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Award

Lea Bridge Station Sites - Developer Partner

London Borough of Waltham Forest

UK5: Transparency notice - Procurement Act 2023 - [view information about notice types](#)

Notice identifier: 2025/S 000-011881

Procurement identifier (OCID): ocds-h6vhtk-04fa5a

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Scope

Reference

DN402583

Description

The Council does not consider that by the proposed variation it will be awarding a new contract for the purposes of the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016, nor the Procurement Act 2023.

However, it is voluntarily publishing a Transparency Notice and observing the 8 working day standstill period in order to provide transparency of an intended modification and to mitigate risk if the variation is held to give rise to a contract award under the Procurement Act 2023.

The Transparency Notice accompanies a Voluntary Transparency Notice to be published under the Public Contracts Regulations 2015 in order to provide transparency of the intended modification and to mitigate risk if the variation is held under the Public Contracts Regulations 2015 to require a new procurement exercise.

The original development agreement involved the Council granting a short-term building lease followed by the grant of a long lease of 250 years on completion. The Greater London Authority (GLA) now requires schemes involving GLA funding for shared ownership housing to be leased for at least 990 years. The varied scheme would grant the 990-year lease to the developer up-front in place of the short-term building lease.

The number of residential units to be delivered by the scheme will be varied to increase from 320 to 379 and the number of affordable units varied from 120 to 379 (i.e. the residential element of the scheme will be entirely affordable housing).

The original development agreement involved the Council granting a short-term building lease followed by the grant of a long lease of 250 years on completion. The Greater London Authority (GLA) now requires schemes involving GLA funding for housing for sale, including shared ownership housing to be leased for at least 990 years. This change was introduced in November 2021, after the Council had entered into the development agreement. The varied scheme would grant the 990-year lease to the developer up-front in place of the short-term building lease.

The number of residential units to be delivered by the scheme will be varied to increase from 320 to 387 and the number of affordable units varied from 120 to 387 (i.e. the residential element of the scheme will be entirely affordable housing).

The original structure involved a short-term build lease with the longer lease granted on golden brick for the site with affordable units and granted on practical completion for the sites with private units. The varied structure would transfer the freehold interest in the sites to the developer once the units have achieved golden brick stage.

The varied scheme will retain forfeiture provisions in the lease to enable the Council to terminate if the development agreement is terminated because the conditions have not been satisfied by the longstop date or because the developer materially breaches the development agreement so that it is terminated prior to the "golden brick" stage. There will be restrictions in the lease controlling permitted development on the site. The Council has therefore retained similar controls over the development to replace the short-term building lease of the affordable units.

Additional works are now required to be delivered by the developer to relocate high voltage cables detected on the site. This complication also increases the cost of relocating the gas pipe required under the original scheme. The estimated cost of additional and revised utilities works is £4.79m which the developer intends to finance through GLA grants.

The Council would have received a guaranteed land payment under the original scheme on the commercial basis of the developer receiving a profit on cost of 14.5%. This payment was to reimburse land assembly costs of £2.5m plus a small land value. The overage provision in the original scheme was 55 / 45 in favour of the Council on sales overage above a £ per sq. ft.

threshold.

However, it has become necessary to adjust this considering inflationary build costs pressures and regulatory changes following the passing of the Building Safety Act into law, to maintain the scheme's viability. The varied scheme will reduce the developer's profit on cost to 11.7% and remove the guaranteed receipt. Half of any additional profit will be shared by the developer with the Council up to a cap of £2.5m plus the cost of borrowing incurred by the Council to assemble the required land.

The Council considers that the proposed modifications to the development agreement and scheme structure fall within the permitted modification grounds set out in Regulation 72 of the Public Contracts Regulations 2015 (or alternatively the corresponding principles in Section 43 of the Concession Contracts Regulations 2016).

The Council considers that the proposed changes in the commercial structure of the scheme are not substantial and therefore permitted under Regulation 72(1)(e). The commercial structure of the scheme includes the increase and variation to the residential units to affordable units; the restructuring of the land arrangements to a 990-year lease (whilst retaining forfeiture mechanisms, and as per the GLA funding requirements) with subsequent freehold transfer on golden brick; and also the revisions to the land payment, profits and overage provisions.

The character of the scheme in terms of a developer-led housing development on Council land is maintained and the Council does not consider that it is likely that had these changes been part of the original procurement that different candidates or tenders would have resulted nor that it would have attracted additional participants to the original procurement. The change from a market-sale product to an all-affordable product and the change in leasing structure are the result of changes to GLA grant funding and regulatory changes which would have affected any bidder. Bids led by affordable housing providers were invited during the original procurement. The modification of land payments is a proportionate adjustment to the commercial terms of the scheme reflecting the significant reduction in expected profit that the developer is expecting to make compared with their bid. The character of the development being able to support land payments once an agreed minimum return to the developer is reached is maintained by these changes.

The Council considers that the additional and varied works arising from the utilities diversions now required are permitted under Regulation 72(1)(b) in that it would be economically and technically challenging for this to be provided by any contractor other than the developer. These works are statutory diversion works in connection with the works to be carried out under the original procurement. Tendering the works for another contractor would cause duplication of cost to the authority. These works would not result in any increased cost to the Council under the development agreement, as it will be funded by GLA grants.

Contract 1. Lea Bridge Station Sites - Developer Partner

Suppliers

Supplier not yet selected

Contract value

- £173,000,000 including VAT

Above the relevant threshold

Earliest date the contract will be signed

31 March 2025

Contract dates (estimated)

- 31 March 2025 to 31 December 2029
- 4 years, 9 months, 1 day

Main procurement category

Works

CPV classifications

- 45000000 - Construction work

Other information

Conflicts assessment prepared/revised

Yes

Procedure

Procedure type

Direct award

Direct award justification

Switching to direct award

The Council does not consider that by the proposed variation it will be awarding a new contract for the purposes of the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016, nor the Procurement Act 2023. The variation will be to the

existing development agreement awarded to London Square Developments Limited (Company Number 07160957).

The London Borough of Waltham Forest ("the Council") commenced a procurement through Contract Notice 2019/S 070-165593 to appoint a development partner in relation to three sites adjacent to Lea Bridge Station in order to facilitate the delivery of a high-quality, residential-led mixed-use development; new station entrance and an improved public realm.

The development partner was originally expected to deliver in the range of 300-320 homes and a minimum of 3000 sq. m. of commercial cultural spaces and 750 sq. m. of public space. The original opportunity also required the development partner to construct a new entrance to the railway station as part of the scheme. Please see the Contract Notice for further details.

The Council entered the development agreement with London Square Developments Limited on 17 March 2021 and now intends to vary the scheme for the reasons detailed in this voluntary transparency notice.

The contracts is mainly for works. The estimated value of the contract is approximately £173m.

Contracting authority

London Borough of Waltham Forest

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Region: UKI53 - Redbridge and Waltham Forest

Organisation type: Public authority - sub-central government