documents and Bids will be prepared, in the English language. The negotiations and all subsequent contracts negotiated will be subject to English law and the exclusive jurisdiction of the English courts.

17 ACCEPTANCE OF BIDS

17.1 Bidders are reminded that no offer or Bid is deemed accepted until the relevant contractual documents have been duly signed on behalf of the Authority, the successful Bidder and all other relevant parties and declared unconditional. No dialogue or communication with the Authority, whether prior to or after the commencement of the ISFT stage, up to and including any notification of the Preferred Bidder award decision commencing the standstill period, shall imply acceptance of any offer or constitute an indication that the Bidder will be awarded the contract.

17.2 Please note that only the express terms of any written contract which is finally agreed between the Authority and the successful Bidder and which is duly declared unconditional shall have any contractual effect.
APPENDIX 2

QUALITY QUESTIONS BIDDERS ARE REQUIRED TO ANSWER AT THE ISFT SUBMISSION STAGE

1. PARTNERING

<table>
<thead>
<tr>
<th>Criteria 1 – Partnering 3%</th>
<th>Q.1.1 – Joint Venture Leadership Management and Partnership Working (Scored 0-10)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Clear accountability and key personnel availability are key criteria for a successful partnership working for the Authority.</td>
</tr>
<tr>
<td></td>
<td>Please outline your leadership and management structure including proposed JV Board Directors and the senior management team responsible for operating the JV.</td>
</tr>
<tr>
<td></td>
<td>The key points of contact, and roles and responsibilities for individuals proposed (including an Organogram and CVs of key personnel setting out their relevant experience) should be included as part of your response.</td>
</tr>
<tr>
<td></td>
<td>The Authority is seeking a JV partner that will deal with issues in a proactive and responsive manner with a single point of contact for operational delivery and accountability. The response should outline timescales for the JV partner's response on issues and the JV partner's prioritisation methods. Should issues arise during the joint venture please outline your lines of escalation and availability which demonstrate accountability and commitment to resolving issues.</td>
</tr>
<tr>
<td></td>
<td>CVs and an Organogram can be appended and will not be counted towards the word limit. CVs should be no longer than 1 page A4 per person.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Criteria 1 – Partnering 3%</th>
<th>Q.1.2 – Joint Venture Resourcing (Scored 0-10)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The JV staffing and resource plan should be submitted to set out the staffing and resourcing to be provided by the Partner; resource that would have to be externally sourced through the Partner's supply chain. This may involve both specific resources to be put in place as well as resourcing methodology and approach to secure support to meet the needs of the JV.</td>
</tr>
<tr>
<td></td>
<td>The resource plan for the JV should seek to demonstrate that the Partner has a proposal with robust capacity, competency and management structures to deliver the range of projects services and objectives as defined below whilst being balanced with efficiency and adaptability in meeting demand.</td>
</tr>
<tr>
<td></td>
<td>The resource plan should address the following range of services and objectives:</td>
</tr>
<tr>
<td></td>
<td>• strategic estates review and development planning;</td>
</tr>
<tr>
<td></td>
<td>• architectural and place-making design;</td>
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<tr>
<td></td>
<td>• sustainability &amp; environmental consultancy;</td>
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<tr>
<td></td>
<td>• town and country planning;</td>
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<td></td>
<td>• supply-chain procurement;</td>
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<tr>
<td></td>
<td>• project management;</td>
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<tr>
<td></td>
<td>• development and construction management function;</td>
</tr>
<tr>
<td></td>
<td>• finance and treasury management;</td>
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<tr>
<td></td>
<td>• marketing, lettings and sales; and</td>
</tr>
<tr>
<td></td>
<td>• asset management and FM services</td>
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<tr>
<td></td>
<td>• a focus on how to resource the Woodside waterfront development and Moreton (including Foxfield)</td>
</tr>
</tbody>
</table>
2. JOINT VENTURE BUSINESS PLAN

Criteria 2 Joint Venture Business Plan 12%

<table>
<thead>
<tr>
<th>Q.2.1 Phased Development Plan &amp; Cash Flow Assumptions (Scored 0-10)</th>
</tr>
</thead>
</table>

The Authority has identified 32 sites incorporating 49+ assets available to be utilised for development for the first phase programme, including 11 priority development sites within 5 priority development areas. These sites include the 5 priority development areas for the Sample Scheme consisting of (Birkenhead, Moreton (including Foxfield), Bebington, Wallasey and Bromborough (MoD)).

Additional sites may be acquired and for example the Authority is also looking at how it can redevelop and regenerate the New Ferry area following the recent explosion.

Bidders are required to provide a Phased Development Plan broken down into the short term, medium term and long term completion of the area development projects, utilising assets in so far as they aid the development of the 11 sites, in order to balance the financial affordability, deliverability and sustainability of the programme of developments and incorporating the sites through their Partnership Business Plan. The plan may include drawing down sites from the full portfolio of 32 sites incorporating 49+ assets to develop in parallel with the 11 priority sites to achieve this balance. The inclusion of the additional sites will be considered to the extent that they impact on the development plan for the 11 priority sites. This plan should demonstrate effective sequencing of the sites to successfully maximise development potential.

The Phased Development Plan should also include an explanation of your approach to:

- Balancing maximising construction development value and construction development output over the duration of the partnership including the market indicators and factors that would influence your choice of timing of the sequence of development of specific areas and sites;

- How the phasing of developing the 11 priority sites (and additional sites to the extent that they impact on the development plan) contributes to increased overall values within your strategy. In particular, your proposals for Birkenhead should demonstrate how the initial development interventions will ultimately contribute to a more significant regeneration of the town;

- Achieving financing and sales efficiencies in the development areas and site sequencing across the full portfolio;

- Integrating more commercially challenging (or more difficult to develop) areas and sites into the programme as early as possible in a deliverable and financially sustainable way; and

- Achieving the Authority’s objectives and priorities in terms of the following factors:
  - Secure local economic growth in line with the Wirral Growth Company Growth Prospectus.
  - Make a positive contribution towards delivery of the Asset Transformation Programme.
  - Contribute to ensuring that businesses encouraged to invest in the Wirral have access to property that meets their needs and delivers business rate growth.
  - Better utilise the Authority's assets to drive socio economic change to secure a sustainable future for the benefit of the community.
  - Maximise the Authority’s financial return from the disposal of its land and property assets, with a preference to generate secure revenue income streams.
  - Positively contribute towards the Authority's Medium/Long Term Financial Strategy (LTFS).
  - Improve the environment.
  - Comply with its obligation to obtain best consideration reasonably obtainable on a disposal of its land.
  - To ensure and encourage additional private sector investment, capacity and capability is enabled to support the broad regeneration objectives of the Authority.

The Phased Development Plan should also be accompanied by a completed financial document with cash-flow assumptions to illustrate the basic coherence, deliverability and viability of cash-flows in the site sequence approach and strategy.
Evaluation approach

The Bidder is required to submit a phased development business plan in relation to the 11 priority development sites that seeks to address the objectives set out by the Authority.

The business plan should demonstrate Bidders' broad approach to the delivery of the Authority's objectives and priorities and describes a funding strategy that supports this delivery.

The Bidder will be required to demonstrate transparency and value for money – particularly in respect of procuring any internal and external resources, both initially and during the life of the JV. Bidders need to identify clear procedures to ensure best value for the JV in procuring its supply chain.
### Criteria 3 – Development Programme Delivery 4%

<table>
<thead>
<tr>
<th>Q.3.1 – Supply-Chain Selection, Co-ordination and Management (Scored 0-10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The partnership will involve delivering construction at multiple sites over the duration of the joint venture. Please provide details of how you will appoint, manage and co-ordinate the construction supply-chain to deliver development across the sites that will demonstrate:</td>
</tr>
<tr>
<td>• Processes for effective needs assessment and planning of supply-chain requirements for the range of sites and facilities to be delivered;</td>
</tr>
<tr>
<td>• High quality standards in the contractors and suppliers appointed for site developments and across the development programme;</td>
</tr>
<tr>
<td>• Efficiencies in your procurement approach to deliver initial and ongoing value for money for each site development and across the development programme;</td>
</tr>
<tr>
<td>• Effective monitoring, reporting and management of supply-chain performance and quality assurance;</td>
</tr>
<tr>
<td>• Effective programme and project cost control;</td>
</tr>
<tr>
<td>• Processes in place to ensure supply-chain resilience and contingency measures; and</td>
</tr>
<tr>
<td>• Communications, logistics and management processes to be able to effectively co-ordinate the supply-chain to deliver the site programmes to timetable.</td>
</tr>
</tbody>
</table>

### Criteria 3 - Development Programme Delivery 3%

<table>
<thead>
<tr>
<th>Q.3.2 – Project, Development and Construction Project Management (Scored 0-10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The development and construction phases of areas will require the Partner to provide effective project management to plan for and deliver the new developments. This should demonstrate day to day accountability for programme and on-site process for scheme progress and managing project risks. Please outline your processes and procedures that your day-to-day project manager will put in place to keep the Authority informed on a regular basis. Should issues arise during the construction stages please outline your lines of escalation and availability which demonstrate accountability and commitment to resolving issues. Your response provided should seek to demonstrate:</td>
</tr>
<tr>
<td>• proactive approach to managing delivery and issues arising;</td>
</tr>
<tr>
<td>• manage day to day operational delivery effectively; and</td>
</tr>
<tr>
<td>• reporting systems and client engagement mechanisms you propose to adopt to ensure that the Authority is made aware at the earliest opportunity of relevant issues or problems affecting programme, cost or quality.</td>
</tr>
</tbody>
</table>
Criteria 3 - Development Programme Delivery 4%

Q.3.3 Strategic Estates Commercial Consultancy Services (Scored 0-10)

The JV partner will be responsible for reviewing the commercial estates portfolio of the Authority in order to form estates regeneration, development, acquisition, disposal and/or retention and utilisation strategies for the Authority.

Please provide details of your approach to providing commercial strategic estates consultancy services. Your response should seek to demonstrate your methodology, investigation, prioritisation and approach to reviewing and formulating strategies for the Authority portfolio of commercial estates in releasing opportunities for the Authority and the joint venture. The effectiveness and deliverability of your proposed approach and methodology to be applied to the joint venture may be illustrated by relevant examples.

Criteria 3 - Development Programme Delivery 5%

Q.3.4 Strategic Estates Residential Consultancy Services (Scored 0-10)

The JV partner will be responsible for reviewing the residential estates portfolio of the Authority in order to form estates regeneration, development, acquisition, disposal and/or retention and utilisation strategies for the Authority.

Please provide details of your approach to providing residential strategic estates consultancy services. Your response should seek to demonstrate your methodology, investigation, prioritisation and approach to reviewing and formulating strategies for the Authority portfolio of residential estates in releasing opportunities for the Authority and the joint venture. The effectiveness and deliverability of your proposed approach and methodology to be applied to the joint venture may be illustrated by relevant examples.

Criteria 3 - Development Programme Delivery 2%

Q.3.5 Construction Health and Safety Approach and Measures (Scored 0-10)

Please provide details of the approach and measures you will implement to ensure effective health and safety arrangements are put in place for the protection of contractor staff and the public during construction.

Your response should seek to demonstrate:

- your approach to contingency advance planning to prepare for health and safety hazards, incidents and emergencies which may occur on site;
- how you assess and identify for each site health and safety risks (and possible emerging risk on an on-going basis) in operating in the site and resource appropriate measures accordingly;
- Your communications plan in respect of emerging or actual health and safety incidents which enables your organisation to respond promptly to the health and safety issues; mobilise and coordinate contingencies measures; and to keep the Authority informed;
- Your strategy and methodology in dealing with arising incidents on site in order to ensure health and safety incidents do not impact on the overall project timescales.
## 4. MARKET RESPONSIVENESS

### Criteria 4 – Market Responsiveness 4%

**Q.4.1 – Regeneration Design and Market Responsiveness in relation to mixed use in residential and commercial areas (Scored 0-10)**

Please provide your approach and proposal in relation to designing new mixed-use residential and commercial developments and incorporating features which are attractive to potential purchasers, tenants and occupiers across the 5 priority development areas for the Sample Scheme consisting of Bebington; Birkenhead Town Centre; Wallasey; Bromborough and Moreton (including Foxfield).

- Your approach and methodology for assessing demand for types of residential, leisure or commercial premises in each area;
- How you would assess the optimum blend for a viable and successful area development;
- The design features and place-making features (including community use; leisure; and night time economy) you would incorporate in targeting that market
- The cost effectiveness of design approach in offering value for money for potential purchasers, tenants and occupiers and achieving a return for the JV

### Criteria 4 – Market Responsiveness 4%

**Q.4.2 – Regeneration Design and Market Responsiveness in relation to industrial areas and developments (Scored 0-10)**

Please provide your approach and proposal in relation to designing new industrial developments and incorporating features which are attractive to potential purchasers, tenants and occupiers across the development area of Bromborough.

- The design features you would incorporate in targeting that market
- The cost effectiveness of design approach in offering value for money for potential purchasers and tenants and achieving a return for the JV

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30 of 51

Page 48
5. SAMPLE SCHEME DEVELOPMENT PROPOSAL

Criteria 5 – Sample Scheme Development Proposals 5%

<table>
<thead>
<tr>
<th>Q.5.1 Bebington Area Outline Master-Plan and Development Design (Scored 0-10)</th>
</tr>
</thead>
</table>

Please provide your Master-Plan to RIBA 1 for the Bebington Sample Scheme Area in accordance with the requirements of the Bebington Area Specification.

The Master-Plan should include and identify:

1. the overall site layout
2. the number and layout of residential leisure and commercial units
3. public and community spaces
4. the development tenure mix

The Master-Plan should seek to demonstrate the following qualities:

1. place-making features which promote community engagement
2. effective traffic management in balancing access and reducing noise and traffic impact
3. facilities to attract suitable retail and leisure business occupants to increase visitors numbers and create a vibrant local retail and leisure economy

The Master-Plan should be accompanied by a narrative submission which explains the approach and proposals to deliver these qualities.

Please also provide your design proposals for the range of residential and commercial to be delivered at the site in accordance with the requirements of the Bebington Area Specification.

Your design proposals should seek to demonstrate:

1. Saleable features attuned for the target market
2. Energy efficient design to reduce the use of energy from non-renewable resources
3. Energy efficient design to a reduce carbon emissions in the functioning and maintenance of the completed developed sites
4. Effective flood risk management features

Criteria 5 – Sample Scheme Development Proposals 9%

<table>
<thead>
<tr>
<th>Q.5.2 Birkenhead Town Centre Area Outline Master-Plan and Development Design (Scored 0-10)</th>
</tr>
</thead>
</table>

Part A – 5% (Scored 0-10)

Please provide your Master-Plan to RIBA 1 for the Birkenhead Town Centre Sample Scheme Area in accordance with the requirements of the Birkenhead Town Centre Area Specification.

The Master-Plan should include and identify:

1. the overall site layout
2. the number and layout of residential and commercial units
3. the new Council Civic HQ Centre
4. the new Police Authority HQ Centre
5. the Market development
6. public and community spaces
7. the development tenure mix

Please note that the Civic Centre will be a building in which Council, Police and CCG offices will be co-located, using a shared reception area.
The Master-Plan should seek to demonstrate the following qualities:

1. place-making features which promote community engagement
2. effective traffic management in balancing access and reducing noise and traffic impact

The Master-Plan should be accompanied by a narrative submission which explains the approach and proposals to deliver the qualities.

Please also provide your design proposals for the range of residential and commercial to be delivered at the site in accordance with the requirements of the Birkenhead Town Centre Area Specification.

Your design proposals should seek to demonstrate:

1. Saleable features attuned for the target market
2. Energy efficient design to reduce the use of energy from non-renewable resources
3. Energy efficient design to reduce carbon emissions in the functioning and maintenance of the completed developed sites
4. Effective flood risk management features

**Part B – 4% (Scored 0-10)**

**Development Strategy Vision and Planning**

Your response to Part A above should set out your masterplan development proposal on the basis of the current available Council owned assets. However, available assets may change over time given the long-term nature of the joint venture and the JV partner will need to be able to adapt its long-term strategy, direction and delivery vision to be implemented throughout the joint venture period.

Available assets may change in that the Council may be able to negotiate to acquire other public sector assets within the Town as well as being successful in assembling other key land assembly targets identified by the Council. Such additional sites targeted include a list of sites within the Town currently owned by other public sector bodies (the GIS plan is available on the portal) and key land assembly targets in the area between Woodside and Birkenhead Park.

It is not assured that the Council will be able to acquire these sites but Bidders are requested to provide a narrative explanation (supplemented by masterplanning adaptation illustrations) of how the incorporation of such sites in the development strategy (should they be acquired by the Council and be made available to the JV) may further enhance their masterplan approach and be used to contribute to the strategic regeneration of the whole of Birkenhead in your Part B response.

The enhanced strategy and masterplan should be an evolution and adaptation of the Part A response and will form part of the strategic business plan to be utilised and inform future joint venture activity and options.
<table>
<thead>
<tr>
<th>Criteria 5 – Sample Scheme Development Proposals 6%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q.5.3 Wallasey Area - Outline Master-Plan and Development Design (Scored 0-10)</td>
</tr>
</tbody>
</table>

Please provide your Master-Plan to RIBA 1 for the Wallasey Sample Scheme Area in accordance with the requirements of the Wallasey Area Specification.

The Master-Plan should include and identify:

1. the overall site layout
2. the number and layout of residential and commercial units
3. public and community spaces
4. the development tenure mix

The Master-Plan should seek to demonstrate the following qualities:

1. place-making features which promote community engagement
2. effective traffic management in balancing access and reducing noise and traffic impact

The Master-Plan should be accompanied by a narrative submission which explains the approach and proposals to deliver the qualities.

Please also provide your design proposals for the range of residential and commercial to be delivered at the site in accordance with the requirements of the Wallasey Area Specification.

Your design proposals should seek to demonstrate:

1. Saleable features attuned for the target market
2. Energy efficient design to reduce the use of energy from non-renewable resources
3. Energy efficient design to reduce carbon emissions in the functioning and maintenance of the completed developed sites
Criteria 5 – Sample Scheme Development Proposals 5%

Q.5.4 Bromborough Area Outline Master-Plan and Development Design (Scored 0-10)

Please provide your Master-Plan to RIBA 1 for the Bromborough Sample Scheme Area in accordance with the requirements of the Bromborough Area Specification.

The Master-Plan should include and identify:

1. the overall site layout
2. the number and layout of units
3. the development tenure mix

The Master-Plan should seek to demonstrate the following qualities:

1. place-making features
2. effective traffic management in balancing access and reducing noise and traffic impact

The Master-Plan should be accompanied by a narrative submission which explains the approach and proposals to deliver the qualities.

Please also provide your design proposals for the range of residential and commercial to be delivered at the site in accordance with the requirements of the Bromborough Area Specification.

Your design proposals should seek to demonstrate:

1. Saleable features attuned for the target market
2. Energy efficient design to reduce the use of energy from non-renewable resources
3. Energy efficient design to reduce carbon emissions in the functioning and maintenance of the completed developed sites.
Criteria 5 – Sample Scheme Development Proposals 6%

Q.5.5 Moreton (including Foxfield) Area Outline Master-Plan and Development Design (Scored 0-10)

Please provide your Master-Plan to RIBA 1 for the Moreton (including Foxfield) Sample Scheme Area in accordance with the requirements of the Moreton (including Foxfield) Area Specification

The Master-Plan should take account of and address the following information:

The Authority is planning to create extra care capacity within the Wirral through the future development and construction of an extra care facility scheme which will be situated in the Moreton Sample Scheme Area.

While the construction and operation of this extra care facility is not within the scope of this procurement, the Master-Plan site layout needs to make provision for the future construction of an extra care facility scheme at a single location incorporating a minimum of 60 supported apartments with communal and staff facilities, 16 dormer bungalows and a communal space with a garden.

The site layout and design to be prepared by the Bidder for the wider development of the Moreton (including Foxfield) Area needs therefore to identify, reserve and designate an area of the site to be left vacant and in the possession of the Authority for the future construction of an extra care facility of this size.

The design of the residential, commercial and urban environment in the remainder of the site should be of a quality standard and should complement, support and be sympathetic to the focal point of the eventual construction of an extra care facility for residents with learning disabilities.

Consequently, the Master-Plan should include and identify:

1. the overall site layout
2. the number and layout of residential and commercial units
3. public and community spaces (which may include leisure facilities if these are deemed complementary to the development)
4. the development tenure mix

The Master-Plan should seek to demonstrate the following qualities:

1. Selection of the optimum location and layout reserved for the extra care facility with good access to public green spaces
2. place-making features, public realm improvements and amenities complementary to the extra care facility which promote integration, accessibility and community engagement opportunities for the residents with learning disabilities
3. effective traffic management in balancing access and reducing noise and traffic impact, particularly in respect of the area of the site where the extra care facility is situated
4. a high quality community library building (which can be integrated with other developments) in re-providing the existing library and located to enhance community place-making
5. Provision of accessible transport links supporting the extra care facility
6. Low density housing and commercial development complementary to the extra care facility and residential area

The Master-Plan should be accompanied by a narrative submission which explains the approach and proposals.

Please also provide your design proposals for the range of residential and commercial buildings to be delivered as part of the redevelopment and enhancement of the site in accordance with the requirements of...
Your design proposals for the residential and commercial proposals should seek to demonstrate:

1. Saleable features attuned for the target market
2. A high quality and accessible community library building (or integrated facility) integrated into the development
3. Energy efficient design to reduce the use of energy from non-renewable resources
4. Energy efficient design to reduce carbon emissions in the functioning and maintenance of the completed developed sites

Criteria 5 – Sample Scheme Development Proposals 4%

Q.5.6 Sample Scheme Stakeholder Engagement and Communication (Scored 0-10)

Please provide details of the stakeholder engagement and consultation and communications plan you intend to put in place in relation to developing the 5 priority development areas for the Sample Schemes consisting of Bebington; Birkenhead Town Centre; Bromborough; Wallasey, Moreton (including Foxfield).

Your response should provide a timetable and resourcing plan to carry out the consultation and programme of communications.

The proposals should set out:

- an effective plan to identify relevant Stakeholders in relation to the 5 Areas of the Sample Scheme and schedule accessible consultation opportunities for them to participate in;
- the information that the consultation process would seek to identify relevant to the 5 Areas of the Sample Scheme and the reasons it is important for the successful delivery of the scheme;
- how the consultation information will be collated, provided and presented to the Authority;
- how you would work with the authority to address issues anticipated to result from the consultation exercise;
- the communications programme that would be deployed during and on completion of each and all of the 5 Areas of the Sample Scheme development

Criteria 5 – Sample Scheme Development Proposals 2%

Q.5.7 Continuing Engagement (Scored 0-10)

As the long-term development and growth partner, the JV partner will be expected to understand the evolving and changing needs and concerns of the communities and businesses to inform development and growth strategies to be pursued by the JV.

Please provide details of your proposal and approach to providing continuing availability and engagement to the public over the duration of the joint venture in order to understand the social, economic and environmental needs of the region and provide an ongoing and accessible presence in Wirral.
## Criteria 5 – Sample Scheme Development Proposals 2%

<table>
<thead>
<tr>
<th>Q.5.8 Construction Programme Plans (Scored 0-10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please provide Construction Programme Plans for the delivery of the construction development at the 5 priority development areas for the Sample Scheme consisting of Bebington, Birkenhead Town Centre; Wallasey; Bromborough, and Moreton (including Foxfield). An individual Construction Programme Plan should be produced for each of the 5 Areas as part of this response. The Construction Programme should:</td>
</tr>
<tr>
<td>• Set out key milestones</td>
</tr>
<tr>
<td>The Construction Delivery Programme Plans should be supported by a narrative explaining how those key milestones are properly resourced and deliverable to provide confidence that the Sample Scheme developments across the 5 Areas will be brought in on time and within budget. The narrative should also provide details of contingency and business continuity measures that will be put in place to ensure the resilience of the proposed Construction Programmes Plans.</td>
</tr>
</tbody>
</table>

## Criteria 5 – Sample Scheme Development Proposals 2%

<table>
<thead>
<tr>
<th>Q.5.9 Completion Sales, Leasing and Marketing (Scored 0-10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please provide details of your marketing and sales strategy and proposal in relation to the 5 priority development areas for the Sample Scheme consisting of Bebington; Birkenhead Town Centre; Wallasey; Bromborough and Moreton (including Foxfield). Your response should describe:</td>
</tr>
<tr>
<td>• The marketing you propose to carry out for the development to secure potential purchasers, tenants and occupiers both before and upon completion of site development;</td>
</tr>
<tr>
<td>• The resourcing you propose to deploy to deliver that plan;</td>
</tr>
<tr>
<td>• Your projected rate of sale and reasons supporting those projections; and</td>
</tr>
<tr>
<td>• Your strategy for maximising value from sales and reasons supporting the effectiveness of that approach</td>
</tr>
</tbody>
</table>
6. LEISURE

Criteria 6 – Leisure [1%]

Q.6.1 Leisure (Scored 0-10)

The JV may develop leisure sites, including, multi-use sports facilities, swimming pools, football and golf pitches.

Please describe your approach to developing leisure facilities

Your response should cover and demonstrate:

- Suitable team selection / mobilisation (including CV and experience of key personnel that would be assigned to a project of this nature)
- Your selection of materials to suit facility type including durability and sustainable sourcing to support environmental management
- Construction methodology to deliver the specification including taking into account the site context in relation to planning
- Efficiently delivering an efficient and modern leisure facility for the service users
- Cost neutral design features that can be incorporated to improve the functionality of the building
## 7. ASSET MANAGEMENT

### Criteria 7 – Asset Management 2%

#### Q.7.1 Residential Estate Asset Management (Scored 0-10)

The JV may retain and manage developed residential assets in order to realise long-term revenue streams from letting accommodation.

Please describe your approach to delivering this asset management role in relation to the potential developed residential estate retained by the JV.

Your response should describe:

- Your approach to resourcing and mobilisation to deal with fluctuating demand for residential asset management services required through the JV as revenue generating assets are acquired through business cases approvals during the lifetime of the JV
- Your approach to delivering cyclical repairs and maintenance for the retained residential estate to ensure high quality upkeep of the assets whilst delivering value for money; and
- Your approach to delivering reactive and responsive repairs and maintenance services for residential tenants

### Criteria 7 – Asset Management 2%

#### Q.7.2 Commercial Estate Asset Management (Scored 0-10)

The JV may retain and manage developed retail, leisure and commercial unit assets in order to realise long-term revenue streams from lettings and leasing.

Please describe your approach to delivering this asset management role in relation to the potential developed residential estate retained by the JV.

Your response should describe:

- Your approach to resourcing and mobilisation to deal with fluctuating demand for commercial asset management services required through the JV as revenue generating assets are acquired through business cases approvals during the lifetime of the JV
- Your approach to delivering cyclical repairs and maintenance for the retained commercial estate to ensure high quality upkeep of the assets whilst delivering value for money; and
- Your approach to delivering reactive and responsive repairs and maintenance services for commercial tenants
8. SOCIAL VALUE

<table>
<thead>
<tr>
<th>Criteria 8 – Social Value 8%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q.8.1 Social Value Proposal (Scored 0-10)</td>
</tr>
</tbody>
</table>

The Partner will be operating within Metropolitan Borough of Wirral over the long term and will be expected to apply its skills and ability to contribute towards the strategic social and economic development and regeneration of the area as set out in the 2020 pledges.

The Authority is committed to delivery of social value linked to the development and regeneration of sites over the duration of the joint venture. The Authority is looking to the Partner to drive benefits in working with Wirral Metropolitan College in terms of:

- Providing apprenticeships and other skills development, work experience and opportunity access programmes to be provided in the Borough to secure skills to support the delivery of development programme and leave a legacy of workforce investment. The details of commitments, the quality and duration of the training programmes and support proposed should be included. Apprenticeships should be compliant with Government legislation.

The deliverability of your proposal may be illustrated by relevant examples of social value in past projects. The Authority will be assessing the quality of the proposal and also the level of clear formal commitments, inputs and outputs put forward.
### Criteria 9 – Legal and Commercial 2%

<table>
<thead>
<tr>
<th>Q.9.1 Acceptance of Contract documentation (Scored 0 - 10)</th>
</tr>
</thead>
</table>

Bidders are required to submit a mark-up (with supporting commentary and reasoning to explain changes) to the contractual documents.

The final mark-up submitted as part of the Final Tender should reflect the positions agreed with the Authority at the conclusion of the dialogue stage.
10. FINANCIAL PROPOSALS

APPENDIX 3

PRICE (FINANCIAL MODEL) CRITERIA EVALUATION METHODOLOGY

Bidders are required to complete and return their financial submission as detailed in Appendix 4 as part of their ISFT response. Bidders should note that the methodology used to arrive at the figures in their financial assessment will apply not only to the initial 11 sites, but all subsequent sites to be developed in the future.

Bidders are required to submit financial proposals in respect of the JV. Bidders are required to prepare a financial model based on the quantum, quality and phasing to be undertaken by the JV. The financial model should identify anticipated infrastructure costs, phasing, development costs, growth forecasts etc. which in turn will inform the level of phasing equity together with the quantum of phasing of senior debt / development finance required by the JV to take forward development activity.

As part of the submission, Bidders must supply an Excel model (in accordance with the given template) detailing the finances of the proposed JV to include the following:

- Total returns to the Authority, the Partner and the JV and by type of return
- The splits of profits between the Authority and the Partner
- A summary of the assumption included in the model
- A full consolidated annualised cash flow for the duration of the JV to include sites proposed to be included on establishment of the JV and all subsequent sites
- The proposed programme of delivery including quantum’s, typologies and timescales
- Statement of total returns (profit and loss)
- Profile of coupon payments and loan repayments
- The proposed profit distribution arrangements, showing the retention of profit / recycling of profit into the JV and any subsidiary vehicles, repayment of equity contributions, dividend contributions
- An output sheet derived directly from the financial model showing the key milestones
- Entry land value consideration for the development sites

The financial model must:

- Show data inputs, data outputs and working area completely separate
- Only have hard coded data in input area
- Not incorporate a password protection, and no sheets or cells should be hidden, locked or subject to password protection
- Not contain protected macros
- Be supported by a data book and user guide, setting out a summary of the contents of the financial model on a sheet by sheet basis, and a table of all inputs to the financial model with the cell reference and sources.
Bidders are required to provide outputs of their financial model that align with the format set out in Appendix 4.

The Bidder's response will be assessed by evaluating the level of sustainable financial return to the Authority, net of delivery costs including finance charges. The Authority will compare the Bidder's response in the following areas, but in no specific order of preference:-

**Objectives**
- Level of sustainable income (which may include capital receipts) attributable to the Council directly associated with Authority land.
- Forecast profit share attributable to the Authority.

**Considerations**
- Robustness and appropriateness of any assumptions used to inform the business plan and phasing;
- Robustness, appropriateness and adequacy of allowances (values and costs) used to inform the business plan
- Robustness and credibility of the financial approach and structure with respect to the business plan
- Fundability of the business plan along with the financial considerations set out
- The extent of financial certainty with regard to the source, level and nature of funding to deliver the business plan.

The financial submissions (submitted in the format set out in Appendix 4 (Financial Submissions)) will be qualitatively scored in relation to the price criteria. The price criteria comprise the considerations set out in this Appendix 3 (Price Criteria Evaluation Methodology).

The qualitative scoring scale is set out below and each question will be scored by an application of the following scoring scale, assessing the financial submissions in relation to the price criteria set out above. Scores will take into account where income or costs are considered to be commercially unrealistic. A score will be awarded based on the extent to which the proposal meets the Authority's objectives (which are detailed in the two bullet points above under the heading 'Objectives') and the other considerations to be taken into account (which are detailed in the two bullet points above under the heading 'Considerations').

<table>
<thead>
<tr>
<th>Score</th>
<th>Commentary</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Very weak or no answer</td>
</tr>
<tr>
<td>1</td>
<td>Weak – well below expectations</td>
</tr>
<tr>
<td>2</td>
<td>Poor - well below expectations</td>
</tr>
</tbody>
</table>

SCORING SCALE
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Poor - below expectations</td>
</tr>
<tr>
<td>4</td>
<td>Satisfactory but slightly below expectations</td>
</tr>
<tr>
<td>5</td>
<td>Meets expectations</td>
</tr>
<tr>
<td>6</td>
<td>Slightly exceeds expectations</td>
</tr>
<tr>
<td>7</td>
<td>Good - well above expectations</td>
</tr>
<tr>
<td>8</td>
<td>Very good</td>
</tr>
<tr>
<td>9</td>
<td>Outstanding</td>
</tr>
<tr>
<td>10</td>
<td>Exceptional</td>
</tr>
</tbody>
</table>
APPENDIX 4

FINANCIAL SUBMISSION FORMAT REQUIREMENTS

The format of the financial submission which Bidders must submit in respect of their ISFT submission price criteria response is detailed in this Appendix.

Bidders are requested to:

1. Replicate the layout of both tables listed below and use an Excel document to submit financial information in this layout.

2. Submit a financial model in an Excel document as detailed in Appendix 3, focusing on the 11 priority sites.

   - The financial model should be accompanied by a narrative which explains the Bidder's approach and addresses the objectives and considerations detailed in Appendix 3.

   - All 11 priority sites must be included in the financial model.

   - If additional Phase 1 sites are drawn down beyond the 11 priority sites, details of why they are included should be set out in the narrative to the financial model, but the additional sites should not appear in the financial model itself.

The financial information relating to the JV returns should therefore, inter alia include:

<table>
<thead>
<tr>
<th>A Loan Coupon Rate %</th>
</tr>
</thead>
<tbody>
<tr>
<td>B Loan Coupon Rate %</td>
</tr>
<tr>
<td>Profit Split Authority %</td>
</tr>
<tr>
<td>Profit Split Partner %</td>
</tr>
<tr>
<td>DM fee %</td>
</tr>
<tr>
<td>IRR Authority</td>
</tr>
<tr>
<td>IRR Partner</td>
</tr>
<tr>
<td>NPV Authority</td>
</tr>
<tr>
<td>NPV Partner</td>
</tr>
<tr>
<td>Consolidated forecast annualised cash flow for the duration of the JV</td>
</tr>
<tr>
<td>Guaranteed minimum revenue return to the Authority (years 1-5)</td>
</tr>
<tr>
<td>Summary of assumptions</td>
</tr>
<tr>
<td>Statement of Total Returns (Profit and Loss)</td>
</tr>
<tr>
<td>Returns to the Authority</td>
</tr>
<tr>
<td>Returns to the Partner</td>
</tr>
<tr>
<td>Returns to the JV</td>
</tr>
</tbody>
</table>
The information contained in the site specific development plans must include:

<table>
<thead>
<tr>
<th>Development Appraisal Inputs</th>
<th>Development Appraisal Outputs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Units</td>
<td>Gross Development Value</td>
</tr>
<tr>
<td>Cost Inflation</td>
<td>Construction costs</td>
</tr>
<tr>
<td>HPI</td>
<td>Infrastructure costs</td>
</tr>
<tr>
<td>Rental Growth</td>
<td>Professional fees</td>
</tr>
<tr>
<td>£/Sq ft - Build costs</td>
<td>DM fee</td>
</tr>
<tr>
<td>Profit on costs</td>
<td>Profit on costs</td>
</tr>
<tr>
<td>Private Sales values</td>
<td>Land Value</td>
</tr>
<tr>
<td>Private Rental Values</td>
<td></td>
</tr>
<tr>
<td>Affordable Rents</td>
<td>Total funding Requirement</td>
</tr>
<tr>
<td>Gross Rental</td>
<td>Authority loan Note</td>
</tr>
<tr>
<td>Net Rental</td>
<td>Partner Loan Note</td>
</tr>
<tr>
<td>Yields</td>
<td>Senior Debt</td>
</tr>
<tr>
<td>Entry land value for development sites</td>
<td>Mezzanine Debt</td>
</tr>
<tr>
<td></td>
<td>Equity</td>
</tr>
</tbody>
</table>
APPENDIX 5

CONTRACT DOCUMENTATION

The contract documents are included in the Concession Documents available electronically through http://www.the-chest.org.uk

Other project documents are also included in the Concession Documents available electronically through http://www.the-chest.org.uk
APPENDIX 6

GLOSSARY OF TERMS

The capitalised words and expressions in this ISFT have the meanings set out below unless the context specifically requires otherwise. References to the singular include the plural and vice versa.

"Advisers"
means all professional advisers of the Authority involved in the procurement of the Project.

"Area(s)"
mean the areas of Birkenhead, Moreton (including Foxfield), Bebington, Wallasey and Bromborough.

"Bid"
means each of the written proposals submitted by a Bidder as part of this procurement process at any stage of the procurement.

"Bidders"
means individuals and/or organisations who have been pre-qualified and to whom this ISFT has been issued by the Authority.

"Concession Documents"
means any document issued by the Authority as part of this procurement process.

"Confidential Information"
means all information designated as confidential and disclosed to the Bidders by the Authority or its Advisers in order for them to formulate and prepare their Bid; or which may be supplied by the Authority or its Advisers at a future date (whether in written or visual format or otherwise).

"Consortium"
means either an entity which is to be formed by a group of Organisations or a group of Organisations acting jointly as the Bidder.

"Consortium Member"
means where the Bidder is a consortium, any individual economic operator forming part of that consortium.

"Final Tenders" the Bid submitted in responses to the ISFT.

"Organisation"
means a sole trader, partnership, limited partnership, limited liability partnership, co-operative or company and any analogous entity established inside or outside the UK and should be interpreted accordingly.

"Preferred Bidder"
means the Bidder which has been assessed by the Authority has having the most economically advantageous Final Tender.

"WGC"
means the Joint Venture limited liability partnership to be formed as a result of this procurement, to be called Wirral Growth Company. There is some potential for this name to change, as it is currently the working name for the project.
APPENDIX 7

CERTIFICATES
TENDER FOR WIRRAL GROWTH COMPANY- PROPERTY/ASSET JV

CERTIFICATE OF NON-COLLUSION

In the case of a Consortium, each Consortium Member must complete and return this Certificate.

To Wirral Borough Council ("the Authority")

The essence of the public procurement process is that the Authority shall receive bona fide competitive Tenders from all Bidders. In recognition of this principle I/We certify that this is a bona fide Tender, intended to be competitive and that I/we have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other party.

I/We also certify that I/we have not done and undertake that I/we will not do at any time any of the following acts:

a) communicate to a party other than the Authority the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender);
b) enter into any agreement or arrangement with any other party that he shall refrain from tendering or as to the amount of any Tender to be submitted;
c) offer or agree to pay or give or pay or give any sum of money inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused any act or omission to be done in relation to any other tender or the proposed Tender; or
d) enters into any type of agreement or arrangement with any other party aimed at distorting the outcome of the competition

In this Certificate:

• the word “person” includes any person, body or association, corporate or incorporate
• the phrase “any agreement or arrangement” includes any transaction, formal or informal whether legally binding or not.
• the word “Tender” includes all tender submissions including ITPD submissions and Final Tender submissions together with associated clarifications provided by the Bidder

1 SIGNED ........................................................................................................
POSITION ....................................................................................................

2 SIGNED ........................................................................................................
POSITION ....................................................................................................

On behalf of ....................................................................................................
Date ...............................................................................................................

WGC CABINET REPORT 28.02.2018: APPENDIX A ISFT

Page 68
CERTIFICATE OF NON - CANVASSING

In the case of a Consortium, each Consortium Member must complete and return this Certificate.

To Wirral Borough Council (“the Authority”)

I/We hereby certify that I/we have not in connection with the award of the contract for the project or any other proposed contract for Wirral Growth Company- Property/Asset JV.

- canvassed any member, employee, agent of the Authority
- undertaken to unduly influence the decision-making process of the Authority
- undertaken to obtain confidential information that could confer upon an undue advantage in the award of the contract

and that no person employed by me/us or acting on my/our behalf has done any such act.

I/We further hereby undertake that I/we will not in the future do or seek to do the prohibited acts referred to above and that no person employed by me/us or acting on my/our behalf will do any such act.

1 SIGNED .......................................................... POSITION ..........................................................

2 SIGNED .......................................................... POSITION ..........................................................

On behalf of ..........................................................

Date ..........................................................
This page is intentionally left blank
Bebington Town Hall (former site of) and Bebington Town Hall
Civic Way
Bebington
CH63 7PT

scale 1:1250
date 8/6/2017
map ref. 114SW
title
Europa Boulevard Sites 1, 2 & 3
Birkenhead

scale
1:1500

date
27/6/2017

map ref.
59NW
NOTE

This overview is not an exhaustive list of all points raised in the principal legal documentation nor is it a substitute for considering the principal legal documents themselves in full. Terms defined in the principal legal documentation have the same meaning in this overview.

OVERARCHING PRINCIPLES

The joint venture provides an opportunity for the JV Partners to harness private sector funding and expertise with Sites currently owned by the Council (and others) to help deliver the holistic long term physical development and regeneration of Wirral with associated benefits that contribute to the social and environmental improvement of the area and provide community benefits.

The first principles for the LLP (the JV Objectives) are:

- in relation to the Council, to meet the Council's strategic objectives:
  - secure local economic growth;
  - make a positive contribution towards delivery of the Council's Asset Transformation Programme;
  - contribute to ensuring that businesses encouraged to invest in the Wirral have access to property that meets their needs and delivers business rate growth;
  - better utilise the Council's assets to drive socio-economic change to secure a sustainable future for the benefit of the community;
  - maximise the Council's financial return from the disposal of its land and property assets with a preference to generate secure revenue income streams;
  - positively contribute towards the Council's Medium/Long Term Financial Strategy (LTFS);
  - improve the environment;
  - ensure the Council is not exposed to undue financial risk;
  - comply with the Council's obligation to obtain best consideration reasonably obtainable on a disposal of its land;
  - to ensure and encourage additional private sector investment, capacity and capability which is enabled to support the broad regeneration objectives of the Council.
  - contribute to the delivery of (i) Wirral's Pledges, (ii) the Wirral Growth Plan, (iii) the Council's Strategic Regeneration Framework, (iv) the Council's Asset Transformation Programme and (v) the Council's Asset Strategy (together the Council Objectives); and

- in relation to the JV's business to deliver the LLP's Objectives, being:
  - to bring forward, in a timely manner and responding to market demand, the development of the indicative Sites and potentially to undertake other site development;
  - to bring forward, responding to market demand, the development of Sites which are considered more difficult to develop at a comparable rate with Sites which are considered easier to develop;
APPENDIX C – WGC OVERVIEW OF PRINCIPAL LEGAL DOCUMENTS

- to make strategic and opportunistic acquisitions, in particular interventions that support the implementation of the Council's Growth Plan or the development of an improved retail, commercial and public sector offer in Birkenhead and other Wirral town centres;

- to secure an adequate return to the JV Partners commensurate to their investment and the level of risk in respect of such investment to maximise the profits made by the LLP (this is the Mandatory JV Objective); and

- to support the Council in pursuit of its wider objectives by identifying and helping deliver favourable solutions that balance financial, economic and social returns.

The LLP may develop Sites directly or enable the delivery of major development schemes in partnership with others (such as at Woodside). The most appropriate approach may vary on a site by site basis, or may vary over time. The Procurement Strategy provides the framework to enable the LLP to procure works and services for each development.

All projects to be delivered by the LLP will be assessed by reference to the JV Objectives, as set out in the Partnership Business Plan and Partnership Agreement. The Partnership Business Plan will be approved by the Council and the Private Sector Partner annually on a 3 year rolling basis. Sites for development may change, depending upon title, collaboration or market conditions from time to time and as Sites are drawn down for development. Both the Council and the PSP will need to approve changes to the Sites (and Non-Council Sites) to be developed in the Partnership Business Plan from time to time.

PRINCIPAL PARTIES

The principal parties to this joint venture are:

- the Council
- the PSP
- the joint venture partnership, to be structured as a limited liability partnership (LLP) with wholly-owned development subsidiaries underneath the main JV vehicle
- the PSP Guarantor
- the Development Manager

LEGAL STRUCTURE

The Council and the PSP will be the JV Partners (i.e. members) in a limited liability partnership for an initial term of fifteen years with an option to renew for a further five years. The LLP will be structured as a 50/50 deadlocked vehicle in which the JV Partners will each hold an equal interest.

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>SUMMARY OF PRINCIPAL LEGAL DOCUMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>BASIC INFORMATION</td>
<td></td>
</tr>
<tr>
<td>Principal legal documents and parties</td>
<td>Partnership Agreement – between the Council, the PSP and the LLP, regulating the conduct and affairs of each party. This includes the Procurement Strategy and the Delegation Policy, the process for drawdown of sites and drafting/ approval of Partnership Business Plans and Site Development Plans, and how decisions will be made.</td>
</tr>
<tr>
<td></td>
<td>Parent Company Guarantee – the PSP Guarantor, the LLP and the Council, with the PSP Guarantor guaranteeing the obligations of the PSP.</td>
</tr>
<tr>
<td></td>
<td>Loan Note Instruments – for working capital provided to the LLP either before the drawdown of a Site (Initial Loan Notes), upon draw down of a Site (Council/PSP</td>
</tr>
</tbody>
</table>

M-17279165-3 Page 84
Loan Notes) or otherwise as needed (Additional Loan Notes). The intention is that these Loan Note Instruments will be near identical, save potentially for the interest rate applied. To the extent working capital is drawn down to Development Subsidiary level, there will also be a Development Subsidiary Loan Note Instrument, which will again, as far as possible, mirror the terms of the Loan Note Instrument executed by the LLP.

**Security Agreements** - relating to the Council, PSP and Development Subsidiary. So long as the various LLP Loan Notes remain outstanding, they shall be secured by the LLP in favour of the Council / PSP by charging the property, rights and assets of the LLP. This will equally apply to any Development Subsidiary which will charge in favour of the LLP the property, rights and assets of the Development Subsidiary. Any security granted to the LLP, Council and the PSP will, in time, be subject to any security granted with priority in favour of a senior funder.

**Deed of Priorities** – between the Council, the PSP and the LLP ensuring that the Council and the PSP rank equally for repayments of amounts secured by the Security Agreements.

**Option Agreement (in relation to each Site transferring into the LLP or to a development subsidiary)** – between the Council (as the current holder of the relevant Site(s)) and the LLP. Specified pre-conditions will need to be satisfied before the LLP is able to exercise an Option.

**Transfer / Lease** – if an Option is exercised, the Option Agreement allows for transfer of the Site by way of a freehold transfer or grant of a long lease to the LLP for usually of between 99 and 250 years, with long head leases of 999 years for residential properties.

**Development Management Agreement** – between the LLP and the Development Manager

**Pre-Construction Agreement, Development Agreement and Building/Construction Contract** – between the Council and the LLP (or Development Subsidiary) or the LLP (or Development Subsidiary) and the relevant developer, contractor or consultant, with appropriate collateral warranties and assignment of IP rights.

<table>
<thead>
<tr>
<th>Name of the LLP</th>
<th>Wirral Growth Company LLP</th>
</tr>
</thead>
</table>

**BUSINESS**

"Business" of the LLP

The "Business" of the LLP will be defined in the Partnership Agreement as:

- during any period for which a Partnership Business Plan has been adopted and is in force, to undertake such business(es) as is or are set out in that Partnership Business Plan;
- during any period for which a Site Development Plan has been adopted and is in force, to undertake such business(es) as is or are set out in that Site Development Plan; and
- to undertake such other business(es) as the JV Partners may from time to time unanimously agree,

provided in all circumstances that such business(es) promote the achievement of the JV Objectives.

Development activities may be carried out through separately incorporated Development Subsidiaries which are wholly-owned by the LLP (for risk and debt security ring-fencing reasons).

The LLP’s business will be framed by a Partnership Business Plan and individual Site Development Plans.
## FUNDING THE LLP

**How will the Site development funding needs of the LLP be met?**

Funding requirements for a Site will be agreed and set out in the Site Development Plan and the Partnership Business Plan.

In advance of Site transfer or lease (where a Site is to transfer or be leased to the LLP or to a Development Subsidiary):

- for cost efficiency reasons, the Council could undertake title and other initial site investigations/ preliminary checks and may take action such as advertising open space and appropriating the land between different purposes for the creation of site development plans.

- it is envisaged that the PSP will provide initial working capital to enable LLP to develop proposals and Site Development Plan. If agreed in the Partnership Business Plan the Council may also provide initial cash or assets to the LLP if the LLP's costs can be reduced more effectively by the Council doing so. Interest will accrue on the initial funding.

- Planning application/permission costs to be borne by the LLP.

Upon Site transfer or lease (where a Site is to transfer or is to be leased to the LLP or to a Development Subsidiary):

- Initial Loan Notes, value of assets (if any) provided by the Council and the market value of the Site crystallised into the Council Loan Note.

- PSP to match the value of the Council's Loan Note through the PSP Loan Note (the Initial Loan Note funding provided by the PSP, including in relation to planning costs in advance of site transfer counts towards the value matching obligation).

- Third party funding obtained for Site development, if required.

- Additional finance may be provided by the JV Partners if unanimously agreed.

- Interest will accrue on JV Partner Loans at a rate to be agreed between the JV Partners and state aid compliant. Senior funding and JV Partner Loans to be secured and subject to any deeds of priority entered into between the JV Partners and/or the JV Partners and the senior funder(s).

The Council recognises the PSP's risk in respect of initial schemes if aborted when the LLP has no reserves (and the JV Partners have not received returns which can be reinvested). Accordingly, the Council is prepared to underwrite a percentage of the LLP's costs on the first phase schemes, which will be 50% of the abortive costs (based on the preferred bidder). The overall limit of the Council's exposure will be set by the value of pre-transfer costs which can be incurred on a given scheme, as agreed in the Partnership Business Plan, or as subsequently may be agreed between the Council and the PSP.

## SITES

**How many Sites will form the "sample" for the purposes of the procurement?**

- 11 Priority Sites initially, were tested during the procurement as part of 49+ assets of the Council that may be transferred

- Other opportunities that arise during the JV lifetime from Council and third party sites

**Approval process for a Site Development Plan in relation to a Site**

A template Site Development Plan governing all future Sites (including those within the Priority Sites) will be scheduled to the Partnership Agreement. Going forward, Site Development Plans are prepared and agreed via a four stage process:

- **Draft Indicative SDP** – the LLP prepares, and the JV Board considers whether the Draft Indicative SDP meets the at least three Council Objectives, the Mandatory LLP Objective and at least two other of the LLP's Objectives. This
may be an iterative process requiring more than one consideration by the JV Board.

- **Approved Indicative SDP** - Upon the JV Board approving the Draft Indicative SDP, the JV Board shall as soon as reasonably practicable but in any event within five Business Days, circulate the same to JV Partners for approval. Within 20 Business Days of the JV Partners receiving the Draft Indicative SDP from the JV Board, a meeting of the JV Partners shall be convened for them to consider and, if thought fit, approve the Draft Indicative SDP. Upon the JV Partners approving the Draft Indicative SDP, it shall become the Approved Indicative SDP.

- **Draft Formal SDP** – Upon the JV Partners approving the Draft Indicative SDP, the LLP prepare the planning application for the Site. Once Satisfactory Planning Permission has been received, the LLP prepares a fully costed and complete site development plan, which is the Draft Formal SDP. The LLP prepares, and the JV Board considers whether the Draft Formal SDP meets the same objective test at the Draft Indicative SDP and whether the scheme will be financially viable and will satisfy the Viability Test in the Option Agreement. Again this may be an iterative process requiring more than one consideration by the JV Board.

- **Site Development Plan** – Upon the JV Board approving the Draft Formal SDP, the JV Board shall as soon as reasonably practicable but in any event within five Business Days, circulate the same to JV Partners for approval. Within 20 Business Days of the JV Partners receiving the Draft Formal SDP from the JV Board, a meeting of the JV Partners shall be convened for them to consider and, if thought fit, approve the Draft Formal SDP. Upon the JV Partners approving the Draft Formal SDP, the Draft Formal SDP shall be immediately deemed to have been adopted by the LLP as a Site Development Plan. Any non-material variation to a Site Development Plan requires the approval of the JV Board. The JV Board shall refer any proposed variation to the JV Partners if all Representatives appointed by at least one JV Partner request that the variation be referred to the JV Partners. Any material variation to a Site Development Plan (including any variation referred to the JV Partners by the JV Board) requires the approval of both JV Partners as a reserved matter.

| Can other Council and non-Council sites be considered for redevelopment by the LLP? | Yes – the approval process is broadly the same set out above (i.e. preparation and approval of a Site Development Plan). |
| Conditions to transfer of Site to the LLP | **Common conditions** – e.g. approval of Partnership Business Plan and Site Development Plan, agreement/determination of best consideration and financial objectives and vacant possession. **Specific conditions** – as may be set out in the relevant Site Development Plan [and the Option Agreement] (e.g. funding, viability, construction and an acceptable planning permission) |
| Timing of land transfers in to or leases to the LLP | At any time during the Option Periods (3 years for the Priority Sites and 10 years for the Further Sites) subject to the terms of the approved Site Development Plan and satisfaction of conditions in relation to a particular Site. Transfers or leases of the Sites may be made in different ways depending upon the nature of the development in question (for example, a building agreement and lease, then direct sale to an investor (such as the Merseyside Pension Fund) or transfer to a Development Subsidiary for retention by the Development Subsidiary, or onward sale of the Development Subsidiary itself |
Valuation principles for Council's land transferring in to the LLP

Market valuation (under RICS Red Book Principles or otherwise as appropriate to market conditions for the development and state aid compliant) and carried out by an independent valuer at or immediately prior to the Draft Formal SDP being submitted to JV Partners for approval subject always to the Council being satisfied that the figure reached satisfies its obligation under s123 LGA 1972 (and other powers) to obtain best consideration.

Procurement of works and services by the LLP

This will be subject to the Procurement Strategy contained in the Partnership Agreement.

Use of proceeds of Site sales / profits

Save to the extent otherwise expressly agreed in writing by the JV Partners, net profits remaining after repayment of senior funding and any retention shall first be used by the LLP to make certain repayments in accordance with the following descending priority of repayments (unless otherwise agreed by the JV Partners in writing):

- repayment to the Council and the PSP of any outstanding Initial Council Loan Notes and Initial PSP Loan Notes (plus, in each case, any interest accrued thereon);
- repayment to the Council and the PSP of any outstanding Council Loan Notes and PSP Loan Notes (plus, in each case, any interest accrued thereon).

Any remaining distributable profits after the LLP has made all repayments pursuant to the above shall be apportioned between the JV Partners in proportion to their capital contributions and credited to their respective current accounts accordingly.

GOVERNANCE

Composition of the JV Board

Up to three representatives appointed by each JV Partner.

The JV Board should not be too big or too small to manage to the business of the LLP. Alternates will be permitted. The right commercial people need to be appointed to the JV Board so that the JV Board is a viable commercial decision-making entity.

The Chair of the JV Board will be appointed on an annual rotating basis and drawn from the representatives. He/she has no second or casting vote.

The bidders will be invited to consider the possibility of appointing non-executive representatives in the future.

Decision-making

Matters reserved to the JV Partners in the Delegation Policy will be passed if approved by both JV Partners.

At JV Board level, each representative will have one vote and a decision of the JV Board will be passed if approved by a majority of representatives. If only one of a JV Partner's two JV Board representatives are present at a JV Board meeting, that representative may cast the votes of both, thereby ensuring a board deadlock position can be preserved.

The Partnership Agreement will contain provisions relating to conflicts of interest to ensure, as far as possible, that the LLP is at an arm's length to the JV Partners.

Deadlock

Escalation to senior persons within the PSP and Council organisations, followed by either expert determination and/or winding up (depending on nature of deadlocked matter and whether the deadlocked matter can ultimately be resolved).

MISCELLANEOUS

Transfers by JV Partners of interests in

No transfers at any time are permitted to unsuitable persons. Subject to this, no transfer of a JV Partner's interests without consent of the other JV Partner except...
**APPENDIX C – WGC OVERVIEW OF PRINCIPAL LEGAL DOCUMENTS**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>the LLP</td>
<td>for certain &quot;intra-group&quot; permitted transfers. A transfer of interests in the LLP will include a transfer of the benefit and burden of any loans made to the LLP.</td>
</tr>
<tr>
<td>Default</td>
<td>Default events will include a change of control, insolvency, material or persistent breach. The PSP will also be in default if the PSP Guarantor suffers or commits a default event including if it breaches a specified net asset value threshold.</td>
</tr>
<tr>
<td></td>
<td>Whilst a breach remains unremedied (if it is remediable), the defaulting JV Partner and any Representatives appointed by it are excluded from decision-making and may not receive any distributions of profits referable to the period of the default subsisting.</td>
</tr>
<tr>
<td></td>
<td>On a default under the Partnership Agreement, the &quot;non-defaulting Member&quot; has the option (but not the obligation) to buy out the other (defaulting) JV Partner's interests in the LLP at a 5% discount to market value, if it gives notice within 10 Business Days following service of a Default Notice.</td>
</tr>
<tr>
<td>Duration of joint venture</td>
<td>Unless terminated early, the joint venture will last for 10 years with option to renew for further five years.</td>
</tr>
<tr>
<td>Winding up</td>
<td>Standard winding up events (i.e. both JV Partners agreeing, insolvency of the LLP, unresolved deadlock, change in law, duration of the LLP expiring). Winding up event will also terminate any outstanding options and entitle the Council to repurchase Site(s) out of the LLP. After payment of all expenses and third party creditor costs, any surplus distributed between the JV Partners will on a 50:50 basis.</td>
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