

## **APPENDIX A : FINAL REPORT AND AUTHORISATION**

- 1 Some elements of the detailed contract remain to be finalised and will be confirmed in a final report to the Director of Environment & Neighbourhoods seeking authority to enter into the contract.
- 2 This will be supported by a report from the City Council's external legal advisers, DLA Piper, which is anticipated to:-
  - § confirm the City Council's statutory powers to enter into the contract;
  - § provide advice on the terms of that contract documentation;
  - § advise on the steps taken to check the terms of supporting financing documents and sub-contracts, that they are satisfactory from the City Council's point of view and due diligence undertaken; and
  - § comment on the enforceability of the payment mechanism.
- 3 It is also anticipated that the report will support the proposed certification of the PFI contract and of the direct agreement between the City Council and the contractor and senior lender under the Local Government (Contracts) Act 1997, together with any other certificates deemed necessary. These certificates are required to provide protection to the PFI contractor and senior lender against the consequences of the transactions being outside the City Council's statutory powers.
- 4 Authority for any necessary additional arrangements for execution and certification of documentation at close will be sought from the Director of Environment & Neighbourhoods. The Director is authorised under part 3 section 3E of the officer delegation scheme approved in February 2010 to:-
  - (a) approve the terms of all project related contractual, property and other documentation; and
  - (b) make arrangements for and approve any delegations necessary to effect commercial and financial close including any amendments to such documentation at commercial and financial close;subject to:-
  - § approval by the relevant Government Department or other relevant body of the Final Business Case for the project (if applicable); and
  - § the Director being satisfied that the project remains within scope and affordability limits approved by Executive Board.
- 5 It is proposed that the Director of Environment & Neighbourhoods will continue to approve all project specific issues to financial close, and give such final approvals to the project, in relation to the approval of the terms of the transaction and the conclusion of the contracts. This would be conditional on the outcome of the receipt of the report from DLA Piper as outlined above.

- 6 Confirmation of such decisions and approvals will be provided for information to Executive Board following contract signature.