

**PART 2 – CONFIDENTIAL FACTS AND ADVICE**

<b>MD1338</b>	
<b>Title:</b>	Offley Works

*Information may have to be disclosed in the event of a request under the Freedom of Information Act 2000. In the event of a request for confidential facts and advice, please consult the Information Governance team for advice.*

<p><b>This information is not for publication until the stated date, because:</b>                  It contains commercially sensitive information, the disclosure of which could prejudice the commercial interests of the GLA / GLA Land and Property Ltd and Offley Works Ltd. The information is therefore covered by section 43(2) (commercial interests) of the Freedom of Information Act 2000.</p>
<p><b>Date</b> at which Part 2 will cease to be confidential or when confidentiality should be reviewed:                  To be reviewed after September 2014.</p>

<p><b>Legal recommendation on the grounds of keeping the information confidential:</b>                  The information in Part 2 below is information the disclosure of which would be likely to prejudice the commercial interests of the GLA/GLAP. It is therefore covered by Section 43(2) (commercial interests) of the Freedom of Information Act 2000. It contains information relating to the value and price of the property.</p>
<p><b>Legal Adviser</b> - I make the above recommendations that this information should be considered confidential at this time</p> <p><b>Name:</b> Andrew Romaner <span style="float: right;"><b>Date:</b> 12<sup>th</sup> May 2014</span></p>

*Once this form is fully authorised, it should be circulated with Part 1.*

<p><b>Confidential decision and/or advice:</b></p>
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<b>Current obligation / agreement</b>	<b>Proposed variation</b>	<b>Rationale for variation</b>	<b>Mechanism</b>
No current obligation	Addition of buyback provision in form of an	The option to buy back is designed to compel OWL to commence	Option to be noted on the title

	option allowing GLAP to buyback the site for £2.4m less GLAP costs, if the building contract has not been let and/or work has not commenced 4 months from completion of sale. This option to buy back will be noted on the title. Costs are estimated to be circa £110k (SDLT @ 4% = £96k and £14k for legals).	works and must be exercised within 10 months of completion.	
GLAP responsibility to remove 3 <sup>rd</sup> party rights on the site	To remove this obligation.	These should not pose a threat to delivery and this reduces GLAP responsibility & future costs	Deed of variation

**Issues to be addressed by the developer:**

- 1.1. Onerous planning conditions – A couple of the planning conditions will make construction & development access difficult, but not impossible. The developer will have to decide how to address these moving forward.
- 1.2. 3<sup>rd</sup> party rights – A couple of the adjoining properties have claimed access rights over the property, but there is no formal evidence to prove these rights. The developer is aware of these claims and has a strategy in place to address them

**Finance comments:**

- 1.3. Tax implications of the potential buy-back option are given below although this is considered unlikely to be exercised.

**VAT**

- 1.4. GLAP has opted to tax the land and buildings at Offley Works and as such VAT will be charged by GLAP. The documentation with OWL and the sale agreement must ensure that VAT can be charged (OWL should be able to reclaim this VAT and should not be an issue).

**SDLT**

- 1.5. If the buy- back is exercised, we anticipate that OWL will seek to charge VAT which will be reclaimable by GLAP. If VAT is charged, SDLT at 4% will payable by GLAP on the buy-back

on the VAT inclusive amount of £2.88m - the SDLT cost will therefore increase from £96k to £115,200. OWL can elect to charge VAT at any time before the buyback is exercised. Since SDLT is calculated on the VAT inclusive price this would have the effect of increasing the SDLT cost for GLAP by £19,200 and total costs to £129,200.

### **Corporation Tax**

- 1.6. It is unlikely that corporation tax will be payable on this transaction.

### **Financial Implications of Land Transfer**

- 1.7. The proposed variation includes the transfer of Land to OWL, required to facilitate the financing of the works. However Eversheds, the GLA's retained Solicitors for this variation, have confirmed that the transfer of title will not be effected until the full consideration is confirmed as received.
- 1.8. Financing of £5.6m has been approved subject to confirmation from the lender's Solicitor that they are in receipt of signed security documents, as per the terms and conditions of the loan.
- 1.9. The loan will be released to the developer's solicitor, Travers Smith, who will transfer a sum of £2.4m to the Eversheds Client Account, where the funds will be held pending formal completion of the transfer. Upon formal completion, monies will be released to Eversheds, who will then send the dated Transfer to Travers Smith and remit the completion monies to the GLA. The transfer will only be completed when Eversheds are in receipt of the completion monies.