

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 10 November 2019	<b>Meeting Name:</b> Strategic Director of Place and Wellbeing
<b>Report title:</b>		<b>Gateway2 – Supplemental Decision</b> Amendment to Gateway 2 Contract Award SRPP Lot A1- Manor Place/Stopford Road SE17 and 42 Braganza Street SE17- Land Adjustment Clause.	
<b>Ward(s) or groups affected:</b>		Newington	
<b>From:</b>		Head of Regeneration	

*Notification of Decision for Urgent Implementation*

### **RECOMMENDATION(S)**

That the Strategic Director of Place and Wellbeing:

1. Approves a revised land offer by Durkan from £4,600,000 to £3,950,000 which will be payable in two tranches as follows:
  - £1,000,000 paid on first legal completion.
  - £2,950,000 paid on last legal completion.

### **BACKGROUND INFORMATION**

2. A Gateway 2 for Lot A1 was approved by the Strategic Director of Place and Wellbeing on 15 January 2019, and the decision is now implementable, following the expiration of the standstill period and scrutiny call in period. Whilst Durkan have been informed of the intended decision, the contract has not yet been awarded pending finalisation of the terms and conditions, which are in discussion. Please refer to the Gateway 2 dated 13 December 2018 for further details.
3. The reason for the proposed revised land offer by Durkan is due to a fall in residential sales prices related to Brexit and loss of confidence in the market.
4. The council had since sought professional valuation advice from a Chartered Surveyor on Durkan's offer to ensure the offer represents best consideration in accordance with s32 of the Housing Act 1985 and s123 of the local government 1972 act. The council will still be entitled to overage payment in the event that the total sales income for the private units exceeds £39,000,000 as was stated in the final ITT. The total land receipt will now be £3,950,000. The revised land offer is still significantly higher than the second highest land offer on this tender.
5. There is evidence of falling residential values and therefore an increased level of risk for all developers building in central London. That said, the sites are close to Kennington Tube station and there could be

a recovery by the time the homes are offered to the market. Demand is still evident for home purchase in central London and sales could recover once confidence returns.

6. The two lowest tenderers at the final ITT were Durkan and another and their total qualitative and financial scores were as follows; and when added together Durkan was identified as the highest scoring tenderer and as a result was 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
Another	22.02	41.07	63.09

Durkan's land offer was £4,600,000 and the other offer was £2,062,500. Durkan's revised land offer has been re-evaluated and the scores are as shown below.

Bidder	Quality out of 30%	Finance out of 70%	Total score out of 100%
Durkan	22.86	59.4	82.26
Another	22.02	42.10	64.12

## KEY ISSUES FOR CONSIDERATION

### Key Aspects of Proposed Variation

7. The reason given for the proposed change by Durkan is due to a fall in residential sales prices related to Brexit and loss of confidence in the market.
8. A revised offer from £4,600,000 to £3,950,000 subject to the following:

Land Offer of £3,950,000 payable as follows:

- £1,000,000 paid on first legal completion.
- £2,950,000 paid on last legal completion.

The overage remains at 33%, but the trigger is increased to £39,000,000 from £38,000,000.

### Key/Non Key Decisions

9. Key Decision

## **Policy Implementation**

10. This supplemental Gateway 2 relates to a change in the land offer by Durkan from £4,600,000 to £3,950,000 and all other implications relating to this gateway report are noted in the original Gateway 2.

## **Alternative Options Considered**

11. As stated above

## **Identified risks for the Variation**

12. If the Council does not accept Durkan's proposed change and Durkan consequently withdrew from the procurement the Council would need to seek advice as to whether it could appoint the other bidder as its preferred bidder (whose offer is lower than the revised Durkan proposal) or otherwise consider other delivery options for this site.
13. If this scheme is further delayed, the potential costs can result in additional cost as the developer's project team have been appointed to deliver the project based on the agreed programme.

## **Policy implications**

14. This supplemental Gateway 2 relates to a change in the land offer to be paid by Durkan to the council, and all other implications relating to this gateway report are noted in the original Gateway 2.

## **Plans for monitoring and management of the contract**

15. This supplemental Gateway 2 relates to a change in the land offer to be paid by Durkan to the council, and all other implications relating to this gateway report are noted in the original Gateway 2.

## **Community Impact Statement**

16. This supplemental Gateway 2 relates to a change in the land offer to be paid by Durkan to the council, and all other implications relating to this gateway report are noted in the original Gateway 2.

## **Social Value considerations**

17. This supplemental Gateway 2 relates to a change in the land offer to be paid by Durkan to the council, and all other implications relating to this gateway report are noted in the original Gateway 2.

## **Economic considerations**

18. This supplemental Gateway 2 relates to a change in the land offer to be paid by Durkan to the council, and all other implications relating to this gateway report are noted in the original Gateway 2.

## **Social considerations**

19. This supplemental Gateway 2 relates to a change in the land offer by Durkan to the council, and all other implications relating to this gateway report are noted in the original Gateway 2.

#### **Environmental/Sustainability considerations**

20. This supplemental Gateway 2 relates to a change land offer by Durkan to the council and all other implications relating to this gateway report are noted in the original Gateway 2.

#### **Financial Implications**

21. This supplemental Gateway 2 relates to a change in the land offer to be paid by Durkan to the council, and all other implications relating to this gateway report are noted in the original Gateway 2.

#### **Investment Implications (Housing Contracts only)**

22. NA

#### **Legal Implications**

23. The Development Agreement has now been drafted to make provision for the change in the land value and payment terms as stated in paragraph 8. This supplemental Gateway 2 relates to a change in the land offer to be paid by Durkan to the council, and all other implications relating to this gateway report are noted in the original Gateway 2.

#### **Consultation**

24. NA

#### **Other implications or issues**

25. None

#### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

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

26. See Closed report

##### **Head of Procurement**

27. See closed report

##### **Director of Law and Democracy**

28. This report seeks the approval of the Strategic Director of Place and Wellbeing to a change in the land offer being made by Durkan Limited

in relation to the development agreement for Lot A1 of SRPP as further detailed in paragraph 1. This is a change to the land offer originally noted in the Gateway 2 approval dated 15 January 2019, and is required for the reasons set out in paragraph 4.

29. The Lot A1 procurement was undertaken using the competitive procedure with negotiation. Under the Public Contracts Regulations 2015 (the Procurement Regulations) there is no opportunity for further negotiation with the preferred bidder when using this procedure and therefore any changes made to Durkan's final tender offer gives rise to a risk of procurement challenge. The council is being advised by external legal advisers in respect of the award who advise that this risk is mitigated on the basis that the proposed change:

- a. Would not have affected the outcome of the procurement exercise and the selection of Durkan as the preferred bidder as demonstrated in paragraph 6 in this report.
- b. Does not alter the Council's requirements for the scheme as communicated to prospective bidders.

30. If the Council does not accept Durkan's proposed change and Durkan consequently withdrew from the procurement the Council would need to seek advice as to whether it could appoint the other bidder as its preferred bidder (whose offer is lower than the revised Durkan proposal) or otherwise consider other delivery options for this site.

31. All other legal advice in respect of the award of this contract is noted in the original gateway 2 dated 15 January 2019.

**Director of Exchequer (for housing contracts only)**

32. NA

**Director of Education (for schools contracts only)**

33. 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.....

Designation .....

**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**

**4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION**

**5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST**

*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.*

**6. DECLARATION ON CONFLICTS OF INTERESTS**

**I declare that I was informed of no conflicts of interests.\***

**or**

**I declare that I was informed of the conflicts of interests set out in Part B4.\***

(\* - Please delete as appropriate)

## BACKGROUND PAPERS

Background Papers	Held At	Contact
Title of document(s) Gateway 2 SRPP Contract Award SRPP LOT A1	Place and Wellbeing, Regeneration	Prince Kamanda-0207-5257480
Link: (Insert hyperlink here)		
X:\Housing\Housing regeneration initiatives\Major regeneration projects & SEI schemes\Housing Regeneration Programme\Procurement\LOT A1 Contract Award\GW2 OPEN Southwark Regeneration in Partnership Programme Lot A1.pdf		
Title of document(s)	Title of department / unit Address	Name Phone number
Link: (Insert hyperlink here)		

## APPENDICES

No	Title
Appendix 1	Insert title of document
Appendix 2	Insert title of document
Appendix 3	Insert title of document
Appendix 4	Insert title of document
Appendix 5	Insert title of document
Appendix 6	Insert title of document

## AUDIT TRAIL

<b>Lead Officer</b>	Bruce Glockling	
<b>Report Author</b>	Prince Kamanda	
<b>Version</b>	Final	
<b>Dated</b>	11 November 2019	
<b>Key Decision?</b>	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (for housing contracts only)	NA	NA
Cabinet Member	NA	NA

<b>Contract Review Boards</b>		
Departmental Contract Review Board	No	No
Corporate Contract Review Board	No	No
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional/Community Councils/Scrutiny Team</b>		NA