

## **Appendix 1 – Overage Best Practice**

### **Business Case Development – informing the nature of the commercial deal**

- For all Commercial ventures, a Business Case should be developed detailing among other things the Commercial arrangements that will be put in place for all involved parties. This should include an options analysis of the contracting routes available to ensure that the Council secure an arrangement that is likely to secure the best outcomes, both in terms of delivery but also value for money.
- The Benefits of the arrangement should also be stated at the outset and then subsequently assessed as to whether the project has delivered the expected aims.

### **Due Diligence**

- Due diligence should be carried out for all Commercial ventures of this nature. Specifically, due diligence should consider risks within these areas:
  - Financial
  - Economic
  - Regulatory
  - Operational
  - Reputational
- This review should be carried out with input from the Development Team and the Commercial Governance teams that will ultimately own the contracting arrangements. A record of the due diligence should be stored to act as an audit trail of the risks considered and any mitigations devised on a Shared Drive with the contractual agreements.
- The Council should develop a framework for ongoing due diligence to ensure that the risk assessments are refreshed on an ongoing basis, such as annually, to ensure that the assumptions and conclusions remain relevant.

### **Information Storage**

- Key documentation including all contractual agreements, financial models, appraisals should be stored in a central location such as a Network Drive/Sharepoint site, ideally an area where the development team and Commercial Governance/Finance can review.
- Access to any financial model should be restricted to those that need it to prevent accidental data change, while also ensuring that management of the model is not exclusive to one person to avoid a single point of failure risk.
- In addition, it is good practice for any complex financial models to be independently assessed to give assurance that they work correctly and accurately reflect the terms of the agreement.

### **Management and Risk Management**

- The Council should consider the benefits of developing a RACI matrix for management of commercial agreements and models such so that ownership of tasks such as maintaining and updating models/agreements are clearly laid out and understood, as well as those who are ultimately responsible for the agreement.

- For all contracts or Commercial agreements, the Council should allocate a Contract/Agreement Manager to oversee the contract that has the right level of skills/experience to manage the agreement and engage with counterparties.
- Good practice would have all agreements of this nature managed/maintained in a central area and a RACI chart outlining who is responsible for what in managing the arrangement and who is ultimately accountable for the project at Exec/Directorate level.
- Contract Management Plans should be created for all complex commercial agreements/contracts to act as a useful summary of all key requirements.
- At the minimum, there should be a schedule of the trigger points which the Council need to be aware of which will require testing/validation so these can be appropriately planned for.

### **Commercial Governance and assurance**

- The Commercial Governance function should ensure there is a governance and assurance framework for future agreements of a similar nature which sets out the expected level of assurance which is required/will be carried out as part of the management of the commercial arrangements.
- There should be an appropriate forum within the Council where all progress under development agreements are reviewed, at least quarterly (monthly is good practice). Ideally this would be chaired/led by Commercial Governance with input from development and associated directorates within the Council.
- There should be established an expected standard of reporting for all projects in terms of frequency and templates so that partners and JVs are clear what they need to provide to validate claims on property costs/disposals etc and the financial model can therefore be reliably updated.
- It is good practice for the Council to carry out relevant audits of the control environment of Partners and JVs to give assurance that the information being provided is reliable and the conditions of the contract are being met.
- Given the association and therefore reputational risk associated with Joint Ventures and business relationships, the Council should gain assurance that property development is being carried out in such a way that it is not to the detriment of the Council in the local area.

### **Portfolio Level Review**

- The Council should carry out a portfolio review to understand which contracts/agreements have the right to audit and where this has been enforced and where it has not.
- The Council should explore what systems are available to bring together all contracts/commercial arrangements into a central repository to support consistent management. Management of a system of this type should be owned by Commercial governance.