

<p><b>Cabinet</b></p> <p>26 September 2018</p>	
<p><b>Report of:</b> Ann Sutcliffe, Acting Corporate Director, Place</p>	<p><b>Classification:</b> Unrestricted</p>
<p><b>Pan-London Homelessness Prevention Procurement Hub (“Capital Letters”)</b></p>	

<b>Lead Member</b>	<b>Councillor Sirajul Islam, Deputy Mayor and Cabinet Member for Housing</b>
<b>Originating Officer(s)</b>	Mark Baigent, Interim Divisional Director, Housing
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	Yes
<b>Forward Plan Notice Published</b>	7/8/18
<b>Reason for Key Decision</b>	Impact on Wards
<b>Strategic Plan Priority / Outcome</b>	<b>People are aspirational, independent and have equal access to opportunities</b>

## Executive Summary

Capital Letters is a proposed joint endeavour between a group of London boroughs to reduce the costs of temporary accommodation and deliver improved outcomes for homeless families, by jointly procuring and managing accommodation across London.

London Housing Directors and the officer team at London Councils have been working on a model which will enable better outcomes for homeless and at risk households as well as for councils. The proposal is to establish a not for profit company, called “Capital Letters”. This report outlines the proposal and recommends that the London Borough of Tower Hamlets should join the company.

The establishment of Capital Letters is being supported by MHCLG using top-sliced Flexible Homelessness Support Grant, to alleviate the costs to boroughs of providing accommodation and to encourage greater efficiency, provide extra staffing, IT and other resources to increase supply and improve the service offered to both tenants and landlords.

By removing unhelpful competition and duplication of effort, and by providing an organisation to represent a large group of London boroughs, it is intended to offer a simpler and more straightforward interface for landlords, managing agents and developers anywhere in London who are able to provide properties for those families and other households most in need of accommodation.

Capital Letters will collaboratively procure new properties on behalf of London boroughs supported by the MHCLG top-slice and on a pan-London basis. In addition to the top-slice, the pan-London procurement is intended to have a deflationary effect on procurement and allow a more rational allocation of supply across London, allowing households to be housed closer to placing boroughs. Member boroughs will also be able to transfer existing leased properties into Capital Letters, which as a private landlord will be eligible for 100% Local Housing Allowance (LHA) from the Department of Work and Pensions, which on average across London is £35pw higher than the current rate for borough-let temporary accommodation, which is currently 90% of 2011 LHA levels. Boroughs will also be able to convert often expensive nightly paid accommodation where appropriate.

Capital Letters will grow in phases, with an initial number of boroughs joining in the first year, followed by phase two a year later, and eventually including, if not all, then the clear majority of London boroughs. There are also two types of company membership, A and B. The distinction is noted in Appendix A.

Properties are expected to be a mixture of Private Rented Sector properties let by the property owner to households nominated by the boroughs, and properties leased directly from landlords or from managing agents.

Capital Letters will be established as a not-for-profit Company Limited by Guarantee, wholly owned by the member boroughs. Boroughs must become members of the company in order to participate in and benefit from its activities and access the additional MHCLG funding.

By the end of the third year of operation it is envisaged that Capital Letters will have a staff complement of around 270 officers and an annual income of £238m. By this stage it will have secured almost 20,000 additional properties to help prevent and tackle homelessness, and will have an estimated 13,000 properties either fully or partially under its management.

For Tower Hamlets, officers propose seconding at least 2 members of staff in order to procure an estimated 220 properties per year, including c.120 leased properties for use as temporary accommodation for accepted homeless families and c.100 private tenancies for prevention of homelessness. At this level of involvement, officers estimate a potential saving of around £300,000. Further detailed analysis will be needed to finalise the agreed outputs for the first year (2019/20) and provide a clearer targeted savings figure.

This report asks the Mayor to approve the recommendation that Tower Hamlets becomes an A member of the proposed company, Capital Letters London Ltd. Detailed operational decisions about seconding staff and procuring through the company will be approved by officers under delegated authority.

## **RECOMMENDATIONS**

The Mayor in Cabinet is recommended to:

1. Note the £38 million over three years potentially being made available by MHCLG specifically for pan-London collaboration on the procurement of accommodation for homeless households.
2. Approve the decision to join “Capital Letters”, a Company Limited by Guarantee that will be established by the London boroughs, as an A member.
3. Appoint the Interim Divisional Director of Housing and Regeneration, as the Council’s Company Member Representative.
4. Delegate authority to the Corporate Director, Place, to approve operational arrangements for staff secondment and procurement via the company.

### **1. REASONS FOR THE DECISIONS**

- 1.1 The decisions recommended are required to join the company and participate in the collaborative procurement approach and to access the MHCLG funding.
- 1.2 The estimated aggregate financial benefit of the proposal to London boroughs collectively is up to £116m, plus potential savings on changing how placements are made and reduced repeat homelessness through tenancy sustainment. The company will build on the Inter Borough Accommodation Agreement (IBAA) which has led to reduced spending through rate-sharing and the application of a cap on rates paid for certain accommodation. The company will work within this system, and provide further opportunities to rationalise and secure efficiencies in the procurement of accommodation for homeless households.
- 1.3 Capital Letters will be set up in a number of phases (see proposed timescale in Appendix B). There are a number of reasons why it would be advantageous for Tower Hamlets to be part of the first wave of boroughs which are anticipated to start operations in April 2019.
- 1.4 The MHCLG subsidy per borough will be greater in the first year. This is important in terms of the proportion of centrally funded staff compared to borough funded staff, which should provide a greater uplift to procurement numbers for the boroughs in the first wave. The MHCLG subsidy per property will also be greater in the first year and boroughs joining in the first year will receive an additional year’s subsidy from MHCLG compared with boroughs joining later.
- 1.5 The boroughs involved in the set-up of the company will have much more control over the way it is set up and shaped than boroughs who join later after the organisation has been established.
- 1.6 Boroughs who do not join Capital Letters will still have properties procured by

Capital Letters in their area. Although Capital Letters will abide by the agreed IBAA rates, there is nevertheless a significant risk that landlords and agents will prefer to work with Capital Letters than within individual boroughs because of the profile it will have when launched, and because of the more streamlined ability to let properties across London with one organisation than with a number of different boroughs, all with slightly different terms and conditions and different personnel.

- 1.7 If Capital Letters is successful then it will be possible for Tower Hamlets to secure more private rented and leased properties in London within or close to the borough, thus reducing the need to place families in B&B and hotel annexes, in more distant parts of London or outside London altogether. It would be better to secure these benefits sooner rather than later.
- 1.8 The decisions recommended are required to join the company and participate in the collaborative procurement approach and to access the MHCLG funding.

## **2. ALTERNATIVE OPTIONS**

- 2.1 There is the option not to join the company in the first phase. This would result in a lost opportunity to access MHCLG grant funding, alleviate the costs of providing temporary and prevention accommodation, increase the procurement of leased temporary accommodation, reduce the use of expensive nightly paid accommodation and enable the placement of many households closer to home.
- 2.2 Rather than A membership in the first phase, the Council could alternatively join the company as a B member. This would still enable the Council to receive services from Capital Letters but would mean that the Council has less influence over the strategic direction of the company. It would also mean Tower Hamlets would not have access to additional MHCLG subsidy for newly procured properties. The distinction between A and B membership is noted in the Articles of Association, with the relevant section copied below in Appendix A.

## **3. DETAILS OF REPORT**

- 3.1 The immediate background to this work is the increasing burden of homelessness and the resulting provision of TA and prevention placements. In March 2017 there were 77,240 households in TA nationally, an increase of 60 per cent since March 2011. Seven out of ten of these households are placed by London boroughs. The cost of providing TA in 2015/16 (£845 million) accounted for more than three quarters of the total cost of providing homelessness services nationally (£1.15 billion).
- 3.2 In recognition of this MHCLG have provisionally allocated £38 million over three years, top sliced from the Flexible Homeless Support Grant (FHSG). Whilst it is hoped that MHCLG will fund the project in full, allocation of some of these funds may take place in the next national spending review and therefore

the Ministry are unable to provide a definitive position on the full funding ask. There is therefore a risk that MHCLG funding will only be provided in the first year, meaning that any boroughs that join in the second phase may not be able to benefit from the MHCLG subsidy and the project overall may not benefit from any further subsidy in the second year.

- 3.3 MHCLG funding is expected to be used in the following three ways:
- Contribution to Private Sector Leases (PSL),
  - Private rented placement incentive payments,
  - Central cost contribution, e.g. for additional procurement staff, tenancy sustainment staff, IT and premises for the company.
- 3.4 Participating boroughs who become full members of Capital Letters will initially second staff from their procurement and management teams performing this function to Capital Letters<sup>1</sup>. This will allow the existing skills, expertise, local knowledge and client relationships held by those officers to be absorbed into Capital Letters.
- 3.5 The activity of seconded staff continuing with the procurement activities they were previously undertaking for their borough will be supplemented by approximately 20 additional staff employed directly by Capital Letters. It is anticipated that this will lead to 4,300 additional properties within Greater London being procured in the first three years.
- 3.6 Boroughs will be allocated at least as many properties over the first year as were procured by the staff it seconds in the previous year. Any additional properties would be allocated to the participant boroughs in proportion to the staff resources they have contributed through secondment or funding of staff recruited directly by Capital Letters. Subject to meeting borough minimum allocations, and fair distribution of additional properties, all properties should be allocated as close to host boroughs as possible, also taking into account the provisions of the homelessness suitability order as they apply to individual households. This should mean that a smaller number of households have to move a long distance from their home borough than is currently the case. Proposed allocation policy principles are set out in Appendix C.
- 3.7 The company will be funded by a combination of MHCLG grant, rents from tenants and top up payments from member local authorities. These are the payments that are already made by local authorities, for example through Discretionary Housing Payments (DHP) or other existing budgets when Local Housing Allowance (LHA) rates do not cover full rent. They will be made lower for local authorities as a result of the MHCLG subsidy, so the net impact for Tower Hamlets should be a real reduction in expenditure per property.
- 3.8 The company will be established as a private company limited by guarantee, owned and managed by the boroughs who constitute limited liability members

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<sup>1</sup> Boroughs do not have to second staff, although most are likely to. If a borough would prefer to have another way of placing a minimum of 50% of their relevant procurement through Capital Letters that is acceptable.

of the company. The liability is limited to £1. It will also be Teckal compliant in relation to public procurement regulations, which means that as a company member Tower Hamlets will be able to use the company's services without undertaking a competitive procurement process.

- 3.9 The activity of the company will be supported by a digital Property Listing Platform (PLP). A specification for this IT system has been developed by London Ventures, in consultation with the Capital Letters working group. Soft market testing has identified a number of providers who would be able to develop a product which meets the specification requirements. Initially, one borough will lead on the procurement of this PLP on behalf of the company.
- 3.10 The timescale for programme delivery assumes the new company is established and trading by April 2019, with a first wave of boroughs joining by then and a second wave of boroughs joining in April 2020.
- 3.11 Therefore, the Mayor in Cabinet is asked to approve the recommendations that Tower Hamlets joins the company as an A member so that the borough may benefit from the services provided by the collaborative enterprise.
- 3.12 A minimum condition of being an A member of Capital Letters is that at least 50% of the annual supply of new non-emergency accommodation for homeless households for that borough is provided by Capital Letters in the first year. This is a minimum requirement, many boroughs will put through a higher percentage of their supply.

#### **4. EQUALITIES IMPLICATIONS**

- 4.1 The proposed Pan-London procurement company will not have any material impact on the local need for temporary accommodation and prevention or the level of service purchased on behalf of the Council in this market. Apart from the benefits to the Council in terms of price, procurement efficiency and availability of accommodation, the key benefits for service users will be in relation to the quality and location of accommodation, as well as the provision of tenancy sustainment support. Given the well understood negative impact of temporary accommodation and homelessness on a wide range of social and well-being outcomes, and the profile of service users in terms of groups of people with protected characteristics, the services delivered by the proposed procurement company will have a positive impact in promoting the Council's statutory and strategic policy outcomes for equalities.

#### **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
  - Consultations,

- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.

5.2 The proposed Pan-London procurement company will fundamentally change the way temporary accommodation and homelessness prevention is purchased across London, reducing wasteful competition between boroughs, enabling a greater focus on local provision to meet each borough's needs, thus fulfilling Best Value principles as well as promoting health, well-being, safeguarding and community cohesion.

## **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 This report seeks the approval of the Mayor in Cabinet to the Council becoming a member of a company limited by guarantee - 'Capital Letters' - that will procure temporary accommodation on behalf of its member authorities. It also seeks approval for the Interim Divisional Director of Housing and Regeneration to be appointed as the Council's company representative.
- 6.2 Local authorities across London are experiencing an acute housing crisis and currently Tower Hamlets has over 2,000 families in temporary accommodation. The net cost of these units of temporary accommodation to this authority varies depending on the type of accommodation, with bed and breakfast units costing £9,000 per annum, nightly lets costing £6,500 and private licensed accommodation costing £3,500 per annum.
- 6.3 The gross budget of the Homelessness Service for 2018-19 is £35.5 million, with the major cost element being the £27.4 million budget for the rent payable to landlords for the supply of temporary accommodation. The main source of income derives from the rents and charges that are levied to customers.
- 6.4 The majority of the rental income is however met through benefits payments, so the financial implications within the service budget cannot be looked at in isolation. Although the Council has a statutory duty to pay benefits, the level of subsidy that is recouped from the DWP is capped. The high rent levels charged by suppliers of temporary accommodation are leading to budgetary pressures within the Housing Benefits budget due to this variance between the statutory benefits paid out and the Government subsidy received.
- 6.5 Demands on Councils have further increased as a result of the requirements of the Homelessness Reduction Act which came into effect in April 2018. In order to alleviate these pressures, the Council has recently introduced various initiatives to increase supply, including the approval of significant capital investment to purchase properties to be let as temporary accommodation. The proposal in this report will provide a further supply of units for use as temporary accommodation, procured at a lower cost to the Council than is currently the case.

- 6.6 The 'Capital Letters' project will be funded over a three year period from resources of £38 million that have been 'top sliced' by the MHCLG from the Flexible Homeless Support Grant.
- 6.7 The amount and type of temporary accommodation procured each year depends on demand. Acquiring leased accommodation on a longer term basis via 'Capital Letters' should reduce the need to repeatedly procure the more expensive nightly paid accommodation on an ad hoc basis. In addition, leasing via 'Capital Letters' will be cheaper on a net cost basis because (a) the MHCLG top sliced funds will be used to cover part of the incentive payment to the landlord and (b) as a private company 'Capital Letters' can benefit from Government subsidy at the full 2018 Local Housing Allowance (LHA) level whereas leases directly procured by the Council are only eligible for subsidy at a rate of 90% of the January 2011 LHA.
- 6.8 Based on these principles, it is anticipated that a financial benefit of £116 million will accrue across London boroughs over the first three years of the initiative, however at this stage it is not possible to quantify exact levels of savings that will be realised within the Council's General Fund. It is hoped that a potential saving of at least £300,000 will be delivered in the first year (2019-20), increasing in future years as the project expands. Once more detailed savings projections are available these should be incorporated into the Council's Medium Term Financial Strategy as appropriate.
- 6.9 Member councils will be required to second staff to the company. Temporary accommodation is currently procured within the Council's Housing Options Service and it is anticipated that two staff members will be seconded to the company. The report proposes that all arrangements for these secondments are delegated to the Corporate Director (Place).
- 6.10 It is suggested that the Council becomes a founder 'A' member of the company. This requires the Council to agree that at least 50% of the total number of dwellings that it procures for use as temporary accommodation (excluding nightly lets or properties outside of the London area) are obtained through the company - see paragraph 1.5 of the extract from the Articles of Association (Appendix A). This requirement should be met provided that sufficient units to meet demand are made available by the company, however it is essential that any legal agreements entered into protect the Council's assets and minimise its exposure to risk.

## **7. COMMENTS OF LEGAL SERVICES**

- 7.1 The creation of a lease is a property arrangement and is not in itself procurement activity. However, Capital Letters will be providing services to us in terms of finding, arranging and managing lettings. This is procurement activity and ordinarily should be subject to competition.
- 7.2 However, the Council does not have to subject the purchase to competition provide it and the other bodies who control Capital Letters exercise a



sufficient level of control over Capital Letters. The controlling arrangement provided as a part of this report would satisfy Regulation 12 of the Public Contracts Regulations 2015 and therefore, provided that the Council obtains the suggested level of control, the Council would be able to use Capital Letters without the need for a further competitive exercise.

- 7.3 The use of Capital Letters is subject to Capital Letters themselves following the prevailing procurement law although the information provided with this reports suggests that this will be the case.
- 7.4 Once the arrangement has been entered into, the Council should continue to use the supply of properties in accordance with its existing policies and procedures, and in particular following the pre-existing approval routes. Also the impact on Equalities should be limited provided that properties are allocated in the same manner as our pre-existing stock lists.
- 7.5 The Council has a duty under the Housing Act 1996 (“HA 1996”) to secure that accommodation is available for eligible applicants who are homeless, in priority need and not intentionally homeless.
- 7.6 The duty under section 188 HA 1996 is to provide interim temporary accommodation if the applicant meets the appropriate criteria. Pending a decision that a housing duty is owed, the authority will secure accommodation for their occupation.
- 7.7 When a housing duty is accepted under Section 193 of the Housing Act 1996, the housing authority is obliged to provide housing assistance.
- 7.8 It is envisaged that joining the company will secure the availability of more private rented and leased properties, reducing the need to place homeless families in B & B and hotel annexes.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- NONE

### **Appendices**

Appendix A – Membership Classes: extract from draft Articles of Association

Appendix B – Proposed Timescale for Phased Implementation

Appendix C – Allocations Policy Principles

### **Background documents**

Draft Capital Letters Business Plan [Exempt – commercially confidential]

### **Officer contact details for documents:**

Mark Baigent, Interim Divisional Director, Housing & Regeneration

## **Appendix A, extract from Articles of Association**

### **1 Admission of Members and cessation of Membership**

- 1.1 The Members of the Company shall be divided into "A" Members and "B" Members. "A" Members and "B" Members will have the rights as specified in these Articles.
- 1.2 The subscribers shall be the first Members of the Company and shall be designated as "A" Members.
- 1.3 The Members may admit any other Public Body to Membership on receiving:
  - 1.3.1 a written application confirming that it agrees to be bound by the provisions of the Articles; and
  - 1.3.2 where a Members' Agreement has been entered into, a signed deed of adherence to the Members' Agreementfrom any such body.
- 1.4 A Member admitted under article 12.3 above shall be designated as an "A" Member or a "B" Member by the "A" Members upon admission.
- 1.5 A Public Body shall only be admitted as an "A" Member if they agree to ensure that at least 50% of the total procurement for that body of dwellings to support the discharge of that body's statutory responsibilities for homeless households or those at risk of homelessness (excluding nightly paid properties or properties outside of the London area) is to be procured by the Company.
- 1.6 A Public Body admitted to Membership who does not agree as per article 12.5 but will receive services from the Company will be admitted as a "B" Member.
- 1.7 The rights powers and obligations of each Member under these Articles shall take effect on the admission of that organisation to Membership.
- 1.8 Each Member shall nominate a person to act as its representative in the manner provided in Section 323 of the Act. Such representative shall have the right on behalf of the Member to attend meetings of the Company and vote thereat and to exercise all rights of Membership on behalf of the Member. The relevant Member may by written notice to the Company revoke the nomination of such representative and may nominate another representative in his place.

- 1.9 The rights of each Member shall be personal and shall not be transferable and shall be exercisable only by the Member or its Voting Representative.
- 1.10 Membership shall not be transferrable.
- 1.11 An "A" Member shall cease to be a Member of the Company if (i) it serves no less than six months' written notice to do so or (ii) is removed or expelled for any reason by ordinary resolution of the Members passed at a General Meeting or under any agreement entered into between the Members from time to time and (iii) if at any time the Member ceases to be a Public Body or (iv) otherwise in connection with these Articles and the noting of the cessation of Membership in the Company's register of Members shall be conclusive in this regard
- 1.12 A "B" Member shall cease to be a Member of the Company if (i) it serves no less than six months' written notice to do so or (ii) is removed or expelled for any reason by ordinary resolution of the Members passed at a General Meeting or under any agreement entered into between the Members from time to time and (iii) if at any time the Member ceases to be a Public Body or (iv) otherwise in connection with these Articles and the noting of the cessation of Membership in the Company's register of Members shall be conclusive in this regard.
- 1.13 At the end of each financial year, the "A" Members shall each confirm to the Company (in a form that shall be agreed by the "A" Members from time to time) the percentage of its total procurement for that "A" Member of dwellings to support the discharge of its statutory responsibilities for homeless households or those at risk of homelessness (excluding nightly paid properties or properties outside of the London area) that was undertaken via the Company that financial year. In the event that this percentage is less than 50% the "A" Members have, at their discretion, the ability to terminate the "A" Member's Membership in accordance with article 12.14.
- 1.14 The decision to terminate an "A" Member's Membership in accordance with article 12.13 shall be taken at a meeting of the "A" Members (i) called on no less than 7 clear days' notice; (ii) attended in person or by proxy by at least 50% of the "A" Members (excluding the "A" Member whose Membership is being considered for termination); and (iii) made by no less than 50% of the total "A" Members excluding the "A" Member whose membership is being considered for termination.
- 1.15 In the event that an "A" Member's Membership is terminated pursuant to article 12.14 the Membership shall terminate immediately upon the decision having been taken.

- 1.16 In the event that an "A" Member's Membership is terminated in accordance with article 12.12 that Member may be re-admitted to the Membership of the Company as a "B" Member, subject to compliance with article 12.3 and 12.6.

## Appendix B – Proposed Timescale for Phased Implementation

<b>Date</b>	<b>Milestone</b>
June 2018	<p>Collaborative Procurement Group signs off Capital Letters documentation.</p> <p>Potential first phase (year 1) boroughs identify themselves and begin internal approval processes (8 boroughs minimum required in first year).</p>
July 2018	Borough Cabinet Papers drafted and submitted
September 2018	<p>Shadow Capital Letters Directors Group meets</p> <p>Business case to be presented to London Councils' Chief Executives London Committee</p> <p>Procurement of IT system begins with OJEU Notice</p>
October 2018	<p>Capital Letters Incorporated as an organisation</p> <p>Business case to be presented to London Councils Leaders' Committee</p> <p>Cabinet Approval with first phase boroughs received</p> <p>Commence discussions with boroughs re possible resource including secondments</p> <p>Recruitment of CEO and key leadership team begins</p>
April 2019	Formal launch of Capital Letters

## **Appendix C – Allocations Policy Principles**

### **Allocations**

The method by means of which properties procured by Capital Letters will be allocated to individual boroughs are set out in more detail in the Capital Letters Allocations policy. The main principles are:

#### **Principle 1.**

The number of properties (excluding HMOs and studios) procured for each borough over the previous year using the resources and contracts transferred into Capital Letters would set a minimum limit for allocation of properties to that borough. This should guarantee that (unless market conditions have markedly worsened) each borough will get at least as many properties over the first year as were procured by the staff it seconds in the previous year. Studios and HMOs will not be counted in these minimum allocations, but will be allocated separately according to location and borough need.

#### **Principle 2.**

It is expected that significantly more properties than this will be procured in practice, due to staff working collaboratively and because of the additional procurement resources available to Capital Letters. Properties procured above those numbers would go to the participant boroughs according in proportion to the staff resources they have contributed through secondment or funding of staff recruited directly by Capital Letters.

#### **Principle 3.**

Boroughs will be able to specify the proportion of each type (PRS, PSL etc.) and size of property that they want, as well as making requests to meet urgent needs for specific property types as they arise. These expressed preferences will guide the Capital Letters procurement strategy, and as much as possible they will be met, bearing in mind that some sizes and types of property are harder to obtain than others.

#### **Principle 4.**

Subject to meeting borough minimum allocations, and fair distribution of additional properties, all properties should be allocated as close to host boroughs as possible, also taking in to account the provisions of the homelessness suitability order as they apply to individual households. This should mean that a much smaller number of households have to move a long distance from their home borough than is currently the case.

#### **Principle 5.**

Any additional properties procured beyond the needs of the participating boroughs may be offered to non-participant boroughs.