

Notice of NON KEY Executive Decision containing exempt information.

This Non Key Executive Decision contains Appendix A which comprises exempt information which is not available for public inspection as they contain or relate to exempt information within the meaning of Paragraph 3 of Schedule 12A of the Local Government Act 1972. This is exempt because as it refers to confidential commercial information and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Subject Heading:	Authorisation to release the working capital increase of the Overarching Facility Agreement for Mercury Land Holding Ltd.
Decision Maker:	Kathy Freeman Strategic Director of Resources
Cabinet Member:	Councillor Chris Wilkins Cabinet Member for Finance & Transformation Councillor Graham Williamson Cabinet Member for Development & Regeneration
SLT Lead:	Kathy Freeman Strategic Director of Resources
Report Author and contact details:	Tracey Dennis, 01708 433112 Tracey.Dennis@oneSource.co.uk

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Policy context:	MLH Business Plan 2023-26 Asset Disposal Programme 2022-2028 Medium Term Financial Strategy Havering Local Plan 2016-2031 London Plan 2021
Financial summary:	Since 2016 the Council has provided a revolving Loan Fund for MLH .The existing loan has been increased and the expiration date extended in line with the MLH Business Plan agreed at July 2023 Cabinet to ensure that the facility can fully support the projected development costs associated with the delivery of the Business Plan.
Relevant OSC:	N/A
Is this decision exempt from being called-in?	Yes as it an Officer decision taken under delegation.

The subject matter of this report deals with the following Council Objectives

People – Things that matter for residents

Place – A great place to live, work and enjoy **X**

Resources – A well run Council that delivers for People and Places **X**

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Following approval by Cabinet in May 2015 to establish a wholly owned company for the purposes of development of housing for sale, a non-key decision was taken on 27th July 2016 which detailed the overarching finance arrangements between the Council and Mercury Land Holdings Limited (the “Company”). The Overarching Agreement was to run for 5 years, but had since been extended to expire on 27th January 2024. This date has now been extended for a further 5 years to the 27th January 2029.

The Council and the Company now initiate the increase to the Overarching Loan Agreement and to further extend it for another 5 years, following the agreement of the MLH Business Plan for the Company at July 2023 Cabinet, where now approved recommendation 6 requested Cabinet to:

Agree to increase the MLH Working Capital Facility by £2m and to extend the term for a period of up to five years, as appropriate, commencing January 2024, and to delegate authority to the S151 Officer, in consultation with the Strategic Director of Place and the Deputy Director of Legal & Governance to enter into the relevant agreements to give effect to this decision.

The exercise of this delegation will help MLH to progress the pre-planning works on disposal sites whilst maintaining other business activities, as set out in its approved Business Plan.

Recommendation:

For the reasons detailed in this report and its exempt appendix, the Strategic Director of Resources (S151 Officer) in consultation with the Strategic Director of Place and the Deputy Director of Legal & Governance, is recommended to:

- (i) enter into the necessary legal/contractual arrangements to extend the term of the MLH overarching working capital agreement by five years, and
- (ii) increase the level of working capital by £2m.

AUTHORITY UNDER WHICH DECISION IS MADE

Delegated decision from Cabinet July 2023;and
Section 3 of London Borough of Havering Council Constitution
3.10 Functions of 151 Officer
Para 3.10.3

Sub para (j) To manage the Council’s loan debt, investments, and temporary investments, pension scheme and pension fund, insurance fund, act as registrar of loan instruments, manage all banking arrangements including numbers and types of accounts and arrange insurance of property and the selecting and accepting of tenders for insurance cover and related services which are considered to offer best value for the Council promoting good risk management practices at all times.

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STATEMENT OF THE REASONS FOR THE DECISION

The Company is managed by the Council acting as Shareholder through its Business Plan. In delivering the Business Plan the Company have a number of projects in train which rely on a range of finance agreements. These dovetail into the Overarching Agreement between the parties.

In order to meet cash flow requirements the revolving facility is used to pay for matters arising in respect of working capital. A prudent extension of Overarching Agreement is sought thus ensuring the Company has access to a subsidy control (state aid) compliant facility to meet cash flow.

OTHER OPTIONS CONSIDERED AND REJECTED

The option of not extending was considered but rejected on the basis that this would (i) not accord with the approved MLH Business Plan for 2023-26, and (ii) mean the principal would become immediately payable leaving the Company without a facility in place. **Option Rejected.**

PRE-DECISION CONSULTATION

None.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Tracey Dennis

Designation: Finance Business partner

Signature:

Date: 21/12/23

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Company is managed by the Council acting as Shareholder through its Business Plan. In delivering the Business Plan the Company have a number of projects in train which rely on a range of finance agreements. These dovetail in to the Overarching Agreement between the parties.

In order to meet cash flow requirements the revolving facility is used to pay for matters arising in respect of working capital.

Section 1 of the Localism Act 2011 provides local authorities with the power to do anything an individual may do subject to any statutory limitations (this is referred to as the General Power). A local authority may exercise the General Power for its own purpose, for a commercial purpose and/or for the benefit of others. The Council utilises its wholly owned company to deliver its objectives around local housing provision. The Council using its General Power of competence to extend the unsecured facility; being a state subsidy compliant arrangement provided at market rates.

Further legal implications are detailed on the Business Plan Report for Cabinet in July 2023.

FINANCIAL IMPLICATIONS AND RISKS

Since 2016 the Council has provided a revolving Loan Fund for MLH .The existing loan ceiling needs to be increased above at its current level to enable current pressures to be accommodated and to extend the current expiration date for 5 years. This will be reviewed before the date that it is due to expire. Further details are provided at Exempt Appendix A.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no HR implications arising from the proposed decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions. This includes to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage

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and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

There are no equalities implications arising from this decision.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no environmental and climate change implications arising from the proposed decision.

HEATH & WELLBEING IMPLICATIONS & RISKS

There are no Health & Wellbeing risks arising or implications from the proposed decision.

BACKGROUND PAPERS

MLH Business Plan and Budget Update 2023-2026, Cabinet 19th July 2023.

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

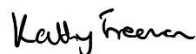
Decision

Proposal agreed

Delete as applicable

Details of decision maker

Signed



Name: Kathy Freeman

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title: Strategic Director of Resources (S151 Officer).

Date: 21.12.23

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____