

Item No.	Classification: Open	Date: 13 December 2018	Meeting Name: Strategic Director of Place and Wellbeing.
Report title:		Gateway 2 - Contract Award Approval Southwark Regeneration in Partnership Programme Lot A1	
Ward(s) or groups affected:		Newington	
From:		Director of Regeneration	

RECOMMENDATION(S)

That the Strategic Director of Place and Wellbeing in consultation with the Cabinet Member for Social Regeneration, Great Estates and New Council Homes:

1. Approve the award of Lot A1 from the Southwark Regeneration in Partnership Programme (SRPP), Manor Place and Braganza, to Durkan Ltd to deliver 89 new homes of which there are 20 council homes, 1,543m² of commercial space that will be retained by the council and a residual land offer to the council of £4,600,000 with a development period of two years seven months commencing from 22 January 2019 and completing on July 2021.
2. Notes that the award is subject to approval being given for the disposal of the council's land at Manor Place and Braganza on the terms of the development agreement to be entered into with Durkan Ltd pursuant to the contract being awarded.
3. Note that the award is based on the developer's overage payment to the council at 33.3% of sales above the developer's projected total sales of the private units at the final bid submission stage calculated after deducting the projected sales costs not exceeding 5% of actual sales (see paragraph 74).
4. Note that the council will receive a total benefit of £11,300,306 consisting of 20 rented units, preparation costs of £700,306 a land offer of £4,600,000 which is approximately £2,400,306 greater than if the land was sold on the open market with an estimated value of £8,900,000.

BACKGROUND INFORMATION

5. Cabinet agreed on the 27 January 2015 to the creation of the Southwark Regeneration in Partnership Programme (SRPP). This programme will now be consolidated into the council's New Homes Programme. The aim of the programme was to identify a number of council owned sites of varying size and development potential, which could be packaged into individual lots presenting viable opportunities for development and regeneration. These sites could be developed for a range of mixed use schemes, including housing, which would maximise the utility and value of these assets by leveraging the investment and expertise of established developers through a joint partnership.

6. In March 2016 the council ran a tender for Lot A and Lot B of the SRPP using the GLA Framework. The Gateway 2 approved by Cabinet in September 2016 recommended a developer for Lot B it also reported that no development partner had been identified for Lot A. This was due to developers believing that the sites needed further risk reduction, perceived market risks related to Brexit and an unwillingness to bid for lots containing larger sites.
7. Following further viability assessment and market intelligence, Lot A was divided into 6 sub lots (A1, A2, A3, A4, A5 and A6 as shown in Table 1) and on 21 March 2017, Cabinet approved the procurement strategy to secure developers for a repackaged Lot A through the OJEU Competitive Procedure with Negotiation Route with an estimated total Gross Development Value of £278,300,000.

Sites in Lot A

Lot A	Site Name
Lot A1	Braganza Workshops, 42 Braganza Street, SE17 Former council offices & retail premises, Manor Place/Stopford Road, SE17
Lot A2	Former Albion Civic Centre, Albion Street, SE16 Land at Albion Primary School, Albion Street SE16
Lot A3	345 Southwark Park Road, SE16
Lot A4	Land at Cherry Gardens School, Macks Road SE16
Lot A5	Beormund School site at Long Lane (95 Units) and New Beormund School to be developed at the Former Bellenden School site on Reedham Street
Lot A6	South Dock Marina, Boatyard, Plough Way SE16 (201 units). This lot was later removed from this procurement programme and will now be considered in the next programme as part of Lot C or another procurement or development route.

8. The Gateway 1 also included approval for the delegation of the award decision for lots A1 – A4 inclusive to the Chief Executive in consultation with the Cabinet Member for Regeneration and New Homes. However the Gateway 2 now comes under the remit of the Strategic Director of Place and Wellbeing following the creation of the new Place and Wellbeing Department and subsequent to the 3 May 2018 council elections, the cabinet portfolio holder is the Cabinet Member for Social Regeneration, Great Estates and New Council Homes.
9. This report deals with the award of Manor Place and Braganza, Lot A1, as part of the Southwark Regeneration Partnership Programme Lot A.

Procurement project plan (Key Decision)

Activity	Completed by/Complete by:
PIN Notice Published	07/10/2016
Briefed relevant Cabinet member (over £100k)	27/06/2016
Approval of Gateway 1: Procurement Strategy Report	21/03/2017
OJEU notice issued	31/03/2017
Bidders Day held for interested bidders	15/11/2017
Forward Plan for Gateway 2 Decision	07/06/2018

Activity	Completed by/Complete by:
Follow Up individual briefing sessions held	16-18/11/2017
Deadline for SQ responses	18/09/2017
Evaluation completed	01/11/2017
Issue Initial Invitation to Tender	15/11/2017
Closing date for return of tenders	02/02/2018
Evaluation of Tenderers	19-23 February 2018
Negotiation Session 1 held	30/04/2018
Negotiation Session 2 held	19/06/2018
Issue Final Invitation To Tender	06/08/2018
Closing date for return of Final Invitation to Tender	08/10/2018
Evaluation of Tenderers	11/10/2018
Clarifications completed	15/10/2018
Completion of evaluation of tenders	18/10/2018
Complete Gateway 2 draft	01/11/2018
DCRB Review Gateway 2	14/11/2018
CCRB Review Gateway 2	13/12/2018
Notification of forthcoming decision – Five clear working days	21/12/2018
Approval of Gateway 2: Contract Award Report	09/01/2019
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	18/01/2019
Debrief Notice and Standstill Period (if applicable)	21/01/2019
Contract award	22/01/2019
Add to Contract Register	31/01/2019
Contract start	22/01/2019
Publication of award notice in Official Journal of European (OJEU)	23/01/2019
Publication of award notice on Contracts Finder	23/01/2019
Contract completion date	08/07/2021

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

10. This report relates to the land at Manor Place and Braganza, SE16 (Lot A1), which has an estimated total Gross Development Value of £24,210,000 and will deliver:

- 89 new homes of which 25% will be council owned and an additional 15.4% will be intermediate based on habitable rooms (Table 2 breaks this down by tenure and bed size and notes that the split by units equates to 22.5% council owned units and 14.6 % intermediate units); Intermediate units consist of 80% of market rent, London Living Rent or Shared Ownership units.
- Health Centre/Office Space of (745m²) Use Class D1/B1
- Pharmacy/Shop (85m²) Use Class A1 and Café (285m²) Class A3 with associated landscaping and public realm works and 428m² B1 work space at Braganza.
- a land receipt of £4,600,000
- Council's preparatory costs of £700,305
- a potential for overage payment at 33.33% of sales above £38,000,000 projected sales, not exceeding cost of sales of 5% of actual sales and valuation of unsold units. No overage is payable if the expected sales of £38,000,000 is not realised.
- Fourteen apprentices in both trades and administration/professional roles through a combination of direct employer through Durkan or sub contractors or through Durkan's preferred training partner.

11. In addition to the above, the scheme will also deliver private sale homes which will be marketed to Southwark residents in the first instance and this scheme will benefit from plots which fall into the government Help To Buy Scheme which will assist the sales rate.

Lot A1 Accommodation Schedule-Manor Place

	Council Retained units	Intermediate	Private Developer's units	Total
1 Bedroom	5	2	7	14
2 Bedroom	5	5	15	25
3 Bedroom	10	1	6	17
Total Units	20	8	28	56
Percent (%) by habitable room	36%	14%	50%	100%
Total Habitable Rooms	80	28	96	204
Percent (%) by habitable room	39%	14%	47%	100%
Commercial Space	1,115m ²			

Lot A1 Accommodation Schedule-Braganza

	Council Retained units	Intermediate	Private Developer's units	Total
1 Bedroom	0	1	9	10
1 Studio	0		1	1
2 Bedroom-Maisonette	0	1		1
2 Bedroom-Flats	0		11	11
3 Bedroom- Maisonette	0	3	3	6
4 Bedroom- House	0		4	4
Total Units	0	5	28	33
Percent (%) by habitable room	0%	15%	85%	100%
Total Habitable Rooms	0	21	94	115
Percent (%) by habitable room	0	18%	82%	100%
Commercial Space	428m ²			

Lot A1 Combined Accommodation Schedule- Table 2

Tenure	Social Rent habitable rooms (units)	Intermediate rent habitable rooms (units)	Private habitable rooms (units)	Total
Braganza Street	0 (0)	21 (5)	94 (28)	115 (33)
Manor Place	80 (20)	28 (8)	96 (28)	204 (56)
Total habitable rooms (units)	80 (20)	49 (13)	190 (56)	319 (89)
Percentage of total habitable rooms (units)	25% (22.5%)	15.4% (14.6%)	59.6% (62.9%)	100% (100%)

Key/Non Key decisions

12. This report deals with a key decision.

Policy implications

13. The programme has been shaped by the promises and commitments made in the Council Plan, such as building more quality affordable homes of every kind and revitalising our neighbourhoods making them places in which we can all be proud to live and work.

14. The development plan for the borough consists of the Mayor's London Plan, the Core Strategy 2011, the Saved Southwark Plan policies, the Aylesbury Area Action Plan, the Canada Water Area Action Plan, the Peckham and Nunhead Area Action Plan and a revised Canada Water Area Action Plan.

15. The council is now reviewing the Southwark Plan and Core Strategy to prepare a local plan called the new Southwark Plan. This new plan will set out our regeneration strategy from 2017 to 2033 and will also be used to make decisions on planning applications. The new Southwark Plan will go to Cabinet in January 2019 and will:

- Set policies to support the provision of new homes including 11,000 new council homes.
- Protect our existing Schools and community facilities in the borough and provide more where this needed.
- Protect local businesses and attract more businesses into the borough to increase job opportunities.
- Support our high streets and increase the range of shops to increase their vitality.
- Introduce policies to improve places by enhancing local distinctiveness and protecting our heritage assets.
- Set policies to provide greener infrastructure and to promote opportunities for healthy activities.
- Provide visions and policies for the many different areas within Southwark.

Tender process

16. The procurement route that was recommended and approved in the Gateway 1 report was a competitive procedure with negotiation which was used in this procurement as it allowed the council:

- to reserve the right to evaluate and award a contract based on initial tenders (as if it was a restricted procedure); or

- to have some negotiations to clarify aspects of the initial tender with a limited number of bidders.
 - flexibility to select a bidder (based on its written tender) at an early stage or shortlist a number of bidders if it wanted to negotiate any element of their bids.
 - to undertake some negotiations with the bidders to clarify certain aspects of their initial bid and/or address elements which fall short of the council's objectives.
17. The council published one OJEU notice for all Lots, including this tender, against which bidders were asked to register their interest in the tender through the council's e-procurement portal, Procontract 3. Following this each bidder completed a Standard Selection Questionnaire (SQ) and confirmed which lots they would like to bid for. In order to attain the best outcome from this tender and explore different approaches with tenderers, the council confirmed that tenderers could bid for one or more lots. The SQ is a standard document which tenderers were expected to complete only once irrespective of the number of sites they tendered for. However for each lot there was a requirement to respond to some additional site specific questions in the final section of the document.
18. The SQ was evaluated by the council based on agreed criteria and the council shortlisted bidders against each lot as detailed in paragraph 58-59 of the Gateway 1 report that was approved in March 2017. Bidders were notified as to whether or not they had been successful and an Invitation to Tender (ITT) was issued to each successful bidder for their relevant lot/s.
19. Eleven bidders completed the Selection Questionnaire for Lot A1 and the top five were shortlisted to submit an Invitation to Tender in line with the tender documents.

Bidders	Score	Rank
Durkan	81	1
Bidder 2	74	2
Bidder 3	73	3
Bidder 4	72	4
Bidder 5	62	5
Bidder 6	59	6
Bidder 7	53	7
Bidder 8	52	8
Bidder 9	44	9
Bidder 10	38	10
Bidder 11	38	11

20. The Initial Tender for A1 was issued to all five tenderers on 15 November 2017 with the deadline for return of 2 February 2018. During the course of the tender period a few of the potential bidders requested for more time to enable them to submit a competitive tender. The tender return deadline was therefore extended by additional three weeks in order to enable the tenderers more time to work on their proposal.
21. Although all five shortlisted bidders for A1 had confirmed their intention to submit a tender at the start of the tender process and the tender period was extended for an additional three weeks, two of the potential bidders, still decided to pull out of the tender process for the following reasons:

- concerns about the viability of the scheme given the designs and associated construction costs and the level of affordable housing, as at the time of tender there was no confirmed subsidy being provided for the social units. Although there is a possibility of grant/subsidy being available at a later date the council did not include consideration of any additional subsidy/grant at the time of tender as that was an unknown and uncertain quantity.
 - considered that the level of information the council was seeking at the ITT stage was too onerous. However the council considered the information being required was appropriate to identify a developer for this scheme who would be able and willing to deliver a value for money scheme for the council.
 - concerns about risks associated with Third Party risks, project timescale and since they were interested in tendering for the other lots, they felt that their time and resource would be best spent on those lots.
22. At the initial ITT stage all bidders were required to make a full tender submission (including a mark-up of the legal agreements).
23. Once the initial ITT had been evaluated, all three remaining bidders for A1, in line with the tender documentation, were invited to participate in the next stage of the process by attending a number of negotiation sessions. All three bidders were therefore asked to sign and return a meeting protocol prior to the first meeting in order to put in place some guidance and guidelines for the format of the negotiation sessions.
24. During the negotiation sessions for A1 a number of key areas were discussed:
- any proposed design change, as although the council had already attained planning permission for this scheme a number of bidders had submitted an alternative scheme which would either require a new planning application or a minor amendment through Section 96A. Following a rigorous review of options the council notified all bidders that it was only prepared to accept proposals that were either in accordance with the planning permission or which would only require a Section 96A non material amendment as any major amendments to the scheme would have required a new consent which the council was not willing to pursue.
 - Construction and buildability
 - Quality control and management of the supply chain
 - The council's sliding scale for final ITT to determine the point where the council could achieve maximum number of social/affordable units against a break even position for capital receipts.
25. Once the negotiation sessions for A1 were finalised the three bidders on the 6 August were invited to submit a final ITT by 10 September 2018 which incorporated:
- all the aspects discussed/raised at the negotiation meetings
 - the Final Mark Up of the Development Agreement and associated narrative in line with the feedback from the council and Trowers and Hamlin during the negotiation sessions; and
 - a few additional new questions

26. One of the bidders notified the council of its decision to withdraw from the process on the 7 September 2018 as they wished to include as part of their final ITT:
- a new legal structure to deliver the scheme which the council subsequently informed them through clarifications would not be accepted as it was not in line with the ITT requirements; and
 - significant changes from the planning permission that had already been secured which the council similarly informed them would not be accepted as this too was not in line with the council's clarification to all bidders that the only changes which would be accepted would be those that could be classified under Section 96A.

Tender evaluation

27. As detailed in the Gateway 1 and tender documents The tender was evaluated against 30% quality and 70% price.
28. The price submission was evaluated by:
- a. Housing Regeneration Manager
 - b. Independent Property Consultant
 - c. Divisional Accountant
29. The quality submission was evaluated by:
- a. Housing Regeneration Manager
 - b. Senior Planner and Planning Advisor
 - c. Project Manager- Housing and Enabling
 - d. Head of Regeneration-Capital Works and Development
30. Both panels were advised by our external solicitors, Trowers and Hamlins, an in House Lawyer and the Interim Head of Procurement.

Quality Scoring- (30%)

31. The maximum weighted score for the quality evaluation was 30%.
32. The council asked a number of qualitative questions covering a range of areas specific to this project. The Tenderers' response to each question was scored from 0 to 5 and evaluated in line with its associated weighting, as detailed in Table 1.
33. A number of questions within each section also included a threshold for minimum scores, which if tenderers failed to meet the council reserved the right to disqualify the bidder from the process.
34. The Evaluation Panel conducted a 'consensus scoring' processes to moderate the scores awarded during the evaluation process. The moderation has given regard to any variance in the scores between the evaluators, together with the subsequent assessment following any clarification obtained from the Tenderer.
35. Key areas discussed during the negotiation process included the following: Legal Mark Up of the Development Agreement, Tenure mix, design standard, quality control, delivery timeline, consultation and risk management.

36. Although the majority of the questions were the same for the initial and final ITT there were additional questions which tenderers needed to answer which focused mainly on design issues, social values, sustainability and funding. Tenderers also had the option to improve on the responses to the initial tender following feedback and discussions had during the negotiation sessions.

37. The table below details Durkan, and the other two shortlisted bidders scores (Initial ITT only for one of the bidders) for each area for both the initial and final ITT following the consensus scoring process:

Table 1:

Durkan's Qualitative Scores

Area	Out of %	Initial ITT		Final ITT	
		Score	%	Score	%
Programme	12	6	7.20	6	7.20
Design and Quality	34	17	21.00	22	26.00
Risk, Project Methodology and Resources	32	36	29.60	35	28.40
Working in Partnership	12	9	7.20	9	7.20
Social Value	10	14	7.20	15	7.40
Total Unweighted (out of 100%)	100	82	72.20	87	76.20
Final Score - Weighted (out of 30%)	30		21.66		22.86

Bidder 2 Qualitative Scores

Area	Out of %	Initial ITT		Final ITT	
		Score	%	Score	%
Programme	12	6	7.20	6	7.20
Design and Quality	34	24	27.20	23	25.40
Risk, Project Methodology and Resources	32	36	29.60	32	26.60
Working in Partnership	12	9	7.20	9	7.20
Social Value	10	14	7.00	14	7.00
Total Unweighted (out of 100%)	100	89	78.20	84	73.40
Final Score- Weighted (out of 30%)	30		23.46		22.02

Bidder 3- Qualitative Scores

Area	Out of %	Initial ITT		Final ITT	
		Score	%	Score	%
Programme	12	6	7.20	Bidder 3 did not provide a Final ITT submission.	
Design and Quality	34	16	19.20		
Risk, Project Methodology and Resources	32	25	21.40		
Working in Partnership	12	9	7.20		
Social Value	10	14	7.00		
Total Unweighted (out of 100%)	100	70	62.00		
Final Score- Weighted (out of 30%)	30		18.60		

Financial Evaluation (70%)

38. The financial evaluation was scored out of 70% and was broken down against the following criteria:

- 5% Confirmation that the developer understands the development and design requirements of the council
- Pass/Fail on their approach to gaining funding
- 50% capital receipts as detailed in the Viability Template
- 5% confidence in Viability Template (minimum score 3)
- 5% overage (minimum score 3)
- 5% Confidence in the sales value of the private units and costing assumptions (minimum score 3)

39. For the Initial ITT tenderers were asked to provide a bid based against the maximum capital receipt that they could provide when delivering 40.4% affordable housing in accordance with the planning permission.

40. During the negotiation sessions tenderers were asked to provide the council with a sliding scale demonstrating the maximum amount of affordable housing they could provide against a break even position (capital receipts of £0). Although all tenderers demonstrated a positive capital receipt at the initial ITT the decision was taken by the council to maintain the percentage of affordable rooms at 40.4% in line with the planning permission that had already been attained as any change of the scheme would add a risk to delivery both from a planning and viability risk perspective.

41. Tenderers were also required to provide overage offer to the council which will be based on a minimum of 20% of the additional private sales over their proposed gross development value less 5% of the cost of sales.

42. The 50% weighting on the tenderers capital receipts as detailed in the Viability Template was evaluated in the following way with:

- 35% awarded to the Tenderer offering the highest capital receipt with lower offers receiving proportionately fewer marks; and
- 15% allocated by assessing the average level of financial return from all Tenderers with marks awarded by reference to the degree by which the evaluated proposal deviates from the average

43. The total financial scores for Durkan, and the other two shortlisted bidders at Initial and Final ITT is detailed below (all results have been rounded up or down to two decimal point):

Questions	% Weighting	Durkan		Bidder 2		Bidder 3	
		Initial ITT	Final ITT	Initial ITT	Final ITT	Initial ITT	Final ITT
Employers Requirements	5	3	3	3	3	3	No info*
Funding	Pass/Fail	Pass	Pass	Pass	Pass	Pass	
Land Offer	50	45.80	45.90	40.40	26.60	25.40	
Confidence in assumptions	5	4	4	4	4.00	3	
Overage	5	3.73	5	3.35	4.47	5	
Confidence in sales values	5	3	3	3	3	3	
Final Score- unweighted and weighted	70	59.53	60.90	53.75	41.07	39.40	

* Bidder 3 did not provide a Final ITT submission.

Financial and Qualitative Scores

44. The tenderers total qualitative and financial scores for their Final ITT submission were then added together and Durkan was identified as the highest scoring tenderer and, as a result, are being recommended for contract award.

Bidder	Quality out of 30%	Finance out of 70%	Total Scores out of 100%
Durkan	22.86	60.90	83.76
Bidder 2	22.02	41.07	63.09

45. Durkan Ltd obtained at least minimum scores or above on all of the questions for both initial and final tender that had a minimum score.
46. The council has attained best value for this lot as this was a competitive tender and Durkan's submitted the most economically advantageous tender. Further information on how this proposal represents best consideration is detailed in paragraphs 78 & 79 in this report.

Plans for the transition from the old to the new contract

47. N/A

Plans for monitoring and management of the contract

48. One of the Programme Managers in the Regeneration Team will be responsible for managing the programme and a project manager in the team will be responsible for the day to day delivery of the project.
49. The Development Agreement sets out the following reporting arrangements:
- There are processes in place to manage the design process to ensure that the planning application is in line with the council's requirements.
 - The council's clerk of works shall be entitled to attend site meetings and the council and its clerk of works shall have rights in relation to accessing the site to inspect the works.
 - An Independent Certifier will be appointed to sign off practical completion of the units and the council will be entitled to make representations to the Independent Certifier in relation to the sign off of those units being retained by the council.
50. A progress report that will be presented to DCRB every six months.
51. An annual progress report that will be presented to CCRB.

Identified risks for the new contract

52. The following risks have been identified for this Development Agreement:

Risk No.	Identified Risk	Likelihood	Risk Control
1.	Inability to execute development agreement in time to achieve contract start.	Low	Legal Mark Up identifying issues in the DA have been discussed and concluded and the both parties are happy with the outcome.
2.	Failure to achieve planning consent for post-consent revisions results in delay to start on site	Low	The DA gives the council the ability, to ensure that post consent revisions are reviewed and managed effectively.
3.	Delays to the programme and termination of contract before completion of the flats.	Low	Robust monthly meetings to be held to deal with delays and the contract terms will be reviewed on a regular basis. Monthly site meetings will address issues around delays and corrective actions taken.
4.	Failure to achieve Southwark's design standard	Low	DA process for approval of the detailed designs by the council. Effective quality control on site. Monthly site meetings to monitor quality, costs and time. A Clerk of Works and an Independent certifier to be appointed to monitor quality control and compliance to the Design Guide.
5.	Reputational damage due to poor community engagement during the delivery process.	Low	The council will facilitate community engagement and ensure that the developer enables the council to comply with the council's charter principles. As part of the developer's submission, a clear and robust consultation strategy was submitted and the council will monitor the implementation of thi strategy.
6.	Mobilisation/construction delayed due to unforeseen site issues	Low	To evaluate pre construction design and technical issues. Site has been de-risked to a great extent and the process will continue
7.	Developer becomes insolvent or no longer has the capacity to deliver scheme	Low	Robust financial assessments undertaken including independent financial and credit checks of businesses. A recent independent financial credit check undertaken shows a very low risk of the business failing.
8.	Developer fails to meet contract conditions around employment and training and marketing new homes to	Low	To be monitored on a monthly basis. Part of the deliverables agreed at pre contract.

Risk No.	Identified Risk	Likelihood	Risk Control
	local people		
9	Rights of light matters impeding the Development	Medium	The site has now been appropriated and the risk of compensation still exist if the risk crystalises. The risk of an injunction has been removed since the land has now been appropriated.

Community impact statement

53. Preliminary consultation to capture the needs and priority of displaced or impacted groups as a result of the development proposal has been undertaken. Groups engaged under the council’s statutory consultative procedures so far have focused on two distinct communities (geographical communities and community of identify) consultees have been internal stakeholders and residents that lived or accessed services at Manor Place and Braganza
54. The next stage of engagement to fully meet obligations under the Equalities Act 2010 have been noted in this report as well as the following:
- Provide an in-depth equality data collection and analysis
 - Data collection processes will incorporate households and businesses in the vicinity of the site

Social Value considerations

55. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well being of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.

Economic considerations

56. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors engaged by the council to provide works or services within Southwark pay their staff at a minimum rate equivalent to the LLW rate. Durkan have confirmed that they will ensure that LLW will be paid to all staff working on this project as well as sub contractors and consultants who will be working on this project
57. The council can exclude companies who break the law by blacklisting or have not put into place genuine actions concerning past black listing activities. The council can require “self cleaning” which enables a potential contractor to show that it has or will take measures to put right its earlier wrongdoing and to prevent them from re-occurring and to provide evidence that the measures taken by the economic operator are sufficient to demonstrate it has:

- “owned up”: clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities.
- “cleaned up”: taken concrete technical, organisational and personal measures that are appropriate to prevent further criminal offences or misconduct, and
- “paid up”: paid or undertaken to pay compensation in respect of any damage caused.

58. Durkan’s have confirmed that they are not in breach of the requirements under Regulations 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010 as part of the tender submission.

59. Delivery of the Southwark Regeneration in Partnership programme will be subject to Section 106 that will include initiatives for the development and support of many areas which include Employment, Training, Education, Open Space, Transport, etc. This site specifically will provide the following: (please see paragraph 10).

60. Development of the partnership agreement includes a commitment for the developer to promote and use local suppliers and businesses where applicable.

Social considerations

61. The programme will provide high quality new developments that will meet differing housing needs which will include, residential, health, education.

62. This scheme will also provide 14 apprenticeship places in both trades and administration/professional roles through a combination of direct employer through Durkan or sub contractors or through Durkan’s preferred training partner.

63. Establishing a robust and effective Development Partnership will enable the council to maximise the utility, value and quality of buildings being delivered, which will impact greatly on improved social environments for current and future generations, while minimising the long term revenue costs to the council.

64. The new social rent homes will be retained by the council and let on the same basis as existing council homes.

Environmental/Sustainability considerations

65. By investing in high quality and well designed buildings and estates the council aims to achieve positive impacts which will benefit the environment and increase the stock of environmentally friendly buildings within the borough. Durkan have confirmed in their design proposal to provide high quality environment through a considered and detailed landscaping strategy. Amenity and play space provision all meet and exceed the standard set out in the London Plan.

66. Durkan have confirmed that they will work towards achieving zero carbon emission by achieving the council’s target reduction rate for new council homes of 15% by 2020.

67. Delivery of the SRPP will benefit the environment through contributing to the following:

- a. Increasing the quality of the housing being delivered in the borough
- b. Endorsing flood risk management policy

Market considerations

68. Cabinet in October 2015 was advised that successful delivery of the programme in a partnership venture depends on the continued good health of the property market in Southwark. The borough's good communications and improvements in transport infrastructure are good selling points for property sales. Relative to other parts especially in the north and west of London, Southwark still represents good value and will benefit from further enhanced transport links such as the Bakerloo extension. The wider demographics and strong demand generally for living space in London point to continued success. As long as economic factors remain positive, demand is anticipated to remain high.
69. The latest market indices (Right Move - October 2018) indicate that prices in Greater London have risen by 1.4% in the last month and have fallen by 1.1% in the year to October. In Southwark prices rose by 0.7% over the past month and fell by 1.2% in the year to October. Whilst the market demand has undoubtedly softened the data shows that price levels have maintained their level over the last 12 months.
70. The average London property asking price in October was £625,064, with the average Southwark asking price being £643,870.
71. Durkans Limited was established in 1970 and has grown from a small family contractor to become a leading construction and development company in London and the Home Counties. Durkan has established its name as a community contractor with a talent for working with local communities to deliver successful schemes.

Staffing implications

72. The Housing Regeneration Programme Manager has the overall responsibility for the operational delivery of the programme. The Head of Regeneration, Capital works and Development will ensure that the programme is adequately resourced and delivered to the council's objectives, policies and procedures.

Financial implications

73. The net capital returns from the appraisals have not taken into account any grant input or planning and sales overage. GLA and Housing Zone Grant may be available to subsidise the scheme costs. The estimated grant for the 20 social rental units is £1,140,000 which will be payable to the council from the GLA to subsidise the council's scheme cost. A Parent Company Guarantee will be provided by Durkan's Parent Company.
74. The agreed sales overage payment to the council will be 33.33% of sales revenue received above the developer's projected total sales of the private units and the valuation of the unsold units, less projected sales cost not exceeding 5%. This will be calculated 12 months after practical completion of the development. No overage will be payable if the developer fails to achieve a sales revenue beyond the agreed sales of the private units at bid stage.
75. The council's preparatory costs of £700,306 will be paid by the developer as soon as the building lease is signed to commence the development.
76. The financial offer for the land of £4,600,000 will be paid no later than the sale of the first private unit is achieved.

Income Summary

Housing Zone Grant	£1,140,000
Recoverable cost	£700,306
Financial land offer	£4,600,000
Overage- Estimated	33.33% of sales revenue above the agreed sales revenue of the private units at bid stage less cost of sales not exceeding 5%
Total Income Excluding Overage payment	£6,440,306

77. Section 123 of the Local Government Act 1972 permits the council to dispose of (most types of non-housing) land without the Secretary of State's consent providing that this is done for not less than the best consideration that could reasonably be obtained. If this is to be relied on the Council will have to achieve and evidence this. The report indicates at paragraph 79 that the consideration the council will receive for the disposal of the land is the best that can reasonably be obtained. In addition, the council may receive additional payments by way of overage based on the values achieved on the sales of the private units. Manor Place was a former council offices which have been vacant and unused for a long time and Braganza is a large warehouse which is not used to full capacity. The land has now been appropriated from one of its functions to another if the said land is no longer required for the purpose for which it is held. This power is contained in Section 122 of the Local Government Act 1972. The site has now been appropriated.

Investment implications

78. The scheme has been competitively tendered on the open market via the OJEU and the council undertook a series of detailed negotiations and clarifications during the procurement process to ensure that the scheme is de-risked and reduce the development risks significantly. The residual land offer to the council is also a fixed sum of £4,600,000 as well as the payment to the council a significant amount of the council's preparatory costs of £700,306 and 40.4% affordable habitable rooms which includes 20 social rented units.

79. Given the current uncertainties in the current market this is a good offer and is recommended for acceptance. The value of the 20 social rented units based on an average of £300,000 is equivalent to £6,000,000 plus the land offer of £4,600,000 and the refundable council's preparatory cost of £700,306 gives a total benefit to the council of £11,300,306. The residual land value of the site if the site was sold in its current state has been valued by the council's property team at approximately £8,900,000 and this therefore represents best consideration.

80. The final submission from Durkan that now forms part of this report meets with the council's requirements in terms of the number of 1, 2 and 3 bed units which is in compliance with Southwark's Planning Guidance and also ensures that the proposed development mix was based on habitable room basis and not just by unit numbers as shown in Table 2 above.

Second stage appraisal (for construction contracts over £250,000 only)

81. An independent financial check has recently been done through MINT UK and with a favourable score of 95) which means the likelihood of failure is 0.9%.

Legal implications

82. Please see the supplemental advice of the director of law and democracy at paragraph 92.

Consultation

83. A robust consultation strategy to involve internal and external stakeholders is central to the delivery of this programme. Internal and External stakeholders have been consulted in developing this scheme so far. Once the developer is appointed, the consultation strategy will be followed in detailed to ensure that maximum participation is achieved in the development and delivery of this project.

84. Ward Councillors have been updated on progress so far and continuous update will continue during the life of the project.

85. An extensive community involvement strategy was set out for the SRPP, this consisted of community and online consultations and a public exhibition presenting the final design proposal and were relevant highlighted changes that were made to the scheme during the consultation process. The following consultations were held:

- a. First consultation was held on 28 January 2016 – 33 resident attended.
- b. Second consultation (online) was held from 31 May – 31 June 2016 - 40 residents visited
- c. Third consultation (final exhibition) 15 September 2016.- 45 residents attended

86. As part of the planning processes further opportunities was offered to residents and local businesses to comment on the development proposal. In addition to these key events the SRPP design team met with stakeholders and individuals most impacted by the proposed development. (see stakeholders Table below)

No	Manor Place and Braganza Stakeholder Consultees
1	The Royal British Legion
2	Doddington TRA
3	Keyworth Primary School
4	Chapel Nursey
5	Party Wall residents
6	Local businesses and Charities
7	Friends of Pasley Park
8	Walworth Society
9	Shop Owners
10	Local Doctors Surgery

Other implications or issues

87. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance (< Finance Concurrent Reference Number >)

88. This report is recommending the Strategic Director of Place and Wellbeing approves the award of the SRPP Lot A1 (Manor Place and Braganza sites) to Durkan Limited. The award of this contract will deliver 20 new council homes, and generate a land receipt of £4.6m for the council, as well as providing 1,543m² of commercial space. In addition to recovering its preparatory costs and the commercial space, when taking into account the value of the new council homes and land receipt, the council will receive a benefit of £10.6m in exchange for land with an estimated open market value of £8.9m. The council may benefit further from sales overage and also from the award of grant from the GLA estimated at £1.1m to subsidise the scheme costs. The delivery of new homes will contribute towards the council's ambitious plan to deliver 11,000 new council homes by 2043.

Head of Procurement

89. This report seeks approval from the Strategic Director of Place and Wellbeing in consultation with the Cabinet Member for Social Regeneration, Great Estates and New Council Homes for the award of Lot A1 from the Southwark Regeneration in Partnership Programme (SRPP), Manor Place and Braganza, to Durkan Ltd to deliver the outcomes detailed in paragraph 10 over a development period of two years seven months commencing from January 2019 subject to approval being given for the disposal of the council's land at Manor Place and Braganza as detailed in paragraph 2.
90. The contract/development agreement is subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). As noted in paragraph 17, the procurement was undertaken in accordance with regulation 29 of the PCR15 and the council's Contract Standing Orders. The tender followed a competitive procedure with negotiation with initial and final tenders evaluated against 70% price and 30% quality. Durkan is recommended for award as they submitted the most economically advantageous tender. This represents best consideration as the council will receive a total benefit of £11,300,306 which is approximately £2,400,306 greater than if the land was sold on the open market with an estimated value of £8,900,000, further details are provided in paragraphs 78 and 79.
91. The report confirms the monitoring and management arrangements that will be in place during the life of the contract including how apprentices taken on by the contractor as a result of this contract will receive the necessary skills training.

Director of Law and Democracy

92. This report seeks the strategic director of place and wellbeing's approval to the award of contract for lot A1 (SRPP) to Durkan Limited as further detailed in paragraphs 1-4. As noted in paragraph 2, the award is subject to approval being given for the disposal of the land and the timeline allows for such approval to be obtained.

93. The contract/development agreement being procured is subject to the full tendering requirements of the Public Contract Regulations 2015 (PCR15). As noted in paragraph 16, the procurement was undertaken in accordance with regulation 29 of the PCR15 and followed a competitive process with negotiation. Evaluation of the initial and final tenders received has been completed following the tender evaluation methodology set out in the tender, with Durkin Limited being identified as having submitted the most economically advantageous tender, and therefore recommended for award.
94. Section 1 of the Localism Act 2011 provides local authorities with a broad power to do anything that individuals may do subject to any specific restrictions on local authorities contained in legislation. This legislation empowers the council to enter into the arrangements proposed by this report. The council has the power to dispose of land which is not held for housing purposes under Section 123 of the Local Government Act 1972 as long as the consideration is the best that can reasonably be obtained. Paragraph 79 confirms that the consideration represents the best that can reasonably be obtained. An option to dispose (as is granted by the development agreement) is also a disposal for the purposes of the Act.
95. The proposed development agreement is a legally binding agreement under which all parties including the council have obligations and responsibilities which in the event they are not fulfilled may give rise to legal liabilities.
96. The strategic director's attention is drawn to the Public Sector Equality duty (PSED General Duty) under the Equality Act 2010, and when making decisions to have regard to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, The duty also applies to marriage and civil partnership but only in relation to (a). The strategic director is specifically referred to the community impact statement at paragraphs 53-54, setting out the consideration that has been given to equalities issues and to the consultation which has taken place (noted in paragraphs 83-86) which should be considered when approving the recommendations in this report.
97. Contract standing order 2.3 requires that no steps should be taken to award a contract unless the expenditure has been approved. Paragraphs 73-77 confirm the financial implications of this award.

Director of Exchequer (for housing contracts only)

98. NA

PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature 

Date.....15/01/2019.....

Designation .Prof. Kevin Fenton. Strategic Director of Place and Wellbeing

PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:

- 1) All key decisions taken by officers
- 2) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

1. DECISION(S)
As set out in the recommendations of the report.

2. REASONS FOR DECISION
As set out in the report.

3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION
Not applicable.

4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION
Not Applicable

5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST
<i>If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.</i>
Not Applicable

6. DECLARATION ON CONFLICTS OF INTERESTS
I declare that I was informed of no conflicts of interests.

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Title of document(s) Gateway 1 Procurement Strategy Approval Southwark Regeneration In Partnership Programme	Regeneration/ Place and Wellbeing	Prince Kamanda 0207-525 7480
Link: X:\Housing\Housing regeneration initiatives\Major regeneration projects & SEI schemes\Housing Regeneration Programme\Procurement\Reports\Report Gateway 1 - Procurement Strategy Approval Southwark Regeneration in Partnership Programme Pr.pdf		
Title of document(s) Gateway 1 SRPP Procurement Approval Cabinet Report	Regeneration/Place and Wellbeing	Prince Kamanda 0207-525 7480
Link: X:\Housing\Housing regeneration initiatives\Major regeneration projects & SEI schemes\Housing Regeneration Programme\Procurement\Development Partner\Cabinet Report\Gateway 1\Gateway 1 - SRPP Procurement Approval Cabinet Report Oct 2015 Final.pdf		

APPENDICES

No	Title
Appendix 1	Insert title of document

AUDIT TRAIL

Lead Officer	Kevin Fenton/Michael Scorer	
Report Author	Prince Kamanda	
Version	Final	
Dated	14 December 2018	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes/No
Head of Procurement	Yes	Yes/No

Director of Law and Democracy	Yes	Yes/No
Director of Exchequer (for housing contracts only)	NA	NA
Cabinet Member	Yes	Yes/No
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes/No
Cabinet	NA	NA
Date final report sent to Constitutional/Community Council/Scrutiny Team		

BACKGROUND DOCUMENT – CONTRACT REGISTER UPDATE - GATEWAY 2

Contract Name	Southwark Regeneration Partnership Programme (SRPP) LOT A
Contract Description	Development Partnership Agreement
Contract Type	Development Agreement
Lead Contract Officer (name)	Prince Kamanda
Lead Contract Officer (phone number)	0207-525 7480
Department	Chief Executive
Division	Regeneration
Procurement Route	OJEU
EU CPV Code (if appropriate)	NA
Departmental/Corporate	Departmental
Fixed Price or Call Off	Fixed Price
Supplier(s) Name(s)	Durkan Ltd
Contract Total Value	£24,210,987
Contract Annual Value	NA
Contract Start Date	January 2019
Initial Term End Date	
No. of Remaining Contract extensions	Nil
Contract Review Date	N/A
Revised End Date	
SME/ VCSE (If either or both include Company Registration number and/or registered charity number)	NA
Comments	none
London Living Wage	Yes

This document should be passed to the member of staff in your department responsible for keeping your departmental contracts register up to date.