



**RUNNYMEDE REGENERATION PROGRAMME
INVITATION TO PARTICIPATE IN COMPETITIVE
DIALOGUE (“ITPD”)**

VOLUME 1: INTRODUCTION AND OVERVIEW

Contract Reference: RBC/RRP/2015/101

NOVEMBER 2015

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1. IMPORTANT NOTICE

This Invitation to Participate in Competitive Dialogue has been prepared by Runnymede Borough Council (the "Council") and is for use by those invited to bid for the Runnymede Regeneration Programme, 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 Council 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 terms and conditions of participation in this procurement process.

1. INTRODUCTION

1.1. GENERAL

Thank you for submitting the Pre-Qualification Questionnaire (“PQQ”) in response to the advertisement placed in the Official Journal of the European Union.

Six Bidders will be invited to participate in competitive dialogue with the Council. This Invitation to Participate in Competitive Dialogue (“ITPD”) provides further details of the proposal and process.

Bidders are asked to confirm their willingness to participate in dialogue in writing and return a completed copy of the Confidentiality Agreement (a copy of which is attached at Appendix 2 (Confidentiality Agreement) to RRP@runnymede.gov.uk

It should be noted that the return deadline for Bidders’ responses to the ITPD is 1st April 2016.

1.2. COMPETITIVE DIALOGUE

This ITPD has been developed to steer the procurement of the selection of a private sector partner to enter a Development Agreement with the Council to deliver major regeneration and development programme of new (or improvements to) the following potential facilities: housing and residential accommodation; retail developments; leisure and cultural facilities; car parking; infrastructure; community facilities and public open spaces (and incidental or related works to this regeneration and development) in Runnymede (the “Programme”).

The Council will procure the Programme using the Competitive Dialogue procedure as governed by Regulation 30 of the Public Contracts Regulations 2015, which provides the opportunity for a structured and regular approach to dialogue.

1.3. THE ITPD DOCUMENTS

The purpose of this ITPD is to provide the information framework for the competitive dialogue process.

This ITPD is presented in four volumes:

- Volume 1 – Introduction and Overview;
 - Volume 2 – Technical Specification;
 - Volume 3 – Legal Documentation;
 - Volume 4 – Bid Deliverables and Evaluation
-
- The Data Room – contains a wide range of supporting information available through the Council’s Website at www.runnymede.gov.uk/rrp/data-room .

The ITPD will:

- Provide information to Bidders on the Programme and the opportunities available;
- Set out clearly the Council’s requirements with support information;
- Provide information on the Council’s approach to the competitive dialogue procurement process;
- Set out the deliverables required from Bidders at the first stage and subsequent stages of the procurement; and

- Set out the evaluation criteria and scoring method that the Council will use to assess Bidders' responses.

1.4. THE PROCUREMENT STAGES

The key stages of the procurement are set out below:

- (i) Pre-qualification of long-listed Bidders.
- (ii) Opening of competitive dialogue and issue of ITPD to up to six long-listed Bidders. This stage will also include a presentation of concept designs to lead elected Members.
- (iii) Submission of outline proposals ("ITPD Submission") and selection of solutions from up to three Bidders to continue dialogue.
- (iv) Issue of an Invitation to Continue Dialogue ("ITCD") and further dialogue with up to three Bidders. This stage will also include a further presentation of developed designs to lead elected Members.
- (v) Submission of developed proposals ("ITCD Submission") which will not be scored but used to provide feedback to inform the Final Tender.
- (vi) Formal conclusion of dialogue and issue of an Invitation to Submit Final Tenders ("ISFT").
- (vii) Submission of Final Tenders.
- (viii) Evaluation and selection of a preferred Bidder the Council is minded to appoint.
- (ix) Approvals and establishment of the Development Agreement in the form submitted in the final tender.

During the dialogue phase the Council will have discussions with Bidders with the aim of identifying and defining the best solution to meet the Council's requirements. Details of the overall timetable and submission deadlines, competitive dialogue meetings, programme and other key dates are outlined in Section 5 below.

The first stage of the competitive dialogue is an invitation to Bidders to submit outline proposals (the ITPD Submission) as detailed in this document. The questions which Bidders are invited to answer at the ITPD Submission stage are set out in Volume 4 (Bid Deliverables and Evaluation) of this ITPD.

The evaluation criteria against which Bid responses will be assessed and the evaluation methodology applied is provided in Volume 4 (Bid Deliverables and Evaluation).

The outcome of the evaluation of the ITPD Submission will be the selection of solutions **from up to three Bidders** with whom the Council will continue dialogue. At this point, the Council will issue an Invitation to Continue Dialogue ("ITCD") that sets out clearly the defined set of final Bid deliverables. This phase of dialogue will be guided by the Timetable in Section 5, but continue until the Council is satisfied that one or more of the final solutions proposed by Bidders is capable of meeting all of the Council's requirements. The Council will invite the Bidders to submit an ITCD Submission which to obtain maximum benefit, should be each Bidder's draft Final Tender. Whilst not scored, the ITCD Submission will be used as the basis to provide 1:2:1 feedback to each Bidder Team. As necessary dialogue may continue for a short period, but it is expected that at this point the Council will declare the

dialogue to be concluded and issue an Invitation to Submit Final Tenders (ISFT) to the remaining Bidders.

Final tenders should be based on the solutions identified at the conclusion of the dialogue and should meet all the Council's requirements. Final tenders are expected to be final including the legal agreement as there is limited opportunity to vary tenders after submission. However, the Council may request Bidders to clarify, specify or fine tune their tenders. Any activity which leads to changes to a Bid must not change a basic feature of a Bid or distort competition.

Following the submission of final tenders, the Council will undertake an evaluation and selection process to identify a preferred Bidder that provides the most economically advantageous tender which the Council is minded to appoint.

Prior to selection of a Preferred Bidder, the Council will have to obtain approval from the Corporate Management Committee of the Council. Subject to such approval, a preferred Bidder will be appointed and a preferred Bidder letter issued inviting the Preferred Bidder to enter into the Development Agreement with the Council.

Following appointment of the Preferred Bidder, there is a further opportunity to 'clarify aspects of the tender or confirm commitments' provided, again, that there are no substantial changes to the Tender and that this does not risk distorting competition or causing discrimination.

The Council 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. THE CONCEPT AND THE OPPORTUNITY

The Council intends to make an initial portfolio of sites available through the Development Agreement. The proposed Sites are described in detail in Volume 2 (Technical Specification) of this ITPD. The Council does, however, reserve the right to add or remove properties from this portfolio prior to entry of the Development Agreement.

Financial bids and designed development proposals are invited from developers, developer contractors or development consortiums. The Council intends to procure a single development partner to develop five regeneration initiatives within the Borough of Runnymede over a period of 8 years but potentially up to 13 years. The sites are as follows:

2.1. INITIAL SITES

The Initial Sites are so far as is practicable ready to commence development work immediately following the completion of the Development Agreement. These sites are:

- 1) Egham Gateway Phase 1;
- 2) Egham Leisure Centre.

2.2. PIPELINE SITES

The Pipeline Sites are sites that the Council firmly intends to regenerate but which need to be phased with other sites; need some land assembly and / or require tenants to move out of occupation. Consequently, these sites are pipeline sites and these are:

- 3) Addlestone TWO;
- 4) Addlestone THREE;
- 5) Egham Gateway Phase 2.

The Council's key strategic regeneration aims and objectives include (but are not limited to) the objectives set out in the OJEU Notice.

The Development Agreement is expected to provide short and medium term regeneration based on creating a supply chain of sites that the Council largely already owns or where the Council intends to secure ownership. The Development Agreement concept is therefore to combine public sector land assets in Runnymede with private sector development skills but using Council funding. This will enable the Council to meet some of its' key objectives whilst allowing the parties to generate an appropriate financial return from development activity.

In submitting a response to this ITPD, all Bidders must from the outset be mindful that the Development Agreement is not just a vehicle to extract the highest commercial financial returns from the Council's land assets, but also has been conceived on the basis that through it the Council will be able to better meet broader place shaping and economic regeneration objectives.

The Developer will ensure arrangements with architects, designers or other members of the professional team are adequate to provide services for all regeneration activity entered into over the life of the Development Agreement. Where appropriate, Bidders should ensure that their architect has the knowledge

and experience to deliver the range of specialist buildings that are required by the procurement, for example student accommodation, a leisure centre with wet-side; and health centre accommodation. However, the Council requires that Bidders supply detail of the proposed team in relation to the Sites referred to in Volume 2 (Technical Specification).

During the ITPD and ITCD stages, Bidders will be expected to demonstrate their ability to commence the site development process and construction of the Initial Sites in accordance with the suggested timetable below:

Site No	Site Name	Timescale
1	Egham Gateway Phase 1	Complete by 2019
2	Egham Leisure Centre	Complete by 2018
3	Addlestone TWO (a) (East)	Complete by 2022
4	Addlestone TWO (b) (West)	Complete by 2023
5	Addlestone THREE	Complete by 2020
6	Egham Gateway Phase 2	Complete by 2023

Whilst **Bidders will not be required to obtain planning permission** for the Initial Sites during competition, they will need to have undertaken sufficient design, study and analysis to submit a planning application within the timetable.

2.3. PAYMENT PROFILING

It is proposed that payment will be made through a forward funded payment profile, but the Council will consider alternative payment methods that satisfy the requirements of the EU procurement legislation and state aid rules. By way of example, for the Egham Gateway Phase 1 site the proposed payment structure is:

- Payment 1: Post securing planning permission and upon securing the anchor commercial tenants;
- Payment 2: Upon securing at least 70% pre-let (through an Agreement for Lease) with the commercial tenants;
- Payment 3: Divided into monthly payments up to the point of practical completion to reflect the achievement of agreed construction milestones;
- Payment 4: Balance on practical completion.

NOTES:

- i. It is proposed that 5% of each payment sum will be deducted and retained by the Council. 50% of this figure (i.e. 2.5%) will be released upon practical completion, whilst the balance will be retained until the end of the latent defects period.
- ii. The Council will expect an independent certifier to be jointly appointed and funded, although the actual appointment will be made by the developer with the Council also being a party and in receipt of a collateral warranty in relation to such appointment.

- iii. Collateral warranties will also be required from the main contractor, architect, structural engineering contractor, M&E contractor, and structural steelwork subcontractor.

3. OBJECTIVES OF THE COUNCIL

3.1. THE COUNCIL'S REGENERATION OBJECTIVES

The Council's Regeneration Objectives include (but are not limited to) the following:

- (i) To create a new town centre in Addlestone and to revitalise the existing town centres of Egham and Chertsey.
- (ii) To harness innovative and high quality urban design make the best use of existing buildings, previously developed land, existing and proposed infrastructure whilst delivering accessible places to live and work.
- (iii) To create prosperous, confident and cohesive communities.
- (iv) To encourage private sector investment to create employment and economic activity that will further increase the viability of the Borough.
- (v) To make the best possible use of Council owned assets to:
 - 1) Optimise the commercial return for the Council;
 - 2) Secure place shaping improvements for the benefit of the local community; and
 - 3) Improve the local economy.
- (vi) To ensure that business areas provide conditions where businesses may offer employment generating opportunities to maintain a sustainable, buoyant and diverse economy and to ensure that Runnymede residents continue to have access to a wide range of job opportunities.
- (vii) To provide good quality owner occupied, privately rented and social housing in appropriate locations to meet the needs of the whole community.
- (viii) To maintain and improve access to recreational and leisure facilities where local people will gain most benefit and find them easy to use.

3.2. OBJECTIVES OF THE DEVELOPMENT PARTNER

i) Strategic and operational

- 1. In relation to the Sites, to contribute to the delivery of the Council's Regeneration Objectives.
- 2. To bring forward in a timely manner, the development of the Sites.
- 3. To support the Council in pursuit of its wider objectives by identifying and helping deliver favourable solutions that balance financial, economic and social returns.

ii) Efficiency and flexibility

- 1. To maximise the utilisation of the Council's overall asset base.
- 2. To maximise the capital value of the Sites.
- 3. To deliver creative and innovative solutions for asset development and management.
- 4. To secure and demonstrate value for money with all Development Agreement activities.

iii) Partnering and risk

1. To take an acceptable approach to risk in the context of expected returns agreed in the Development Business Plan.
2. To take an acceptable approach to the corporate social responsibility agenda with regard to planning and community engagement for all Sites.

iv) Commercial

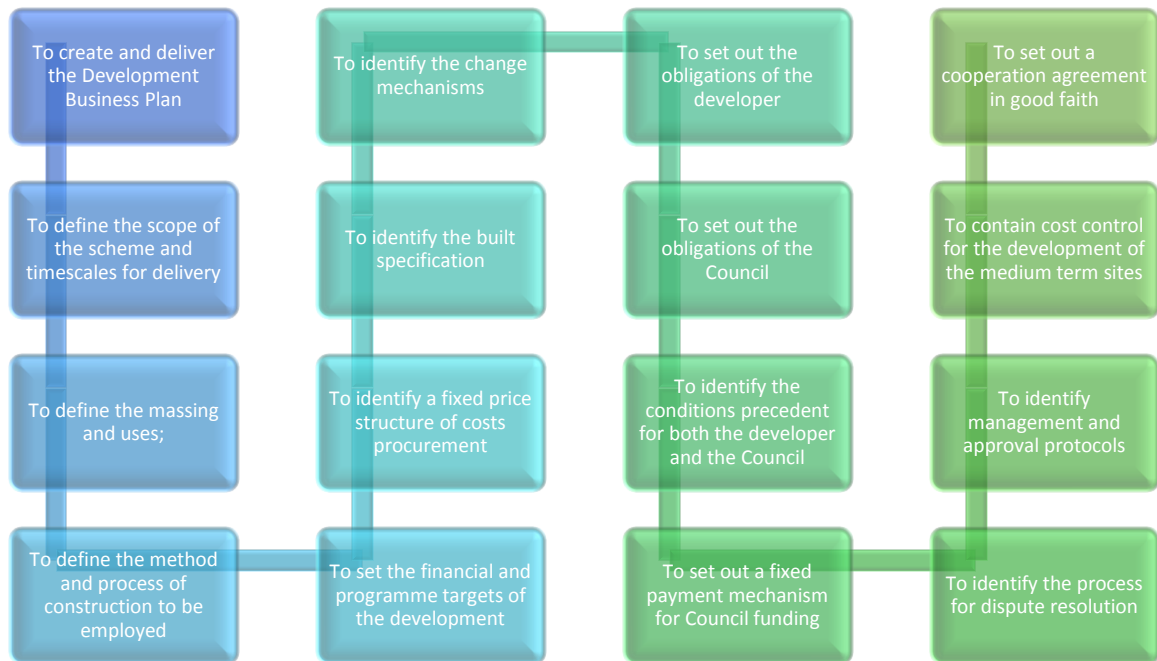
1. To develop income streams from all new developments to secure a minimum 5% Rate of Return.
2. To take an innovative but acceptable approach to construction and build quality for all Sites.
3. To always provide high standards of compliance with relevant legislation, but in particular, Health & Safety legislation.

4. THE PROPOSED DEVELOPMENT AGREEMENT

4.1. OVERVIEW

The Council wishes to retain all assets procured, developed or refurbished as a result of the Programme. So the developer should expect to provide a performance based return for their management of the development process on behalf of the Council and their risk management of the schemes.

The Council will enter into a development agreement with the Preferred Bidder. The draft Development Agreement is available at Volume 3 (Legal Documentation). The objective of the development agreement and within the context of agreeing a Development Business Plan is generally as follows:



4.2. DEVELOPMENT BUSINESS PLAN

The Council will provide funding by way of a pre-agreed payment profile linked to development and construction milestones for each project and captured in the Development Business Plan (See Volume 3). The Council wants to procure a development partner who will work with the Council and where relevant existing development partners to create proposals for each site and deliver them in a timely manner achieving and exceeding all financial and programme objectives. The Council is especially interested in proposals where Bidders propose how they will create added value to a development and across developments.

4.3. THE DEVELOPMENT MANAGEMENT ROLE

The opportunity is described in Section 2 above.

The Bidder must bring the necessary skills and resources to undertake the range of activities from place making to physical development. The Bidder will be expected to be fully aligned with the Council's vision and the Council's Regeneration Objectives in undertaking the development opportunities and regeneration of Runnymede.

To bring the Development Agreement into effect, an agreed overarching Development Business Plan is required for all sites but reflecting the immediacy of the initial sites and phasing of the other sites. A pre-agreed Site Development Plan is also required for the initial sites, detailing the timing, nature of specific development activity and viability of the development. Less well developed Site Development Plans will also be required for the remaining sites.

To deliver the Council's key objectives, the Development Agreement will be established for an initial term of 8 years (with the option for the Council to extend the term up to a further 5 years).

The Council believes that the Development Agreement structure described in this ITPD offers an opportunity for the development partner to deliver a comprehensive pipeline of regeneration of opportunities in Runnymede over the intended 8-13 year life of the Agreement. The Development Partner will have the following key roles and responsibilities:

4.4. KEY ROLES & RESPONSIBILITIES

Bidders will be required to deliver the following key roles:

- Role 1: Assembling the Development & Construction Team** - To assemble a contractually binding team that includes the governance arrangements and structure, parent company guarantee(s), all professional services, collateral warranties, construction skills and associated resources to deliver the full scope of the development agreements requirements;
- Role 2: Development Management** including:

- (i) Providing a complete and integrated site development and construction service;
- (ii) The creation of the Development Business Plan and a Site Development Plan for each site, including financial modelling and profiling of expenditure and income for the Council;
- (iii) Market researching the opportunity to identify demand for a mix of uses and screen this demand to maximise commercial value for the Council and inform the design and planning process;
- (iv) Providing experienced and specialist skills for each type of development, including: student accommodation, mixed residential / commercial, leisure, health care, etc.;
- (v) The ability to undertake / commission the full range of site investigations, studies, etc. to secure planning permission for the sites included within the scope of the Tender;
- (vi) Working with local stakeholders and the Local Planning Authority (LPA), create options for innovative but contextual design for each development with informed assessment of the gross development value, latent land value, income generation, cost and programme analysis and risk profiles;
- (vii) Secure a satisfactory and implementable planning permission;
- (viii) Market the opportunity to secure commercial tenants;
- (ix) Within the context of the financial model for the project, agree target rents and secure 100% pre-letting of the commercial elements of a development whilst maintaining the commercial viability of the overall development;
- (x) Minimise the risk and cost of the development, demonstrating quality in project planning, project management and construction outcomes, economy of scale, value for money and added value;
- (xi) Build and commission the new development within agreed programme targets and the agreed price;
- (xii) Manage process within a defined tax efficiency scheme designated by the Council.

4.5. APPROVALS REQUIRED BY THE COUNCIL

The Council resolved on its intention to procure a development partner at its meeting on 28 May 2015. However, nothing contained or referred to in this document or anything discussed during dialogue with Bidders is or will serve to override or otherwise affect the Council's statutory duties and powers which remain in full force and effect.

The Evaluation team will analyse and score Dialogue Submissions and the Final Tender. This will result in the Head of Commercial Services reporting to a meeting of the Corporate Management Committee with the recommendation to appoint the Bidder who is offering the commercially most advantageous tender to the Council. At the meeting the Committee can either agree to appoint a Bidder and where

possible to appoint a reserve preferred Bidder or not to appoint if they are not satisfied with the outcome of the procurement process.

5. TIMETABLE AND PROCESS

5.1. PROCUREMENT TIMETABLE

The table below sets out the key dates in the procurement process.

OUTLINE TIMETABLE	
Stage	Date
OJEU Notice issued by the Council	25 November 2015
PQQ available to Candidates	25 November 2015
Deadline for PQQ to be returned by Bidders to the Council	8 January 2016
Review and evaluation of the PQQs by the Council	22 January 2016
Invitation to Participate to Dialogue (“ITPD”) issued by the Council to up to six shortlisted Bidders and dialogue commences	22 January 2016
ITPD dialogue period ends and Bidders invited to submit ITPD Submissions	18 March 2016
Deadline for submission of ITPD responses to be returned from shortlisted Bidders to the Council	1 April 2016
Evaluation by the Council of the ITPD responses and further shortlisting to a maximum of three Bidders who will be issued with an Invitation to Continue Dialogue (“ITCD”)	18 April 2016
ITCD dialogue period ends and Bidders invited to submit ITCD Submissions	17 June 2016
Deadline for submission of ITCD responses to be returned from shortlisted Bidders to the Council	24 June 2016
ITCD submissions informally evaluated and feedback to Bidders, but Dialogue able to continue as required	8 July 2016
Close of Dialogue and issue of Invitation to Submit Final Tenders (“ISFT”)	15 July 2016
Deadline for submission of Final Tenders to be returned from shortlisted Candidates	5 August 2016
Evaluation of Final Tenders, recommendation to the Council of the Bidder to be appointed as Preferred Bidder, Council decision	30 September 2016
Notification by the Council of the Final Award Decision and commencement the 10-calendar day standstill period.	21 October 2016

Award of the contract and exchange of the DEVELOPMENT AGREEMENT	30 November 2016
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At this stage, the timetable is subject to confirmation and the Council reserves the right to amend it to be reasonably flexible as the procurement process progresses.

6. BIDDER'S MEETINGS

6.1. BIDDER DIALOGUE & FEEDBACK

- Each ITPD Bidder is invited to attend and participate in three initial dialogue meetings with the Council and its advisers, prior to the return of the ITPD submission.
- A feedback meeting will be offered to all participating bidders after the scoring of the ITPD submission.
- Three further meetings will be arranged for the ITCD dialogue.
- A feedback meeting will be offered to all participating bidders after evaluating the ITCD submission.
- High level feedback will be available after the appointment of the preferred bidder, but restricted to the bidders' submission.

The purpose of these meetings is to establish a meaningful dialogue with Bidders. This time is available to discuss Bidders' initial thoughts on successfully achieving the goals of Development Agreement and to ask questions in order to develop a better understanding of the Council's requirements and key commercial principles.

6.2. DIALOGUE MEETING LOCATION, ATTENDANCE, DATES & TIMES

Bidders will be notified of the time to attend a meeting, normally when the ITPD/ITCD notice is issued. ITCD meeting times and dates will be notified to the Bidders in the ITCD notification.

LOCATION: All meetings will take place at:

Runnymede Borough Council, Station Road, Addlestone, Surrey. KT15 2AH.

The Council reserves the right to change the location, times and dates of these meetings.

DURATION: Each meeting will be for up to **TWO HOURS, THIRTY MINUTES (2.30)** and be the same time allocation to each Bidder, irrespective of whether the Bidder requires the time. However, the Council reserves the right to extend the time allocated for dialogue, but in this case the time allocation will be the same for each Bidder.

ATTENDANCE

AT EACH COMPETITIVE DIALOGUE MEETING BIDDERS WILL BE RESTRICTED TO HAVING NO MORE THAN FIVE PEOPLE INVOLVED IN THE DIALOGUE AND IN ATTENDANCE AT THE MEETING.

Bidders are not restricted to having the same people at each dialogue meeting, indeed they are actively encouraged to select appropriate representatives at each meeting to optimise their presentation and ITPD Submission to the matters to be considered at each meeting. Furthermore, Bidder's teams can be changed during the meeting time so for example the first hour may be allocated to construction matters and so the construction team will attend but then switch to finance when the finance team may attend. In any case it is helpful if at least one member of the Bidders team is present throughout the session to provide continuity and avoid duplication, making the best use of the time. But please note, the time will not be

extended to allow for switchover time as this may impinge on the time allocated to another Bidder.

DATE & TIME:

The allocated meeting dates and times for the ITPD meetings with Bidders are:

ITPD Competitive Dialogue (CD) Meeting	Date	Time
CD Meeting 1	02/02/16	09.30-16.30
	04/02/16	09.30-16.30
CD Meeting 2	23/02/16	09.30-16.30
	25/02/16	09.30-16.30
CD Meeting 3	08/03/16	09.30-16.30
	10/03/16	09.30-16.30

6.3. ADDITIONAL MEETINGS

Additional meetings may be considered appropriate by either the Bidders or the Council. If the Council considers a request for a further meeting to be reasonable and of advantage to the dialogue process, these will be arranged at a mutually convenient time with due notice and run to an agreed agenda. To request such a meeting or for any other request, Bidders should contact: RRP@runnymede.gov.uk

6.4. COUNCIL DIALOGUE TEAM

The Council's project team comprises of:

- The Project Director – John Rice;
- Project Manager – Heather Northey;
- Internal Legal Adviser – Sarah Keenan;
- Other Council officers included as required;
- Council's Legal Advisers - Sharpe Pritchard LLP;
- Property and financial advisers - Colliers International
- Chief Executive Achieve Lifestyle (the Council's Leisure Trust) – for Leisure Centre dialogue.

The project team will be available to assist all Bidders to develop their solutions. Bidders will be provided with equal access to the Council and the Council's advisers via these meetings.

6.5. MEETING AGENDAS

An outline agenda for the initial Bidder meetings is set out in Appendix 3 (Draft Meeting Agendas). Please note that:

- For the second and third dialogue meetings the Bidders are requested to make presentations on the subjects stated in Appendix 3 (Draft Meeting Agendas).
- PowerPoint together with projection facilities will be available. Bidders wishing to make a PowerPoint presentation should bring the presentation on a laptop to the

meeting but also must send their presentation either on a virus scanned memory stick to the Council or preferably via email to RRP@runnymede.gov.uk at least three business days prior to each meeting. It is the Bidders' responsibility to ensure delivery by the deadline.

- (iii) Please note that Bidders must submit additional agenda items (via email to RRP@runnymede.gov.uk) for each of the meetings at least three business days prior to each meeting.
- (iv) It would also be helpful if Bidders could submit any questions for the Council that are relevant to the Agenda and they wish to discuss (via email to RRP@runnymede.gov.uk) at least three business days prior to each meeting.
- (v) The meetings will be held commercially in confidence but Bidders are directed to the information in Appendix 1 (Important Notices) below in relation to the obligations of the Council under the Freedom of Information Act 2000 and Environmental Information Regulations 2004.
- (vi) The Council will maintain its own record of meetings that are for reference by the Dialogue Team and will not be circulated to the other Bidders. Bidders should note that issues raised and/or responses given which are generic may be communicated to all Bidders, in accordance with equal treatment principles. However, issues raised and/or responses given which are not generic but directly related to the commercial proposition of the Bidder will only be communicated to that Bidder.
- (vii) Bidders should make arrangements for maintenance of their own record of meetings. Any actions raised that cannot be dealt with at the time will be entered onto an issue log managed by the Council and a resolution timeframe agreed with Bidders.

6.6. MEETINGS WITH THE COUNCIL'S PLANNING DEPARTMENT

In addition to the above meetings, there is an opportunity for each Bidder to meet with a representative of the Council's Planning Department to discuss their proposals for the Initial Sites in the form of up to two Planning Pre-Application Meetings at each stage of the dialogue process (4 meetings in total – 2 during the ITPD stage and 2 during the ITCD stage).

These will be allocated on a first come, first served basis. Bidders are asked to contact RRP@runnymede.gov.uk to request meetings with the Planners. Bidders are requested to submit the agenda via email for the meeting two business days prior to the meeting to RRP@runnymede.gov.uk .

6.7. ACCESS TO SITES

Given the level of information being provided and the level of information required for the ITPD Submission, it is not expected that Bidders will need to undertake a detailed inspection of the Sites. However, Bidders can seek an appointment to be provided with private and sole access to each of the Initial Sites (not into the commercial or residential units in Egham Gateway Phase 1) by contacting RRP@runnymede.gov.uk .

Cursory, unaccompanied external visits to the Sites can of course be undertaken, but Bidders are required to use appropriate discretion to avoid attracting unnecessary attention from local residents, tenants and traders.

6.8. ITPD, ITCD AND ITSFT SUBMISSION RESPONSES

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 12 and any financial references should be in Pounds Sterling. Measurements should be in both square feet and square metres for commercial premises, (differentiating as appropriate between Gross Internal Area (GIA) and Net Internal Area (NIA)) Hectares for land, otherwise metric measurements should be used. The use of terms like Gross Development Value (GDV); NET Development Value (NDV); Construction Costs; etc. should be defined by the Bidder unless already defined by the Council in Volume 3 (Legal Documentation).

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 must submit 4 hard copies and 1 copy in electronic format on a memory stick submitted with the hard copies. Memory sticks should be virus scanned and correctly formatted with a contents page and list of all files to provide ease of navigation through the files.

In the event of discrepancy, the hard copy will take precedence.

Submissions **must be contained in a plain sealed envelope or box** bearing the following words:

“CONFIDENTIAL – [ITPD/ITCD/ITSFT]¹ Submission for the Runnymede Regeneration Programme

OJEU REFERENCE NUMBER: [*Please insert the reference number*]”

The envelope must not bear any name or mark (including a franking mark) indicating who the sender or Bidder is.

Hard copy responses should be sent to:

**Democratic Services
Runnymede Borough Council
Station Road
Addlestone.
Surrey KT15 2AH**

ITPD Responses by:	13:00 hours on 1st April 2016
ITCD Responses by:	13:00 hours on 24th June 2016
Final Tender Responses by:	13:00 hours on 5th August 2016

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

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

¹

Please delete as appropriate

The Council reserves the right, at its discretion, to amend the dates of when submissions are required. In which case affected Bidders will be given at least 28 days' notice of the change.

6.9. ONGOING QUESTIONS

Please direct any questions regarding the procurement process, technical, legal, or financial issues electronically in writing to: RRP@runnymede.gov.uk.

Bidders may also wish to raise questions of the Council's advisers. Such enquiries should initially be directed electronically in writing to: RRP@runnymede.gov.uk.

Where the Council considers that issues raised and/or responses given by the Council or any of its advisers are generic, such issues and/or responses may be communicated to all Bidders, in accordance with equal treatment principles. Subject to section 6.10 (Confidentiality and Freedom of Information) below, the Council will keep confidential all information relating to its dialogue in relation to Bidders' proposals and will not share this information with any other Bidder.

Bidders should note, in relation to all responses to questions, that the Council and its advisers whilst endeavouring to respond can offer no guarantee that information in response to questions will be made available during the procurement and are not warranting the accuracy of any responses.

6.10. CONFIDENTIALITY AND FREEDOM OF INFORMATION

The Council 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 Council 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 proper and relevant reason(s) for the request for non-disclosure to other Bidders.

The Council 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 Council's duties under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

6.11. RETURN OF CERTIFICATES

The Council 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 to RRP@runnymede.gov.uk. Bidders will be required to complete and submit certificates of non-collusion and non-canvassing at the ITPD Submission and Final Tender stage. Copies of the certificates are provided in Volume 4 (Bid Deliverables and Evaluation).

- Certificate of Non-Canvassing
- Certificate of Non-Collusive Tendering

7. APPENDIX 1: IMPORTANT NOTICES

7.1. CONFIDENTIALITY

The Information is being made available by the Council on condition that subject to the exceptions referred to below, the Bidders shall:

- (i) At all times treat the documents used in the procurement process and all Information as confidential;
- (ii) Not disclose, copy, reproduce, distribute or pass the Information to any other person at any time;
- (iii) Not use the Information for any purpose other than for the purposes of making (or deciding whether to make) a Bid; and
- (iv) Comply with the provisions of paragraph 7.6 below (which contains restrictions on publicity activity within any section of the media or similar).
- (v) Bidders shall procure 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 7.
- (vi) Bidders may disclose, distribute or pass Information to another person (including, but not limited to, for example, employees, consultants, subcontractors or advisers, the Bidder's insurers and the Bidder's funders) if either:
 - 1) This is done for the sole purpose of enabling a Bid to be made and the person receiving the Information undertakes in writing to keep the Information confidential on the same terms as set out in this ITPD; or
 - 2) The Bidder obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Information.

The Council may disclose detailed information relating to Bids to the Council's elected Members, officers, employees, its agents and/or advisers and they may make the key bid documents available for private inspection by the Council's elected Members, officers, employees, agents and/or advisers.

The Council 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 Council that the request is clearly marked "*In confidence - not to be circulated to other Bidders*" and the Bidder must set out a proper and relevant reason(s) for the request for non-disclosure to other Bidders.

The Council will act reasonably as regards the protection of commercially sensitive information relating to the Bidder but will have sole discretion as to such disclosure, subject to the Council's duties under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (see below).

7.2. FREEDOM OF INFORMATION ACT 2000 AND ENVIRONMENTAL INFORMATION REGULATIONS 2004

The Council 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 Council in response to a request under either the Act or the EIR (a "Request").

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

If a Bidder considers that any information made available to the Council is commercially sensitive, that Bidder should identify the relevant information 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 Council is marked commercially sensitive, the Council 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 Council to any duty of confidence by virtue of that marking.

Exemptions to disclosure pursuant to a Request do exist and the Council 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 Council's obligations under the Act or EIR regarding the disclosure of sensitive information please seek independent legal advice.

7.3. CONFLICTS

The Council requires all actual or potential conflicts of interest to be declared and resolved to the Council's satisfaction prior to the delivery of a Bidder's ITPD Submission. Failure to declare such conflicts and/or failure to address such conflicts to the reasonable satisfaction of the Council could result in a Bidder being disqualified at the sole discretion of the Council.

7.4. CANVASSING & COLLUSION

The Council reserves the right to disqualify (without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Bidder or Consortium Member (as the case may be) may attract) any Bidder or Consortium Member who, in connection with this RRP procurement:

- (i) Offers any inducement, fee or reward to any member or officer of the Council or any person acting as an adviser for the Council in connection with this ITPD;
- (ii) Commits any offence:
 - 1) under the Bribery Act 2010 or any subordinate legislation (as interpreted by any guidance or code(s) of practice issued by the relevant government department concerning the legislation);
 - 2) under any legislation creating offences concerning fraudulent acts;
 - 3) at common law concerning fraudulent acts relating to this ITPD or any other contract with the Council; or
 - 4) defrauding, attempting to defraud or conspiring to defraud the Council;

- (iii) Canvasses any of the persons referred to in paragraph (i) of this Appendix in connection with this ITPD;
- (iv) Contacts any officer of the Council prior to financial close about any aspect of the ITPD in a manner not permitted by this ITPD (including without limitation contact for the purposes of discussing the possible transfer to the employment of the Bidder of such officer);
- (v) 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);
- (vi) 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;
- (vii) Causes or induces any person to enter such agreement as is mentioned in either paragraphs 4.5 or 4.6 or to inform the Bidder or a Consortium Member of the Bidder of the amount or approximate amount of any rival Bid;
- (viii) Canvasses any person connected with this ITPD who is not one of its own Consortium Members or one of its own team;
- (ix) 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 for the works any act or omission; or
- (x) Communicates to any person other than the Council 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).

Bidders will be required to complete and submit certificates of non-collusion and non-canvassing at the ITPD Submission and Final Tender stage. Copies of the certificates are provided in Volume 4 (Bid Deliverables and Evaluation).

7.5. INTELLECTUAL PROPERTY

The copyright in the full Procurement Documents is vested in the Council. No part of any Procurement Document may be reproduced, copied or stored in any medium without the prior written consent of the Council except in relation to the preparation of a Bid.

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

The Council reserves the right to require the assignment or grant of a royalty-free non-exclusive licence of all intellectual property relating to or in connection with any Bid resulting in the award of contracts.

7.6. PUBLICITY

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 Runnymede Regeneration Programme other than with the prior

written agreement of the Council. 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.

7.7. LIABILITY OF THE COUNCIL AND ITS ADVISORS

In the Procurement Documents, "the Council" includes all or any of the Council and its elected Members, Directors, Partners, Officers and Advisers, and the Directors, officers, members, partners, employees, other staff, agents or advisers of any such body or person.

The Procurement Documents have been prepared by and on behalf of the Council for the purposes of:

- Providing an application procedure for individuals or organisations interested in tendering for the Bidder role; and
- To assist persons interested in tendering for the Bidder role in making their own evaluation of the potential opportunity.

The Procurement Documents are intended only to provide a background explanation of the Runnymede Regeneration Programme and are not intended to form the basis of any decision on whether to enter into any contractual relationship with the Council. The Procurement Documents do not purport to have been independently verified.

Neither the Council nor its Advisers (nor any of them):

- Make any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the Procurement Documents provided. Any persons considering entering into a contractual relationship with the Council should make their own investigations and independent assessment of the Council and its requirements for this scheme and should seek their own professional technical, financial and legal advice; or
- Accept any 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 Procurement Documents and/or arising as a result of reliance on the information in the Procurement Documents or any subsequent information made available to Bidders. Any and all liability is expressly excluded to the maximum extent permissible by law.

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

The publication of the Procurement Documents in no way commits the Council to award any contract for the role. The Council 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 Bidder procurement.

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

7.8. PROVISION OF FURTHER INFORMATION TO BIDDERS PRIOR TO MAKING A BID

The Council is relying on the information provided by Bidders during the procurement process (including but not limited to Bids). If, at any time during this procurement process there are any material changes to that information, the Bidder must advise the Council as soon as practicable (even if this is prior to the submission of a Bid). Upon receipt of such information, the Council 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.

7.9. BIDDING PROCESS AND COSTS

The Council reserves the right at any time:

- 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
- To amend the terms and conditions of the procurement process; and/or
- Not to consider Bids other than those specified; and/or
- To negotiate with one or more of the Bidders during the procurement process to obtain arrangements which best meet its requirements; and/or
- To issue amendments or modifications to the ITPD, ITCD and ITSFT documents; and/or
- To alter the timetable for contract award; and/or
- To cancel or withdraw from the tender process at any stage; and/or
- Not to award a contract; and/or
- To reduce the number of Bidders in the procurement process.

All Bidders are solely responsible for their costs and expenses incurred in connection with the preparation and submission of Bids and participation in all stages of this procurement. Under no circumstances will the Council be liable for any costs or expenses borne by Bidders or any of its supply chain, partners or advisers in this procurement process. The successful Bidders' costs or any of its supply chain, partners or advisers will not be recognised once the Development Agreement is established.

7.10. THE COUNCIL'S RIGHT TO REJECT BIDS

The Council reserves the right to reject or disqualify a Bidder and/or any of its Consortium Members where:

- A Bid is submitted late, is completed incorrectly, is materially incomplete or fails to meet the Council's submission requirements which have been notified to the relevant Bidder;
- The Bidder and/or any of its Consortium Members are unable to satisfy the terms Article 57 of Directive 2014/24/EU and/or of Regulation 57 of the Public Contracts Regulations 2015 at any stage during the tender process;
- The Bidder and/or its Consortium Members are guilty of material misrepresentation in relation to its application and/or the procurement process;

- The Bidder and/or its Consortium Members contravene any of the terms and conditions of the procurement process; or
- 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.

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

7.11. THE BIDDERS

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 Council's prior consent has been given, and subject to:

- Any replacement Consortium Member being satisfactorily pre-qualified by the Council; and
- Any other condition which the Council may specify having been met.

The Council 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.

7.12. GOVERNING LAW

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.

7.13. ACCEPTANCE OF BIDS

Bidders are reminded that no offer or Bid is deemed accepted until the relevant contractual documents have been duly signed and sealed on behalf of the Council, the preferred Bidder and all other relevant parties and declared unconditional. No dialogue or communication with the Council, whether prior to or after the commencement of the procurement process, up to and including any notification of the Preferred Bidder, shall imply acceptance of any offer or constitute an indication that the Bidder will be awarded the contract.

Please note that only the express terms of any written contract which is finally agreed between the Council and the preferred Bidder and which is duly declared unconditional shall have any contractual effect.

8. APPENDIX 2: CONFIDENTIALITY AGREEMENT

DATED

2015

(1) RUNNYMEDE BOROUGH COUNCIL

(2) [INSERT NAME OF BIDDER]]

CONFIDENTIALITY AGREEMENT

**IN RELATION TO DELIVERING THE RUNNYMEDE REGENERATION
PROGRAMME**

- 1 INTERPRETATION
- 2 UNDERTAKINGS BY THE BIDDER
- 3 SPECIFIC PERFORMANCE
- 4 DURATION OF BIDDER 'S UNDERTAKINGS
- 5 WAIVER AND INVALIDITY
- 6 ASSIGNMENT
- 7 GOVERNING LAW AND JURISDICTION

THIS AGREEMENT is made on

2015

BETWEEN:

- (1) **RUNNYMEDE BOROUGH COUNCIL** of Station Road, Addlestone. Surrey. KT15 2AH (the "**Council**"); and
- (2) **[INSERT BIDDER'S NAME]**, a company registered in England and Wales under number [insert number] whose registered office is at [insert registered office address of company] (the "**Bidder**").

WHEREAS:

- (A) The Bidder has submitted an application to the Council to pre-qualify, and has pre-qualified, to participate in the invitation to participate in competitive dialogue ("ITPD") with the Council in connection with the Project.
- (B) The Council possesses certain information relating to the Project which is of a confidential nature.
- (C) The Bidder will require access to such information for the purpose of submitting a proposal and negotiating with the Council in connection with the ITPD (the "Agreed Purpose").
- (D) It is a condition of receipt of the ITPD and participating in the ITPD negotiations that the Bidder grants in favour of the Council the undertakings contained in this Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1. In this Agreement unless the context otherwise requires the following words shall have the following meanings:

"Bidder's Consortium"

Means any body corporate, firm or person engaged by the Bidder as part of a consortium or otherwise to be engaged by the Bidder in the Project and/or the contractual arrangements contemplated by the Project and who, in the course of the ITPD negotiations, may be in receipt of Confidential Information including without limitation any limited partner, general partner, management company, investment manager or development company;

"Bidder's Group"

Means the Bidder, its holding companies and parent undertakings from time to time and the subsidiaries and subsidiary undertakings from time to time of such holding companies or parent undertakings, in each case as defined in the Companies Act 2006 (as amended or replaced) and all other members of the Bidder's Consortium;

"Confidential Information"

Means all information of whatever nature relating to the Project or the Council, which is obtained, whether before or after the date of this Agreement, either from the Data Room, the ITPD or otherwise, in writing or orally and whether directly or indirectly from, or pursuant to discussions with the Council or the Council's professional advisers and including, without limitation, all documents and other information, whether prepared by the Bidder or the Bidder's professional advisers or any of the Bidder or its professional advisers' employees, consultants, directors or officers, which contain or reflect or are derived from such information;

"Data Room"

Means those documents, including without limitation, copies of documents, made available to the Bidder by electronic or other means but in particular via the Council's procurement data room at www.runnymede.gov.uk/rrp/data; and

"Project"

Means the proposed Runnymede Regeneration Programme, details of which are set out in the Council's pre-qualification questionnaire (a copy of which has been provided to the Bidder) and the ITPD, and which is the subject of the ITPD negotiations.

- 1.2. References in this Agreement to the ITPD negotiations shall include all subsequent stages of the procurement process of which the ITPD forms part.

2. UNDERTAKINGS BY THE BIDDER

- 2.1. In consideration of Confidential Information being made available to the Bidder (including, for the avoidance of doubt, access to the Data Room), the Bidder hereby agrees and undertakes that it and its representatives (including its officers, directors, employees, advisers and agents and, when the context admits, including providers or potential providers of finance to the Bidder and the representatives of such providers):

- 2.1.1. Shall keep secret and confidential all Confidential Information supplied to the Bidder or its representatives and shall not, whether or not the ITPD negotiations proceed, disclose such Confidential Information to any person other than:

- 2.1.1.1. Such persons as the Council may from time to time approve in writing; and/or

- 2.1.1.2. The advisers and providers or potential providers of finance to the Bidder in connection with the Project;

- 2.1.2. Shall not disclose to any person any information about the progress of the ITPD negotiations with the Council or the progress of ITPD negotiations with any other Bidder to the Project other than the fact that the Bidder is in negotiations with the Council in relation to the Project;
 - 2.1.3. Shall not disclose any of such Confidential Information to any of the Bidder's representatives or any of the Bidder's Group except those who need to know the Confidential Information for the Agreed Purpose;
 - 2.1.4. Shall use all such Confidential Information solely and exclusively for the Agreed Purpose;
 - 2.1.5. Shall not make contact with any tenant or occupier or user (not being a member of the Bidder's Group) or any of their representatives of the land and/or properties included in, or part of, the Project (as applicable);
 - 2.1.6. Shall on written demand from the Council, return any written Confidential Information so provided or downloaded from the Data Room, including the return of any copies of data made from the Data Room, without keeping any copies of the Confidential Information and either hand over to the Council or destroy all such copies and/or notes of memoranda or other stored information of any kind prepared by the Bidder or its representatives relating to any of the Confidential Information or the ITPD negotiations and, if required by the Council, provide written confirmation of compliance with this Clause 2.1.6; and
 - 2.1.7. Shall procure that any of the Bidder's representatives or any member of the Bidder's Group (including for the avoidance of doubt any member of the Bidder's Consortium) to whom disclosure of such Confidential Information is made, agrees with the Council in writing in advance of such disclosure to adhere to the terms of this Agreement as if it was a party hereto.
- 2.2. Notwithstanding the Bidder's undertaking in Clause 2.1, the Bidder shall procure that any member of the Bidder's Group (including for the avoidance of doubt any member of the Bidder's Consortium) to whom disclosure of Confidential Information is made complies with each of the Bidder's undertakings set out in Clause 2.1 as if such person were themselves directly a party to those undertakings.
- 2.3. The undertakings in Clause 2.1 above shall not apply to any disclosure of Confidential Information:
- 2.3.1. Required by any applicable law or by any supervisory or regulatory body (including, but not limited to, the Financial Conduct Authority and the Prudential Regulation Authority) to whose authority the Bidder (including its shares or securities) is subject or with whose rules it is necessary as a matter of law for the Bidder to comply; or

- 2.3.2. Which is in or subsequently comes into the public domain (unless as a result of a breach of this Agreement or any undertaking given by any other person); or
- 2.3.3. Which is lawfully in the Bidder's possession (as can be demonstrated by its written records) and was not acquired directly or indirectly from the Council; or
- 2.3.4. To the extent expressly approved in writing by the Council,

Provided that in relation to Clause 2.3.1, should the Bidder or its representatives become aware that it or they may become compelled by law or by any such supervisory or regulatory body to disclose any Confidential Information, prompt notice of that fact shall be given to the Council in writing so that the Council may seek an appropriate solution to prevent such disclosure and the Bidder and its representatives will take such steps as the Council may reasonably require for that purpose and will keep the Council promptly and fully informed of all developments relating to any such potential disclosure.

- 2.4. In the event that the Bidder or its representatives become compelled by law or by any such supervisory or regulatory body referred to in Clause 2.3.1 above to disclose any Confidential Information, the Bidder (or its representative as appropriate) shall give full details of any proposed disclosure to the Council in advance of disclosure and shall limit such disclosure to the minimum amount of Confidential Information required to satisfy any such disclosure obligation.

2.5. The Bidder further acknowledges and confirms as follows:

- 2.5.1. That the Council accepts no responsibility or liability for, or makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the Confidential Information or any oral communication in connection therewith;
- 2.5.2. That the Bidder is acting as a principal on its own account and not as agent or broker for any other person(s) and will be responsible for any costs incurred by it on its behalf in connection with the ITPD negotiations;
- 2.5.3. That neither the receipt of any Confidential Information nor any negotiations or discussions relating to the Project or ITPD constitutes the giving of investment advice by the Council or the creation of a customer relationship with the Council; and
- 2.5.4. That the Council reserves the right to disseminate information that is materially relevant to all Bidders, even if the information has only been requested by one Bidder, subject to the duty to protect any Bidder's commercial confidence in its Bid. Should the Bidder wish to avoid such disclosure (for example, on the basis that the request contains, or the likely response will contain, commercially confidential information or may give another Bidder a commercial advantage) the request must be clearly marked "In confidence - not to be circulated to other Bidders"

and the Bidder must set out the proper and relevant reason(s) for the request for non-disclosure to other Bidders.

2.6. The Bidder warrants, represents and undertakes to the Council that to the best of its knowledge:

2.6.1. All the information, representations and other matters of fact communicated in writing to the Council or its representatives by the Bidder or any of its representatives in connection with the ITPD negotiations are, unless otherwise notified in writing to the Council and accepted by the Council, accurate and not misleading in all material respects as at the date communicated; and

2.6.2. It will inform the Council in writing of any material change to any of the information, representations and other matters of fact communicated to the Council as part of ITPD negotiations or in connection with the Project and of any material change in circumstances which may affect the truth, completeness or accuracy of any information provided as part of the ITPD negotiations or in connection with the Project immediately upon becoming aware of such changes.

3. SPECIFIC PERFORMANCE

3.1. The Bidder acknowledges and agrees that damages would not be an adequate remedy for any breach by it of the provisions of this Agreement and that, without prejudice to all other remedies to which it may be entitled as a matter of law, the Council shall be entitled to the remedies of interdict, injunction, specific implement, specific performance and other equitable relief for any threatened or actual breach of the provisions of this Agreement and no proof of special damage shall be necessary for the enforcement of this clause and/or this Agreement.

3.2. In addition, the Council reserves the right, in relation to any material breach of this Agreement, to reject or disqualify the Bidder and/or any of the Bidder's Consortium from the ITPD negotiations.

4. DURATION OF BIDDER'S UNDERTAKINGS

4.1. The Bidder's undertakings herein contained shall be legally binding upon the Bidder and each of its representatives both during and after termination of the ITPD negotiations.

4.2. The termination of the ITPD negotiations and this Agreement for whatever reason shall not affect the enforceability of provisions herein expressed to operate following termination and in any event shall be without prejudice to any subsisting right, remedy or obligation of the Council.

5. WAIVER AND INVALIDITY

- 5.1. No failure or delay by either party in exercising any right, power or privilege under this Agreement shall constitute a waiver thereof nor shall any single or partial exercise thereof preclude further exercise thereof or the exercise of any right, power or privilege hereunder or otherwise.
- 5.2. If any provision of this Agreement is prohibited or unenforceable in any jurisdiction such prohibition or unenforceability will not invalidate the remaining provisions or affect the validity or enforceability of the other provisions of this Agreement.

6. ASSIGNMENT

The Bidder is not entitled to assign any of its rights or obligations under this Agreement.

7. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English Courts.

IN WITNESS whereof this Agreement has been entered into and delivered as a deed the day and year first before written.

EXECUTED AS A DEED)
 (but not delivered until dated) by)
 RUNNYMEDE BOROUGH)
 COUNCIL)
 the seal of which was hereto)
 affixed and authenticated by:)

Authorised Signatory

EXECUTED AS A DEED)
 (but not delivered until dated) by)
 [INSERT NAME OF Bidder])
 in the presence of:)

Director

Director/Secretary

9. APPENDIX 3: DRAFT MEETING AGENDAS

9.1. STAGE 1 – DIALOGUE MEETING ONE

DRAFT AGENDA

Note 1: the Council invites comments on this section by Bidders who may add to the agenda

Note 2: Please note that legal issues will be dealt with in Meeting Two. The Council's legal advisers will be attending Meeting Two and Bidders are encouraged to raise legal queries at that meeting.

SUBJECT	TIME*	LEAD	COMMENTS
Introductions	5 mins	All	Introductions to all team members.
The competitive dialogue process / next steps	5 mins	Council	Outline programme from now to selection of Preferred Bidder.
Overview of Stage 1 Dialogue topics	10 mins	Council	List of topics to be discussed and presentations during Stage 1 Dialogue (Meeting Two & Three)
What information do you need?	30 mins	Bidder	Your opportunity to tell us if there is information that you regard as important for your ITPD Submission that is not contained in the ITPD.
Break (Optional)	10 mins	Break	
Meeting One Dialogue topics Q&A	90 mins	Bidder	Your opportunity to raise queries on the areas covered by the ITPD Submission Bid Deliverables.
Total Duration	2hrs, 30 mins		

Note3: Approximate times to be allowed for each topic

9.2. STAGE 1 – DIALOGUE MEETING TWO

DRAFT AGENDA

Note 1: the Council invites comments on this section by Bidders who may add to the agenda

Subject	Time	Lead
Matters arising from Meeting One	5 mins	Council and Bidder
Bidder Presentation: 1. Early Concept Designs – Initial Sites 2. The Bidders Development Business Plan	Presentation Max 30 mins 10 mins for discussion	Bidder
Site Development Plan template – Stage of development and contents.	30 mins	Bidder
Break (Optional)	10 mins	
Consortium structure & rationale	15 mins	Bidder
Legal Documentation Key commercial issues	60 mins	Council / Sharpe Pritchard LLP and Bidder
Additional questions/Agenda items raised by the Bidder	10 mins	Bidder
Total Duration	2hrs, 30 mins	

Note 2: Approximate times to be allowed for each topic

9.3. STAGE 1 – DIALOGUE MEETING THREE

DRAFT AGENDA

Note 1: the Council invites comments on this section by Bidders who may add to the agenda

Subject	Time	Lead
Matters arising from Meeting Two	5 mins	Council and Bidder
Bidder Presentation: Indicative Site Development Plans for: <ol style="list-style-type: none"> 1. Egham Gateway Phase 1 and 2. Egham Leisure Centre 	Presentation Max 30 mins 30 mins for discussion	Bidder
<p>The rest of the Agenda will be created to pick up subjects and questions raised by either the Council or Bidder during the previous two dialogue meetings and / or subjects that the Council or Bidder consider would assist the dialogue process.</p> <p>The Draft Agenda will be circulated at least five business days before the third dialogue meeting is due to commence. Bidders should provide any agenda items in good time to meet this deadline.</p>		
Total Duration	2hrs, 30mins	

Note 2: Approximate times to be allowed for each topic.

10. GLOSSARY OF TERMS

The capitalised words and expressions in this ITPD 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 Council in relation to Runnymede Regeneration Programme.

"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 ITPD has been issued by the Council.

"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.

"Council's Regeneration Objectives"

Means the objectives of the Council as set out in more detail in Section 3.1 of this ITPD.

"Development Business Plan"

Means the plan further described in Volume 3 (Legal Documents) of this ITPD.

"Final Bid(s)" or "Final Tender(s)"

Means the written final proposals submitted by a Bidder as part of this procurement in response to the Invitation to Submit Final Tenders.

"Final Site Development Plan"

Means the Final Site Development Plan as described in Volume 2 (Technical Specification) and Volume 3 (Legal Documents) of this ITPD.

"Indicative Site Development Plan"

Means the Indicative Site Development Plan as described in Volume 2 (Technical Specification) and Volume 3 (Legal Documents) of this ITPD.

"Interim Site Development Plan"

Means the Interim Site Development Plan as described in Volume 2 (Technical Specification) and Volume 3 (Legal Documents) of this ITPD.

"ITPD Submission"

Means the written outline proposals submitted by a Bidder as part of this procurement in response to this ITPD.

"Information"

Means all information disclosed to the Bidders by the Council or its Advisers in order for them to formulate and prepare their Bid or which may be supplied by the Council or its Advisers at a future date (whether in written or visual format or otherwise).

"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.

"Procurement Document"

Means any document issued by the Council as part of this procurement process.

"Preferred Bidder"

Means the Company, identified through this procurement process, and with whom the Council may establish the Development Agreement.

"Initial Sites"

Means the two sites defined as the Initial Sites in Volume 2 (Technical Specification) of the ITPD which are the Egham Gateway Phase 1 site and the Egham Leisure Centre Site.

"Site(s)"

Means the portfolio of sites listed in Volume 2 together with any other sites added by the Council during the procurement process.

"Site Development Plan"

Means the development plan for each Site, a template for which is set out in Volume 3 (Legal Documentation) of this ITPD.