

# RENEW THE BLUE



# BID

PROPOSAL FOR  
THE BLUE BERMONDSEY  
BUSINESS IMPROVEMENT DISTRICT



# RENEW THE BLUE

## THE BLUE BERMONDSEY BUSINESS IMPROVEMENT DISTRICT

This document is to be read in conjunction with the document entitled 'The Blue Bermondsey BID: A Proposal for a Business Improvement District'. This was forwarded to all hereditaments on the ballot electoral register in May 2014. A PDF version of this document is available on the Blue Bermondsey website, as hard copy from [info@thebluebermondsey.co.uk](mailto:info@thebluebermondsey.co.uk), by telephone on 07904 020 773, or by writing to:

**The BBBA, Duns Deli, 9 Market Place, Bermondsey, London SE16 3UQ**

The contents of this document are subject to amendment in respect of the detail. The BID Arrangements have been agreed by the Blue Bermondsey BID Steering Group. The Operating Agreement and Baseline Agreement are illustrative and the subject of discussions between the Blue Bermondsey BID Steering Group and Southwark Council. They will come into effect only if the Blue Bermondsey Business Improvement District is approved at ballot.

The Articles of Association will appear later when the Blue Bermondsey BID Company is formed. If there are any aspects of the document which need further clarification please do not hesitate to contact the Blue Bermondsey BID Steering Group as indicated above or through telephoning the BBBA Chair Russell Dryden on the number above.

## CONTENTS

### **p2. Draft BID Arrangements**

These provide further definition of the area which supplement the map published in the proposal, explaining how the levy is calculated and applied, how the ballot will operate and how the Business Improvement District may be terminated or altered. It also refers to the structure of the Business Improvement District board and collection of the levy. More details on these items appear elsewhere in the document with the publication of the Articles of Association and the Operating Agreement.

### **p10. Draft Operating Agreement**

This is an assessment between the Council and the Blue Bermondsey BID Steering Group in respect of the collection of the levy by the Council and its subsequent passing on to the Blue Bermondsey BID. The obligations of each party in respect of performance monitoring and reporting are made clear. It also covers failure to pay and/or collect enforcement and bad debt procedures.

### **p22. Draft Baseline Agreement**

This agreement captures and sets out what the Council is currently undertaking to provide within the area of the proposed Blue Bermondsey Business Improvement District. It also specifies what Blue Bermondsey BID will provide by way of supplementary services (if any).

### **Articles of Association**

This document will appear later in the event of a successful ballot outcome and when the Blue Bermondsey BID Company is formed.

## THE BLUE BERMONDSEY BUSINESS IMPROVEMENT DISTRICT

### DRAFT BID ARRANGEMENTS

This section sets out in further detail the technical and budgetary information relating to how the Blue Bermondsey Business Improvement District (BID) in the London Borough of Southwark will operate.

#### 1. DEFINITIONS

Definitions in these Arrangements are as per the Business Improvement Districts (England) Regulations 2004.

#### 2. WHO IS PROPOSING THIS INITIATIVE?

The BID proposer is the Management Committee of the Blue Bermondsey BID Steering Group. This body will develop the BID proposal and – in the event of a successful BID ballot – will be incorporated as a company limited by guarantee called The Blue Bermondsey Business Improvement District (BID) Ltd.

#### 3. THE BID DURATION AND THE BID BODY:

In the event of a successful BID ballot, the Blue Bermondsey BID will be five years in duration and will begin to operate from 1st October 2014 and run until 30th September 2019. The Blue Bermondsey BID Ltd will be the body responsible for implementing the BID arrangements.

Before the end of this period this body may choose to seek renewal of the BID for a further five years.

The directors of The Blue Bermondsey BID Ltd will aim to secure representation at the following levels or higher:

- 2 Large Business (defined as having 20 employees or more)
- 4 Small Business (defined as having fewer than 20 employees)
- 1 Landowner
- 1 Occupier (drawn from Voluntary Members)

The breakdown reflects that of the businesses in the BID area and should ensure a representative body to lead the development of The Blue Bermondsey BID.

The following representatives may also sit on the Board but shall not be entitled to vote;

- 1 representative of Southwark Council
- 2 strategic agency representatives
- 1 member representing local residents' organisations

If places on the Board cannot be filled according to the recommended representation above the Board will still continue to operate.

The Board will manage any staff recruited to The Blue Bermondsey BID team, which will deliver the projects and services as set out in the BID Proposal – 'The Blue Bermondsey BID'.

It is expected that themed groups will operate, reporting to the board, and may represent areas such as Safety, Public Realm, Area Promotion and Community Engagement.

Sub-groups are likely to be formed mainly of BID members, but will also co-opt non-Board members for advice. Additional themed groups will be set up as and when required.

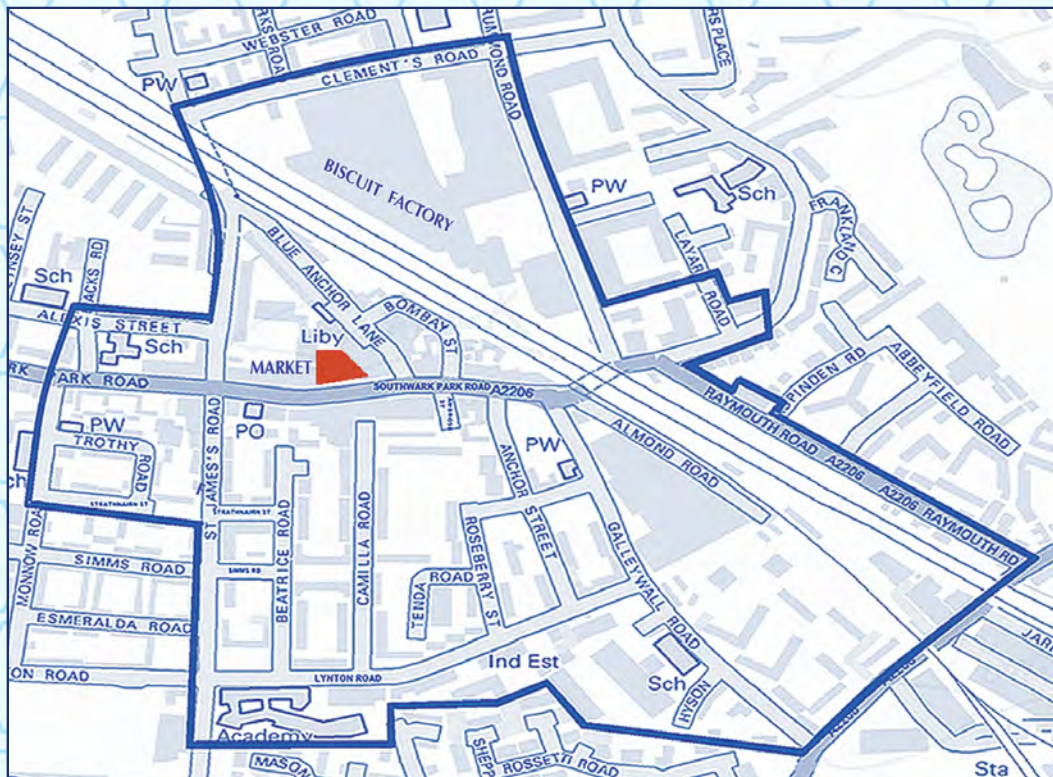
All BID levy payers will be invited to become Members of the Company Limited by Guarantee and may stand for election to the board at the Annual General Meeting.

#### 4. WHAT IS THE PROPOSED BID AREA?

The Blue Bermondsey BID area comprises parts of the London Borough of Southwark as shown in the map below;

The following streets are included in the proposed BID area:

- |                     |                              |
|---------------------|------------------------------|
| Alexis Street       | Macks Road                   |
| Almond Road         | Market Place                 |
| Ambrose Street      | Monnow Road 1-21             |
| Anchor Street       | Raymouth Road                |
| Beatrice Road       | Rockgrove Way                |
| Blue Anchor Lane    | Roseberry Street             |
| Bombay Street       | Rotherhithe New Road 206-264 |
| Camilla Road        | St James Road – 103-245 AND  |
| Clements Road       | RAILWAY ARCHES 654-659       |
| Drummond Road       | Simms Road                   |
| Frank Mews          | Southwark Park Road 148-345  |
| Galleywall Road     | Strathnairn Street           |
| Hyson Road          | Tenda Road                   |
| Layard Road         | Trothy Road                  |
| Lynton Road 240-362 |                              |



## 5. ELIGIBLE BUSINESS TYPES:

Section 64 (1) of the Local Government Finance Act 1998 defines a 'hereditament' as 'property which is or may become liable to rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list'.

The BID levy will be charged on all commercial hereditaments within the BID area as defined in map (page 3).

The occupier of an eligible hereditament within the BID area will be BID levy payer or liable party (as defined by rating regulations – Local Government Finance Act 1988 and General Rate Act 1967) and therefore is subject to pay the BID levy in respect of each chargeable financial year (as defined in section 45 of the Local Government Act 2003) for 5 year term of the BID.

The following will not be eligible for the BID levy, or entitled to vote in the BID ballot:

- Business premises (hereditaments) with a rateable value (RV) below £6,000.00.
- 'Central List' properties that are not contained in the local rating list.
- Advertising rights, telephone masts, car parks, car parking places and kiosks.
- Residential estate offices

All other types of business are eligible to vote in the BID ballot and to pay the BID levy.

- Where hereditaments are unoccupied at the time of the ballot, all liable owners of unoccupied properties will be entitled to vote in the BID ballot.
- The term 'owner' is defined in section 65 (1) of the Local Government Finance Act 1998.
- No 'void' period will be given and those hereditaments which are exempt from empty property rates will not be exempt from the BID levy.
- Owner-occupiers will pay the BID levy.

Businesses which begin to occupy existing eligible BID hereditaments during the five-year BID period will be liable to pay the levy for their period of occupation, providing the hereditament remains eligible for BID membership.

The BID levy will be extended to occupiers of hereditaments built or first occupied in the BID area during the life of the BID, assuming that they are otherwise eligible.

Businesses with a rateable value lower than £6,000 may have the opportunity to opt in to The Blue Bermondsey BID by contributing on a voluntary basis at a rate to be agreed by the board.

## 6. GOVERNANCE OF THE COMPANY:

The Articles of Association of The Blue Bermondsey BID are to be found in a separate document.

## **7. THE BALLOT:**

The ballot will be conducted by Southwark Councils Electoral Services (the ballot holder) or their contractors in accordance with the process laid down in The Business Improvement Districts (England) Regulations 2004.

The ballot holder shall be the body the billing authority has appointed under section 35 of the Representation of the People Act 1983 (7) as the returning officer for elections to that authority.

A successful ballot will have to meet two tests:

- First a simple majority of those voting must vote in favour.
- Second, those voting in favour must represent a majority of the aggregate rateable value of the hereditaments (rateable properties) voting
- The ballot shall be a postal ballot and will be secret.

A ratepayer shall be entitled to vote in the BID ballot if, on the date the ballot holder publishes the notice of the ballot, he falls within the class of non-domestic ratepayers to be liable for the BID levy described above.

Each person entitled to vote in the BID ballot shall have one vote in respect of each eligible hereditament occupied or (if unoccupied) owned by them in the geographical area of the proposed BID (map page 3), as long as it has a rateable value of £6,000 or more.

Any one person is capable of being appointed proxy to vote for another in a ballot and may vote in pursuance of the appointment. An application to appoint a proxy must be received by the ballot holder before 5pm on the tenth day before the day of the ballot.

The day on which the ballot closes will be at least 4 weeks after the date on which the ballot papers are sent out to ratepayers.

- All votes must be received by 5pm on the last day of the ballot.
- The ballot paper shall include the wording 'Are you in favour of the Business Improvement District proposals?' a YES/NO indication and the addresses of the hereditaments or which the person is voting.
- It shall also include the signature of the person voting and a declaration that they are entitled to vote in respect of the named hereditament(s).

When the result of the ballot has been determined, the ballot holder shall notify Southwark Council, the Blue Bermondsey Business Association BID steering Group and the Secretary of State of the result. They shall also publish the result and the number of total votes for and against including rateable value weighting.

## KEY DATES

- **22nd MAY 2014:** Formal notification of the forthcoming Business Improvement District (BID) ballot sent to all eligible hereditaments by the ballot holder.
- **5th JUNE 2014:** Ballot papers dispatched. (Ballot paper must be returned in the reply-paid envelope)
- **20th JUNE:** Last day to appoint proxy.
- **3rd JULY 2014:** Last day of ballot (closes 5pm).
- **4th JULY 2014:** Ballot result published by Southwark Council.
- **1st OCTOBER 2014:** In the event of a positive ballot result, The Blue Bermondsey will become a Business Improvement District.

### 8. DECLARING A BALLOT VOID:

The Secretary of State may declare void the BID ballot if it appears to him that a material irregularity has occurred. 'Material irregularity' means:

- (a) A contravention of any requirement of the BID Regulations which, in the Secretary of State's opinion, means it is likely that voting in the BID ballot has been affected to a significant extent by the contravention.
- (b) Persons other than persons entitled to vote have purported to vote in the ballot and, in the Secretary of State's opinion it is likely that the result of the BID ballot has been affected to a significant extent.
- (c) Persons entitled to vote have been prevented from voting or hindered from doing so freely in accordance with their own opinion and, in the Secretary of State's opinion it is likely that the result of the BID ballot has been affected to a significant extent.

The ballot shall not be declared void unless, by the date which is 28 days after the notice of the result is published pursuant to paragraph 15 of Schedule 2, a person ('the complainant'), being

- (a) The BID proposer
- (b) At least 5% of the persons entitled to vote in the BID ballot or
- (c) The billing authority, has made a request (by notice given in writing) to the Secretary of State to exercise his powers to declare the ballot void, specifying the reason for such a request.

The Secretary of State shall notify the complainant, the BID proposer and the billing authority of his decision and where he declares void the BID ballot he shall notify the relevant billing authority requiring it to arrange for a re-ballot or, as the case may be, a further re-ballot.

### 9. INSPECTION OF BILLING AUTHORITY RECORDS AND RESTRICTIONS ON USE:

The billing authority will draw up a list showing the name of each non-domestic ratepayer and the address and rateable value of each hereditament which is occupied, or (if unoccupied) owned, by them in the geographical area to which the BID relates. Any person or group of persons who together represent 5% or more of the persons who are to be liable for the proposed BID levy may request the billing authority to supply the information contained in this list.

The billing authority shall make available for inspection a copy of the information in the list referred to above at its offices during normal working hours to any person provided the authority is satisfied the person will use the information for either:

- (a) Developing BID proposals or
- (b) Canvassing persons entitled to vote in relation to the BID ballot.

No person may disclose to any person any information contained in this list or make use of this information otherwise than for the purposes mentioned above.

## **10. ALTERATION OF THE BID ARRANGEMENTS:**

BID arrangements may be altered without an alteration ballot as long as there is no proposal to alter:

- (i) The geographical area of the BID
- (ii) The BID levy in such a way that would;
  - Cause any person to be liable to pay BID levy who was not previously liable to pay; or
  - Increase BID levy for any person.

Where BID arrangements may be altered without an alteration ballot, the alteration will be made by a decision of The Blue Bermondsey BID board, following consultation with Southwark Council.

The billing authority shall ensure the BID arrangements (as altered) are made by the time those BID arrangements (as altered) are due to come into force and shall send a notice explaining the reason for and the effect of the alteration to each person liable for the BID levy.

Where an alteration ballot is required, two tests will have to be met.

- First a simple majority of those voting must vote in favour.
- Second, those voting in favour must represent a majority by rateable value of the hereditaments (rateable properties) of those voting.

## **11. TERMINATION OF BID ARRANGEMENTS:**

The BID company may terminate the BID arrangements where:

- (a) The works or services to be provided under the BID arrangements are no longer required
- (b) The person implementing the BID arrangements is unable, due to any cause beyond its control, to provide works or services which are necessary for the BID to continue provided that it has consulted with the billing authority

The BID Company shall notify the billing authority of its intention to terminate the BID arrangements at least 28 days before the date of the termination. Where BID arrangements are terminated under this regulation the relevant billing authority shall as soon as reasonably practicable give notice of the termination to each person liable for BID levy and the notice shall include an explanation of whether a repayment is due.



## 12. THE BID LEVY:

The BID levy will be set at 1.5% of the rateable value for each chargeable financial year or part thereof as per the current version of the ratings list.

The levy may rise annually during the life of the BID in line with inflation, and at the discretion of the BID board. The increase may not exceed the published Consumer Prices Index or the Retail Prices Index (whichever is the higher) at the end of the month of January in any financial year during the life of the BID.

## 13. HOW MUCH WILL THE BID LEVY COST?

The BID levy will be charged at 1.5% of the rateable value of each hereditament listed in the Ratings List. In the first instance this is likely to generate approx. £115,000.00 per annum for the area.

Where the occupants of hereditaments pay an inclusive rent or other charge for occupying space including the rates charge, it is the occupier who is liable to pay the BID levy and therefore is eligible to vote in the BID ballot.

The table below sets out the indicative levy payable for businesses depending on their Rateable Value:

Indicative rateable value	Indicative BID levy
£10,000.00	£150.00
£20,000.00	£300.00
£50,000.00	£750.00
£100,000.00	£1,500.00

There is no link between the amounts of business rates collected by the Council in your area and the amount it then receives back from Central Government to deliver services in your area.

A BID generates revenue that is ring-fenced for the BID area in which it is collected and must be spent on projects that benefit businesses in that BID area that pay the BID levy. All services provided by the BID must be 'additional' to those provided by The Council. This is measured through the 'Baseline Agreement' between the BID Company and Southwark Council which sets out the standard level of statutory service that is already provided in the BID area by the council.

## 13. COLLECTING THE LEVY:

Arrangements for the collection of the BID levy are set out in the formal Operating Agreement between the board of The Blue Bermondsey BID and the London borough of Southwark (the billing authority).

Southwark Council, as the billing authority, will be responsible for billing and collection (including legal enforcement) of the BID levy.

For each chargeable period Southwark Council shall serve a notice in writing on every person who is liable for BID levy in relation to the BID arrangements for the period. A demand notice shall be served with respect to the amount payable for every hereditament as regards to which person is liable for BID levy, though a single notice may relate to the amount payable with respect to more than one such hereditament.

In the first year of a successful BID ballot, the BID levy bill for the financial year April 2014 – March 2015 will become payable in October 2014, thereafter;

- The BID levy will be payable in one instalment per year.
- Bills will be raised in March and payment will become due on 1st April.
- BID levy bills will be issued to each new arriving business ratepayer.

Refunds will be issued to BID levy payers who have paid the annual BID levy in full but vacate their property in the operating financial year. The amount refunded will be calculated from the later of the certified date of vacation or the date of notification.

The BID levy is a mandatory charge and collection is enforceable in the same way as the business rate. Enforcement where non-payment of the levy has occurred will be subject to recovery actions as defined within rating regulations – Local Government Finance Act 1988 and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, as well as Regulation 15 and Schedule 4 of The Business Improvement Districts (England) Regulations 2004.

After 14 days non-payment of the BID levy, a reminder will be sent giving a further 14 days to pay. If after a further seven days from the payment date stated in the reminder notice the outstanding sum of the BID levy has not been paid, the billing authority shall make an application to the Magistrates Court for a Liability Order to recover the outstanding sum of the BID levy. Non-payment of the BID levy will incur additional costs to the business in question.

**THE BLUE BERMONDSEY BUSINESS IMPROVEMENT DISTRICT**

**DRAFT OPERATING AGREEMENT**

**DATED**

**[to be inserted]**

**BETWEEN**

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK  
(The “Council”)**

**AND**

**THE BLUE BERMONDSEY BUSINESS IMPROVEMENT DISTRICT  
(The “BID Company”)**

- 1. Southwark Council (the Council) of 160 Tooley Street London SE1P 5LX**
- 2. The Management Committee of the Blue Bermondsey BID Steering Group (the BID Company) of 9 Market Place London SE16 3UQ (To be incorporated as a company limited by guarantee in England-in the event of a successful BID ballot.**
  - 1. Definitions**
  - 2. Statutory Authorities**
  - 3. Commencement**
  - 4. Setting the BID Levy**
  - 5. The BID Revenue Account**
  - 6. Debits from the BID Revenue Account**
  - 7. Collecting the BID Levy**
  - 8. Procedures available to the Council for enforcing payment of the BID Levy**
  - 9. Enforcement Mechanisms for non-collection of the BID Levy by the Council**
  - 10. Accounting Procedures and Monitoring**
  - 11. Termination**
  - 12. Confidentiality**
  - 13. Notices**
  - 14. Miscellaneous**
  - 15. Exercise of the Council’s powers**
  - 16. Contracts (Rights of Third Parties)**
  - 17. Arbitration**
  - 18. Freedom of Information**

**RECITALS:**

The Council is the billing authority for the purposes of the Local Government Act 2003 and is responsible for collecting the BID Levy and administering the BID Revenue Account which shall be used towards the operation of the BID within the area of the Council and the funding of the BID Arrangements.

The BID Company is responsible for the operation of the BID and for using the BID Levy for the purposes of achieving the objectives and aspirations set out in the BID Arrangements.

Both parties wish to confirm the arrangements by which the BID Levy shall be collected, together with general arrangements as to the relationship to be established between the Council and the BID Company for the duration of the BID.

The purpose of this Agreement is to:

- Establish the procedure for setting the BID Levy
- Confirm the basis upon which the Council or its agents will be responsible for collecting the BID Levy
- Set out the enforcement mechanisms available for collection of the BID Levy
- Set out the procedures for accounting and transference of the BID Levy
- Provide for the monitoring and review of the collection of the BID Levy
- Confirm the manner in which the Council's expenses incurred in collecting the BID Levy shall be paid

**IT IS AGREED:****1. DEFINITIONS**

**The Administrative Expenses:** means costs incurred by the Council and /or its agents in the administration, collection and recovery of the BID Levy

**The Annual Report:** means a report to be prepared by the Council or its agents which details the following;

- (i) The total amount of BID Levy collected during the relevant Financial Year;
- (ii) Details of the success rate for the collection of the BID Levy;
- (iii) The Council's proposals (if any) to help improve its efficiency in the collection and enforcement of the BID Levy;
- (iv) Details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy;
- (v) The Council's proposals for bad or doubtful debts.

**The Appeal Notice:** means a notice to be served by the BID Company in accordance with clause 9.2.

**Bad or Doubtful Debts:** shall have the same meaning as further described in Part 2 of Schedule 3 of the Regulations.

**The Baseline Agreement:** means the draft Agreement annexed at Schedule 2 (Page 32) the final version of which is to be agreed by the parties.

**The BID** means the Business Improvement District which is managed and operated by the BID Company and which operates within and is covered by those streets set out in Appendix 1 (Page 21).

**The BID Arrangements:** means those arrangements to be put in place pursuant to the Regulations for the operation of the BID Company.

**The BID Company:** means the body responsible for the operation of the BID and for using the BID Levy for the purposes of achieving the objectives and aspirations set out in the BID Arrangements.

**The BID Company's Report:** means a report for each Financial Year to be prepared by the BID Company which details the following:

- (i) The total income and expenditure of the BID Levy;
- (ii) Other income and expenditure of the BID Company not being the BID Levy;
- (iii) A statement of actual and pending deficits;
- (iv) The various initiatives and schemes upon which the BID Levy has been expended by the BID Company.

**The BID Levy:** means the charge to be levied and collected within the BID area pursuant to the Regulations.

**The BID Company's Termination Notice:** means a notice to be served by the BID Company on the Council pursuant to clause 11.8.

**The BID Levy Payer(s):** means the non-domestic rate payers who are liable for paying the BID Levy.

**The BID Levy Rules:** means the rules set out in the Schedule which sets out how the BID Levy will be calculated, details of Exempt or Discounted Properties and other requirements related to the BID Levy (as may be amended by a successful alteration ballot).

**The BID Loan Fund:** means loan awarded to The Management Committee of the Blue Bermondsey BID Steering Group by the DCLG BID Loan Fund.

**The BID Revenue Account:** means the account to be set up in accordance with Regulation 14 and operated in accordance with Schedule 3 of the Regulations.

**The BID Term:** means the period of 5 years from 1st October 2014 to 30th September 2019.

**The Council's Termination Notice:** means the notice to be served by the Council on the BID Company pursuant to Clause 11.1.

**The Contributors** means: the BID Levy Payers or other Contributors making voluntary contributions to the BID Company.

**Demand Notice:** shall have the same meaning ascribed to it as further set out in paragraph 3 of Schedule 4 of the Regulations.

**Hereditament:** shall have the same meaning as defined in the Regulations.

**Electronic Communication:** means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa);

- (i) By means of a telecommunication system (within the meaning of the Telecommunications Act 1984);
- (ii) By other means but while in electronic form

**Enforcement Notice:** means a notice to be served on the Council as specified in Clause 9.

**The Exceptions:** means the circumstances in which the Council shall not be required to seek to enforce payment of the BID Levy where a BID Levy payer has failed to make payment pursuant to a Demand Notice. The exceptions shall be as agreed by the parties from time to time.

**The Exempt or Discounted Properties:** means those class or classes of properties as identified in the BID Levy Rules which shall be exempt either from any requirement to pay the BID Levy or are permitted a discount on the BID Levy.

**The Financial Year:** means the financial year for the BID Company which will be specified when the BID company is formed.

**The First Priority Expenses:** means the administrative expenses incurred by the Council in respect of all reasonable costs arising out of compliance with its obligations under this Agreement and the Regulations during each year of the duration of this agreement.

**Liability Order:** means an order obtained from the Magistrates Court pursuant to clause 8.2.

**The Monitoring Group:** means the group to be set up to monitor the collection and enforcement of the BID Levy (as referred to in clause 10); the group is to consist of one Council officer from Southwark Council and one representative from the BID Company.

**The Operational Date:** means the date upon which the BID Arrangements come into force.

**The Public Meeting:** means the meeting to be held of all BID Levy Payers pursuant to the Public Meeting Notice.

**The Public Meeting Notice:** means a notice to be served pursuant to Clause 11.1 or 11.8 by either the Council or the BID Company which provides the following;

- (i) Confirmation that either party is considering terminating the BID;
- (ii) Details of the venue where the public meeting will be held;
- (iii) Confirmation that all BID Levy Payers who attend will be permitted to make representations.

**The Regulations:** means the Business Improvement Districts (England) Regulations [2004] and such amendments made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time).

**The Reminder Notice:** means the notice to be served pursuant to clause 8.1.

**The Further Reminder Notice:** means the notice to be served following a Reminder Notice and pursuant to clause 8.2.

**A Working Day:** means any day of the week other than a Saturday, a Sunday or a bank holiday

## **2. STATUTORY AUTHORITIES:**

2.1 This Agreement is made pursuant to Part IV of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers.

## **3. COMMENCEMENT:**

3.1 This Agreement shall be effective from the day it is dated and signed;

3.2 If, at the end of the BID Term a renewal ballot is held and is successful, then the terms of this Agreement shall be reviewed prior to the start of the new BID term.

## **4. SETTING THE BID LEVY:**

4.1 By 15th September 2014 the Council shall;

- (i) Calculate the BID Levy due from each BID Levy Payer in accordance with the BID Levy Rules;
- (ii) Confirm in writing to the BID Company the BID Levy payable annually by each BID Levy Payer.
- (iii) Enter into the Baseline Agreement with the BID Company.

## **5. THE BID REVENUE ACCOUNT:**

5.1 Interest will only be paid on money in the BID Revenue Account if the Bank of England Bank Rate (formerly base rate) at a rate to be negotiated by the BID Company and Southwark Council or higher and the month end credit balance is in excess of £50,000. Such interest, if any, will be paid to the BID Company as part of the BID Levy and will be calculated at Bank of England Bank Rate less 0.25%. Any overpayment made to the BID Company by the Council will attract the same interest terms.

## **6. DEBITS FROM THE BID REVENUE ACCOUNT:**

6.1 The Council may debit directly from the BID Revenue Account;

- (i) The First Priority Expenses at the mid-point of each Financial Year provided that they have been detailed in a valid VAT invoice delivered to the BID Company giving a detailed breakdown of the costs incurred.
- (ii) Repayments against the BID Loan Fund

6.2 Notwithstanding the above provision the BID Company shall be responsible for ensuring that all VAT invoices delivered to the BID Company shall, if not debited from the BID Revenue Account, be paid within 28 days of delivery.

## **7. COLLECTING THE BID LEVY:**

7.1 The Council shall at the beginning of each Financial Year confirm in writing to the BID Company;

- (i) The means by which the BID Levy Payer shall be billed for the BID Levy;
- (ii) The date when the BID Levy shall first be collected (such date to be on or after the Operational Date and before 8th October 2014).

7.2 Pursuant to clause 7.1(ii) the Council shall serve the Demand Notices on each BID Levy payer and thereafter shall continue to calculate the BID Levy and serve the Demand Notices throughout the BID Term.

7.3 The Council shall maintain a list which identifies payment and/or non-payment of the BID Levy and shall make available to the BID Company at intervals of not less than once a month.

7.4 The Council shall liaise with the BID Company in carrying out monthly reviews of each Hereditament within the BID Area and in the event of any change in the occupier of each Hereditament or the merger or division of a Hereditament (or provision of an additional Hereditament) shall;

- (a) Serve an updated list of BID Levy payers upon the BID Company;
- (b) Serve a Demand Notice (or alter any existing Demand Notice if appropriate) on the relevant BID Levy Payer.

7.5 The Council shall use all reasonable endeavours to collect the BID Levy on the date specified (pursuant to clause 7.1(ii) above) and thereafter on an annual basis and in accordance with the procedure set out in Schedule 4 of the Regulations.

7.6 The Council shall use all reasonable endeavours to collect the BID Levy in a manner consistent with its usual procedures for the collection of non-domestic rates.

7.7 On the 10th day of every month hereafter the Council shall notify the BID Company of the amounts credited to the BID Revenue Account and of the amount of the authorised debits in accordance with clause 6 and upon receipt of an appropriate VAT invoice from the BID Company shall transfer to the BID Company's own bank account the amount due and provide written confirmation of the sum transferred.

7.8 In the event of an overpayment by the Council to the BID in excess of £5,000 for a period of more than three consecutive months, the BID will return the overpayment to Southwark Council within 14 days of being notified.

## **8. PROCEDURES AVAILABLE TO THE COUNCIL FOR ENFORCING PAYMENT OF THE BID LEVY:**

8.1 In the event that the BID Levy is not paid in whole within fourteen days from the 1st April of each year then (subject to the Exceptions or as may otherwise be agreed between the parties) the Council shall serve a Reminder Notice on such defaulting BID Levy Payer which shall;

- (i) Identify the sum payable;
- (ii) Provide a further 14 (fourteen) days for payment to be made;
- (iii) Confirm that the Council will make an application to the Magistrates Court for a Liability Order to recover the unpaid sum (together with costs).

8.2 In the event that the BID Levy is not paid in whole within 7 (seven) days of the service of the Reminder Notice in accordance with clause 8.1 then the Council shall immediately inform the BID Company of such further failure to pay (subject to the exceptions). The Council will consider any comments made by the BID Company before deciding whether to make an application to the Magistrates Court for a Liability Order. The Council will normally then make an application to the Magistrates



Court for a Liability Order to recover the outstanding sum of the BID Levy as is permitted by the Regulations and the Non-Domestic Rating (Collection & Enforcement)(Local Lists) Regulations 1989 (as amended). The Council will bear the cost of any application for summons and will recover these costs from the revenue generated through any such action.

## **9. ENFORCEMENT MECHANISMS FOR NON-COLLECTION OF THE BID LEVY BY THE COUNCIL**

9.1 In the event that the Council is not enforcing payment of the BID Levy pursuant to clause 8 above the BID Company shall serve the Enforcement Notice on the Council requesting that;

- (i) It serve a Reminder Notice; or
- (ii) A Further Reminder Notice; or
- (iii) Obtains a Liability Order pursuant to clause 8.3 above and the Council shall thereafter provide written confirmation of the action taken to recover the unpaid BID Levy.

9.2 If after being served an Enforcement Notice the Council fails to take the requested action within 28 days then the BID Company shall serve an Appeal Notice to the Chief Executive of the Council. Such notice shall;

- (i) Detail the sum which remains unpaid;
- (ii) Confirm that the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the sum;
- (iii) Request a meeting take place between the Chief Executive, relevant officers of the Council and BID Company to achieve a solution and/or agree a strategy to recover the outstanding sum such meeting to take place in any event no later than 28 (twenty eight) days from service of the Appeal Notice.

9.3 In the event that the Council fails to take any of the steps requested by the BID Company pursuant to clauses 9.1 and 9.2 (above) the Council shall (within 28 days of receipt of written notice from the BID Company which specifies the amount of BID Levy outstanding) pay the specified sum into the BID Revenue Account and provide written confirmation to the BID Company that this has been done.

## **10. ACCOUNTING PROCEDURES AND MONITORING:**

10.1 Within 1 (one) month from the Operational Date, the Council and BID Company shall form the Monitoring Group

10.2 In addition to the information outlined in 7.4, every month during the BID Term the Council shall provide the BID Company with a breakdown of;

- (i) The amount of BID Levy for each individual BID Levy Payer;
- (ii) The BID Levy collected in relation to each BID Levy Payer;
- (iii) Details (together with the outstanding unpaid sum) of those BID Levy Payers who have not paid the BID Levy during those 6 months;
- (iv) Details of the Reminder Notices issued throughout that period;
- (v) Details of any Liability Orders obtained or applied for by the Council.

10.3 The Monitoring Group shall meet no less than once in any one Financial Year and on all other occasions further meetings of the Monitoring Group shall be arranged by the service of written notice by either party on the other, such notice to be provided no less than 28 (twenty eight) days prior to the date of the proposed meeting (or less if otherwise agreed or in cases of emergency) and provided further that such meetings can be dispensed with altogether upon the written agreement of both the Council and the BID Company.

**10.4** At each meeting the Monitoring Group shall:

- (i) Review the effectiveness of the collection and enforcement of the BID Levy; and
- (ii) If required, review and assess the information provided by the Council pursuant to clauses 10.2 above and make any recommendations for implementation as may be agreed (and which are permitted by the Regulations and the terms of this Agreement)

**10.5** Within 1 (one) month after the date of the end of the Financial Year the Council shall provide the Annual Report to the BID Company.

**10.6** The BID Company shall provide the BID Company Report to the Council two weeks prior to their Annual General Meeting (this normally takes place in September or October).

## **11. TERMINATION:**

**11.1** The Council shall not be permitted to terminate the BID Arrangements because;

- (i) In its opinion there are insufficient finances available to the BID Company to meet its liabilities for the chargeable period for the purposes of the BID Arrangements; or
- (ii) The Council is unable, due to any cause beyond its control to provide the works or services which are secured as part of the BID Arrangements unless and until it first serves the Public Meeting Notice on the BID Levy Payers and the Council's Termination Notice on the BID Company and within 14 (fourteen) days from the date of service of such notice both parties shall arrange to meet where the purpose of such meeting shall be to discuss and/or agree all or any of the following set out in clauses 11.2 or 11.3 (whichever is applicable).

**11.2** Where the BID Termination Notice relates to Clause 11.1(i) both parties shall agree and/or discuss or review the following;

- (i) The Council's concerns that the BID Company has insufficient finances to meet its liabilities for that period (details of such concerns should be made available to the BID Company);
- (ii) Insufficient funds;
- (iii) Alternative means by which the insufficiency of the funds can be remedied; and
- (iv) An appropriate time frame to resolve this issue.

**11.3** Where the BID Termination Notice relates to clause 11.1(ii) both parties shall agree and/or discuss or review the following;

- (i) The services or works which it is no longer able to provide together with confirmation and details as to why such works or services cannot be provided;
- (ii) A review by both parties as to whether such works or services are of material importance to the BID so that termination of the BID Arrangements is the only option;
- (iii) Alternative means of procuring the said services or works by third parties or increased financial funding from the BID Company;
- (iv) Alternative replacement services or works which will be acceptable to the BID Company;
- (v) An appropriate time frame to resolve this issue.

**11.4** In the event that the parties cannot reach agreement in relation to the above the Council shall cause a Public Meeting to be held and subject to consideration of representations made by any BID Levy Payer at the Public Meeting the Council shall be permitted to terminate the BID Arrangements provided that notice is given by the Council to the BID Company no less than 28 days prior to termination taking place.

11.5 Upon termination of the BID Arrangements, the Council shall review whether there is a credit in the BID Revenue Account. In the event that there are sufficient funds in the BID Revenue Account to refund at least £5 to each BID Levy Payer (having already deducted a reasonable sum for the administration of such refund) the Council shall;

- (i) Calculate the amount to be refunded to each BID Levy payer;
- (ii) Ensure that the amount to be refunded is calculated by reference to the amount payable by each BID Levy Payer for the last chargeable period;
- (iii) Make arrangements for the amount calculated to be credited against any outstanding liabilities of each BID Levy Payer or, where there are no such liabilities refunded to the BID Levy Payer.

11.6 Upon termination of the BID, the Council shall notify the BID Levy Payers of such termination in accordance with Regulation 18(6) of the Regulations together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy payers in accordance with clause 11.6.

11.7 The BID Company shall not be permitted to terminate the BID Arrangements where:

- (a) The works or services under the BID Arrangements are no longer required; or
- (b) The BID Company is unable, due to any cause beyond its control to provide works and services which are necessary for the BID to continue unless and until it has served the BID Company's Termination Notice on the Council and thereafter carried out a proper consultation with all relevant representatives of the BID Area as considered appropriate by the Council.

11.8 Upon termination of the BID Arrangements the BID Company shall notify the Council of such termination in accordance with Regulation 18(5) and the Council shall notify the BID Levy payers pursuant to Regulation 18(6) together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy Payers in accordance with clause 11.5.

## **12. CONFIDENTIALITY:**

12.1 Both the Council and the BID Company agree to keep confidential and not to divulge to any person without the prior written consent of the other party all information (written or oral) concerning the business affairs of the other nor any information which has been exchanged about the BID Levy Payers or Contributors or about other third parties which it shall have obtained or received as a result of operating the BID. This obligation shall survive the termination or lapse of the BID Arrangements

## **13. NOTICES**

13.1 Any notice or other written communication to be served or given to or upon any party to this Agreement to the other shall be in writing and shall be sent to the address provided for above or such substitute address in England as may from time to time have been notified by that party.

13.2 A Notice may be served by;

- (i) Delivery to the Head of Business Growth and Enterprise, London Borough of Southwark;
- (ii) Delivery to the Company Secretary at the BID Company's address specified above;
- (iii) Registered or recorded delivery post;
- (iv) Electronic Communication (provided that it is in legible form and is capable of being used for subsequent reference).

13.3 Any notice served shall be deemed to have been validly served or given at the time when in the ordinary course of business it would have been received.

#### **14. MISCELLANEOUS:**

14.1 For the avoidance of doubt where any part of this Agreement is incompatible with the Regulations or any other regulations which the Secretary of State may issue pursuant to Part IV of the Local Government Act 2003, then such part shall be struck out and the balance of this Agreement shall remain.

14.2 The headings appearing in this Agreement are for ease of reference only and shall not affect the construction of this Agreement.

14.3 For the avoidance of doubt the provisions of this Agreement (other than those contained in this Clause) shall not have any effect until this document has been dated.

14.4 Where reference is made to a clause, part, or recital such reference (unless the context requires otherwise) is a reference to a clause, part, plan, or recital attached to this Agreement.

14.5 References to the Council include any successors to its functions as local authority.

14.6 References to statutes, bye-laws, regulations, orders, delegated legislation, shall include any such instrument re-enacting or made pursuant to the same power.

14.7 Repayment arrangements for the BID Loan Fund will be specified by the Council and the BID Loan Fund when repayment arrangements have been confirmed by both parties.

#### **15. EXERCISE OF THE COUNCIL'S POWERS:**

Nothing contained in this Agreement or implied in it shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes, bye-laws, statutory instruments, orders and regulations in the exercise of its functions as a local authority.

#### **16. CONTRACTS (RIGHTS OF THIRD PARTIES):**

The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

#### **17. ARBITRATION:**

The following provisions shall apply in the event of a dispute;

17.1 Any dispute or difference of any kind whatsoever arising between the parties hereto out of or in connection with this Agreement shall be referred to arbitration before a single arbitrator.

17.2 The parties shall jointly appoint the arbitrator not later than 28 (twenty eight) days after service of a request in writing by either party to do so and each party shall bear its own costs.

17.3 If the parties are unable to agree within 28 (twenty eight) days as to the appointment of such arbitrator then such arbitrator (hereinafter referred to as "the Tribunal") shall be appointed on the application of either party to the President for the time being of the Law Society.

17.4 Where reference is made to a Clause, Part, or Recital such reference (unless the context requires otherwise) is a reference to a clause, part, plan, or recital attached to this Agreement;

- (i) Prosecute any such reference expeditiously; and
- (ii) Take all steps reasonably necessary to enable the Tribunal to deliver any award (interim, final or otherwise) as soon as reasonably practicable.

17.5 The award shall be in writing signed by the Tribunal and shall be finalised within 21 (twenty one) days from the date of such award.

17.6 The award shall be final and binding both on the parties and on any persons claiming through or under them.

**18. FREEDOM OF INFORMATION:**

**18.1** The BID Company accepts that the Council is obliged to comply with the Freedom of Information Act 2000 and the Code of Practice on the Act, and will assist the Council to comply with these obligations. This includes helping the Council comply with its obligation to respond to a request for information within 20 days of receipt; and providing information to the Council where the Council requests.

**18.2** The Council is entitled to disclose information unless it believes that the information is exempt under the Act. Exemption may apply where, for example, information is provided in confidence; where the information is a trade secret; or where release is likely to prejudice commercial interests. The Council will decide, acting reasonably, whether information requested under the Act is to be disclosed or not. The Council will where reasonably practicable consult the BID Company and will consider any representations made by it.

The Council shall not be liable for any loss or other detriment caused by the disclosure of any information in response to a request for information under the Act.

**Signed by the parties or their duly authorised representatives**

**Signed by duly authorised for and on behalf of London Borough of Southwark**

**Signed by duly authorised for and on behalf of London Borough of Southwark**

**Signed by duly authorised for and on behalf of The Blue Bermondsey BID Steering Group Management Committee**

## **APPENDIX 1**

**Alexis Street  
Almond Road  
Ambrose Street  
Anchor Street  
Beatrice Road  
Blue Anchor Lane  
Bombay Street  
Camilla Road  
Clements Road  
Drummond Road  
Frank Mews  
Galleywall Road  
Hyson Road  
Layard Road  
Lynton Road 240-362  
Macks Road  
Market Place  
Monnow Road 1-21  
Raymouth Road  
Rockgrove Way  
Roseberry Street  
Rotherhithe New Road 206-264  
St James Road – 103-245 AND RAILWAY ARCHES 654-659  
Simms Road  
Southwark Park Road 148-345  
Strathnairn Street  
Tenda Road  
Trothy Road**

**THE BLUE BERMONDSEY BUSINESS IMPROVEMENT DISTRICT**

**DRAFT BASELINE AGREEMENT FOR THE PROVISION OF STANDARD SERVICES**

DATED

[to be inserted]

BETWEEN

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF SOUTHWARK**  
(The "Council")

AND

**THE BLUE BERMONDSEY BUSINESS IMPROVEMENT DISTRICT**  
(The "BID Company")

**CONTENTS:**

**RECITALS**

1. Definitions
2. Statutory Authorities
3. Commencement
4. The BID Company's Obligations
5. The Council's Obligations
6. Performance Notice
7. Licence
8. Monitoring and Review
9. Joint Obligations
10. Termination
11. Confidentiality
12. Notices
13. Miscellaneous
14. Exercise of the Council's Powers
15. Contracts (Rights of Third Parties)
16. Arbitration

**SCHEDULE 1: BID Area Map and list of streets**

**SCHEDULE 2: The Standard Services**

**RECITALS;**

**A: The Council is the local authority for the purposes of the Local Government Act 2003 and is responsible for providing the Standard Services within the Blue Bermondsey BID Area.**

**B: The BID Company is responsible for the management and operation of the BID and for achieving the objectives and aspirations set out in the BID Business Proposal.**

**C: The purpose of this Agreement is to set out for the avoidance of doubt;**

**(i) The Standard Services provided by the Council within the BID area.**

**(ii) The benchmark levels against which the provision of the Standard Services will be measured so as to ensure that whenever the BID Company wishes to provide any additional/ complementary services, these services are not services which the Council should be providing pursuant to their existing statutory duties.**

**(iii) The mechanism for the continued monitoring and review of the Standard Service.**

**IT IS AGREED****1. DEFINITIONS:**

**Ballot Result Date: means the date upon which a successful ballot result has been declared in favour of putting in place the BID Arrangements.**

**Baseline Agreement: sets out for the avoidance of doubt;**

**(i) The Standard Services provided by the Council within the BID area.**

**(ii) The benchmark levels against which the provision of the Standard Services will be measured so as to ensure that whenever the BID Company wishes to provide any additional/ complementary services, these services are not services which the Council should be providing pursuant to their existing statutory duties.**

**(iii) The mechanism for the continued monitoring and review of the Standard Services.**

**BID: means the Business Improvement District which is managed and operated by the BID Company and has the meaning given in the Regulations.**

**BID Area: means that area within which the BID operates as shown in Schedule 1 (Page 31).**

**BID Arrangements: has the meaning given by section 41 of the Local Government Act 2003.**

**BID Business Plan: means the plan voted for by the BID Levy Payers which sets out the objectives of the BID and for Financial Year 2014/15 is known as the BID Proposal.**

**BID Levy: means the charge levied and collected within the BID pursuant to the Regulations.**

**BID Levy Payers: means the non-domestic rate payers liable for paying the BID Levy.**

**BID Proposal: means the plan voted for by the BID Levy Payers in a ballot which sets out the objectives of the BID and identifies the various projects which will be undertaken using funds raised by the BID Levy and / or Voluntary Contributions to achieve those objectives.**

**BID Term: means 1st October 2014 to 30th September 2019.**



**Complementary Service(s):** means those services secured or procured by the BID Company from the Council or other third party provider in addition to the Standard Services.

**Complementary Services Agreement(s):** means an agreement entered into between the Council and the BID Company or such further agreements as may be entered into by the BID Company for the provision of services within the BID Area which are complementary to the Standard Services.

**Complementary Service Provider:** means the provider of a Complementary Service.

**Designated Officer:** means the Council officer appointed by the Services Review Panel to liaise directly with the BID on issues relating to the performance of same Officer's department in respect of the Standard and Complementary services.

**Financial Year:** means the financial year for the BID Company which will be specified when the BID company is formed.

**Operating Agreement:** means the agreement entered into on (Date TBC) 2014 between the Council and the BID Company which sets out various procedures for the collection, monitoring and enforcement of the BID Levy.

**Performance Notice:** means a notice served by the BID Company which;

- (i) Identifies the Standard Service to which the notice relates.
- (ii) States how the Standard Service is not being provided in accordance with this Agreement.
- (iii) Requests that the Council liaise directly with the provider or contractor responsible for carrying out the Standard Service as soon as practicable for the purposes of securing compliance with this Agreement.

**Protocols:** means the informal procedures to be agreed by the Council and the BID Company, the purpose of which is to assist in the provision of the Standard Services.

**Regulations:** means the Business Improvement Districts (England) Regulations 2004 and such amendments to those regulations which may be made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time).

**Services Review Panel:** means the panel whose members consist of representatives from the Council and the BID Company.

**Standard Services:** means the services provided by the Council within the BID Area as set out in Schedule 2 (Page 32).

**Voluntary Contribution(s):** means any contributions or funds paid or made available to the BID Company which do not form part of the BID Levy.

## **2. STATUTORY AUTHORITIES:**

2.1 This Agreement is made pursuant to section 2 of the Local Government Act 2000 and Part IV of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers as set out particularly in The Business Improvement Districts (England) Regulations 2004.

## **3. COMMENCEMENT:**

3.1 The terms of this Agreement shall take effect upon the date of this Agreement.

3.2 This Agreement shall terminate and cease to be of any further effect in the event that;

- (i) The BID Company fails to secure approval of the Proposals, Renewal Proposals or Alteration Proposals in a ballot, renewal ballot, alteration ballot or re-ballot;
- (ii) The Secretary of State declares void a BID ballot, renewal ballot, alteration ballot or re-ballot;
- (iii) The Council exercises its veto pursuant to section 2 Local Government Act 2000 and section 51(2) of the Local Government Act 2003 and paragraph 12 of the Business Improvement District (England) Regulations 2004 and there is no successful appeal against the veto;
- (iv) The BID Term expires save where the BID Company secures approval of Renewal Proposals in a renewal ballot or Alteration Proposals in an alteration ballot or Proposals in a re-ballot in which event this Agreement shall continue until the expiry of the BID Term set out in the Renewal Proposals, Alteration Proposals or the Proposals set out in the re-ballot provided, in relation to Renewal Proposals and Alteration Proposals, the Council and the BID Company, both consent to such continuation;
- (v) The Council exercises its discretion to terminate the BID Arrangements in exercise of its powers under Regulation 18 of the Regulations;
- (vi) The Council terminates this Agreement pursuant to clause 9 of this Agreement

## **4. THE BID COMPANY'S OBLIGATIONS:**

4.1 The BID Company agrees that it will provide the Council with any information the Council may reasonably require in relation to the carrying out of the Complementary Services.

4.2 In the event that the BID Company intends to change the Complementary Services, the BID Company shall serve notice on the Council for the purposes of arranging a meeting of the Services Review Panel and at such a meeting the BID Company shall consult with the Council in respect of the intended change to the Complementary Services.

## **5. THE COUNCIL'S OBLIGATIONS:**

5.1 The Council agrees to the following:

- (i) To provide the Standard Services within the BID Area at its own cost for the duration of the BID term;
- (ii) Will not to use the BID Levy at any time to either fund or procure the Standard Services.

**5.2 In the event that the Council is unable to continue to provide all or any part of the Standard Services within the BID Area on account of it being statutorily barred from doing so in respect of any of those Standard Services set out in Schedule 2, or it does not have sufficient funds to secure the provision of any of those Standard Services set out in Schedule 2, the Council shall give written notice to the BID company;**

- (i) Identifying the part or parts of the Standard Services it is unable to provide;**
- (ii) Provide a detailed explanation of why such identified Standard Service is to be withdrawn;**
- (iii) Confirm the date upon which the Council will cease to operate the identified Standard Service.**

**5.3 The Council may provide different Standard Services, delayed Standard Services or no Standard Services in the event that it is not reasonably practicable to provide the Standard Services by reason of the following;**

- (i) Material adverse weather conditions in the BID Area;**
- (ii) An excessive number of pedestrians in the BID Area which would impede or inhibit the carrying out of the Standard Services;**
- (iii) Restrictions by the Police as to the persons and / or number of persons permitted access in the BID Area;**
- (iv) A traffic accident or major spillage in the BID Area;**
- (v) Marches, parades, film and theatre premieres, festivals and visits by VIPs in or affecting the BID Area where such activities directly impede or inhibit the Standard Services from being provided;**
- (vi) Any other reason in the BID Area or affecting the BID Area beyond the control of the Council acting reasonably.**

**5.4 Where the Council intends to provide different Standard Services, delayed Standard Services or no Standard services pursuant to clause 6.3, the Council must provide the BID Company with reasonable notice, and shall endeavour to recommence the Standard Service as soon as reasonably practicable at the same standard as it was immediately before the change.**

**5.5 Neither party shall have any liability under, or be deemed to be in breach of, this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party. The party affected by such circumstances shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than three months, either party may terminate this Agreement by written notice to the other party.**

**5.6 The Council shall use reasonable endeavours to liaise with and (where practicable) put in place such partnering arrangements (of a formal or informal nature) with the Complementary Service Provider where the Complementary Services are complementary, or are of a similar nature, to the Standard Services and to liaise with the Complementary Service Provider (where appropriate) as part of the Services Review Panel activities.**

**5.7 The Council shall take reasonable steps to implement any recommendations made by the Services Review Panel in respect of the carrying out or provision of the Standard Services. Schedule 2 shall also be updated in accordance with the conclusions reached by the Panel.**

5.8 Three (3) months prior to conducting a review/re-letting of a contract relating to the Standard Services, the Council must;

- (i) Notify the BID Company of the timescales for carrying out the review/re-letting;
- (ii) Update Schedule 2 with new details within four (4) weeks of these being agreed by the Services Review Panel.

5.9 In the event that the Council intends to change the Standard Services significantly and permanently the Council shall consult with the BID Company no less than three (3) months prior to that change, if possible, and such notice shall include;

- (i) A description of the part or parts of the Standard Services the Council intends to change;
- (ii) A detailed explanation of why the Council intends to change such Standard Services;
- (iii) The date on which the Council intends to change the Standard Services.

## **6. PERFORMANCE NOTICE:**

6.1 The Council shall not remove or change any contractor(s) responsible for providing the Standard Services without first serving, no less than three (3) months' written notice on the BID Company confirming;

- (i) The removal or alteration of such contractor;
- (ii) The Standard Services which such contractor is responsible for providing;
- (iii) The details of the new contractor appointed to provide the Standard Services.

6.2 Upon receipt of a Performance Notice from the BID Company, the designated officer shall inform the contractor or provider of the Standard Services of the lapse, carry out a review of the performance and the carrying out of the Standard Services by the contractor or provider of the Standard Services and to use their best endeavours to secure the improvement of the Standard Services. The Designated Officer in each case shall consult with the BID Company on the action plan arising from such review to secure such improvements if possible, and keep the BID Company informed of the Council's actions and progress, in carrying out the action plan.

## **7. LICENCE:**

7.1 The Council hereby grants licence to the BID Company, its agents or Complementary Service Provider to enter onto into or upon any land within the Council's ownership or the highway for the purposes of the BID Company its agents or Complementary Service Provider carrying out any function or service required or secured (or any ancillary function) for the operation of the BID provided that the Council shall be permitted to withdraw such licence in the event that in its reasonable opinion the BID Company, its agents or Complementary Service Provider act in such a manner which either contravenes health and safety requirements, or seriously damages Council property, severely prejudices the manner in which the Council can carry out its usual public services or where, in the Council's reasonable opinion, it is necessary to withdraw such licence in order to safeguard the health and safety of persons in or around the BID Area or part of the BID Area.

## **8. MONITORING AND REVIEW:**

**8.1** The Council and the BID Company shall set up the Services Review Panel within 28 (twenty-eight) days from the date of this Agreement the purpose of which shall be to;

- (i) Review and monitor the carrying out of the Standard Services;
- (ii) Make any recommendations required pursuant to clause 5 to the Council and the BID Company;
- (iii) Where appropriate, review and monitor the provision of the Complementary Services and make such recommendations to the BID Company as are appropriate;
- (iv) Review any Performance Notices served by the BID Company and steps which should be taken to secure the proper carrying out of the Standard Services and to make recommendations to the Council including recommendations for an improvement in performance in the carrying out of the Standard Services and recommendations for the carrying out of the Standard Services in a manner that facilitates the carrying out of Complementary Services, and to identify the need for any alteration to the Standard Services.

**8.2** Within 28 (twenty-eight) days from the date of this Agreement the parties shall agree the dates when there will be meetings of the Services Review Panel and there shall be at least two such meetings in each Financial Year (throughout the duration of the BID Term) and on all other occasions further meetings of the Services Review Panel shall be arranged by the service of written notice by either party on the other, such notice to be provided no less than 28 (twenty-eight) days prior to the date of the proposed meeting (or less if otherwise agreed or in cases of emergency) and provided further, that such meetings can be dispensed with altogether upon the written agreement of the parties.

**8.3** The Services Review Panel will identify the need for any improvement or alteration to the Standard Services. The Council will in any case formally respond to recommendations from the Service Review Panel within the standard response times, giving reasons for any decision not to implement recommendations in part or in full.

**8.4** Unless otherwise impracticable, the Council shall adopt recommendations by the Services Review Panel, provided that none of the recommendations would prejudice or affect the rights discretions powers duties and obligations of the Council under all statute bye-laws, statutory instruments, orders and regulations in the exercise of its functions as a local authority.

## **9. JOINT OBLIGATIONS:**

**9.1** Both the Council and the BID Company shall;

- (i) For the purposes only of monitoring the Standard Services and the Complementary Services, review and take account of any representations or recommendations, made to them by the Services Review Panel and take such action as may be appropriate;
- (ii) Agree appropriate protocols as may be required in order to assist the carrying out or provision of the Standard Services (and thereafter to review them annually);
- (iii) Operate the Standard Services in accordance with such agreed protocols

## **10. TERMINATION:**

**10.1** The Council may terminate this Agreement;

- (i) In the same circumstances in which it may terminate the BID Arrangements under Regulation 18 of the Regulations;
- (ii) In the event that the BID Company commits a serious and irremediable breach of this Agreement;
- (iii) In the event that the Council terminates the Operating Agreement.

## **11. CONFIDENTIALITY:**

**11.1** Both the Council and the BID Company agree to keep confidential and not to divulge to any person without the prior written consent of the other party all information (written or oral) concerning the business affairs of the other nor any information which has been exchanged about the BID Levy Payers or about other third parties which it shall have obtained or received as a result of operating the BID. This obligation shall survive the termination or lapse of the provision of the BID.

## **12. NOTICES:**

**12.1** Any notice or other written communication to be served or given to or upon any party to this Agreement to the other shall be in writing and shall be sent to the address provided for above or such substitute address in England as may from time to time have been notified by that party upon seven (7) days' notice in writing.

**12.2** A Notice may be served by registered or recorded delivery post and;

- (i) Delivered to the Executive Director of Environment at above;
- (ii) Delivered to the BID Director of Operations at the BID Company's office address;
- (iii) By electronic communication (provided that it is in legible form and is capable of being used for subsequent reference) to such addresses.

**12.3** Any notice served shall be deemed to have been validly served or given at the time when in the ordinary course of business it would have been received.

## **13. MISCELLANEOUS:**

**13.1** For the avoidance of doubt where any part of this Agreement is incompatible with the Regulations or any other regulations which the First Secretary of State may issue pursuant to Part IV of the Local Government Act 2003 then such part shall be struck out and the balance of this Agreement shall remain.

**13.2** The headings appearing in this Agreement are for ease of reference only and shall not affect the construction of this Agreement.

**13.3** For the avoidance of doubt the provisions of this Agreement (other than those contained in this clause) shall not have any effect until this document has been dated.

**13.4** Where reference is made to a clause, part, or recital such reference (unless the context requires otherwise) is a reference to a clause, part, plan, or recital attached to this agreement.

**13.5** References to the Council include any successors to its functions as local authority.

**13.6** References to statutes, bye-laws, regulations, orders, delegated legislation shall include any such instrument re-enacting or made pursuant to the same power.

#### **14. EXERCISE OF THE COUNCIL'S POWERS:**

14.1 Nothing contained in this Agreement or implied in it shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statute bye-laws statutory instruments orders and regulations in the exercise of its functions as a local authority.

#### **15. CONTRACTS (RIGHTS OF THIRD PARTIES):**

15.1 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

#### **16. ARBITRATION:**

16.1 The following provisions shall apply in the event of a dispute;

- (i) Any dispute or difference of any kind whatsoever arising between the parties hereto out of or in connection with this Agreement shall be referred to Arbitration, before a single arbitrator;
- (ii) The parties shall jointly appoint the arbitrator not later than 28 (twenty eight) days after service of a request in writing by either party to do so;
- (iii) If the parties are unable to agree within 28 (twenty eight) days as to the appointment of such arbitrator then such arbitrator (hereinafter referred to as “the Tribunal”) shall be appointed on the application of either party to the President for the time being of the Law Society.

16.2 In the event of a reference to arbitration the parties agree to;

- (i) Prosecute any such reference expeditiously;
- (ii) Do all things or take all steps reasonably necessary in order to enable the Tribunal to deliver any award (interim, final or otherwise) as soon as reasonably practicable.

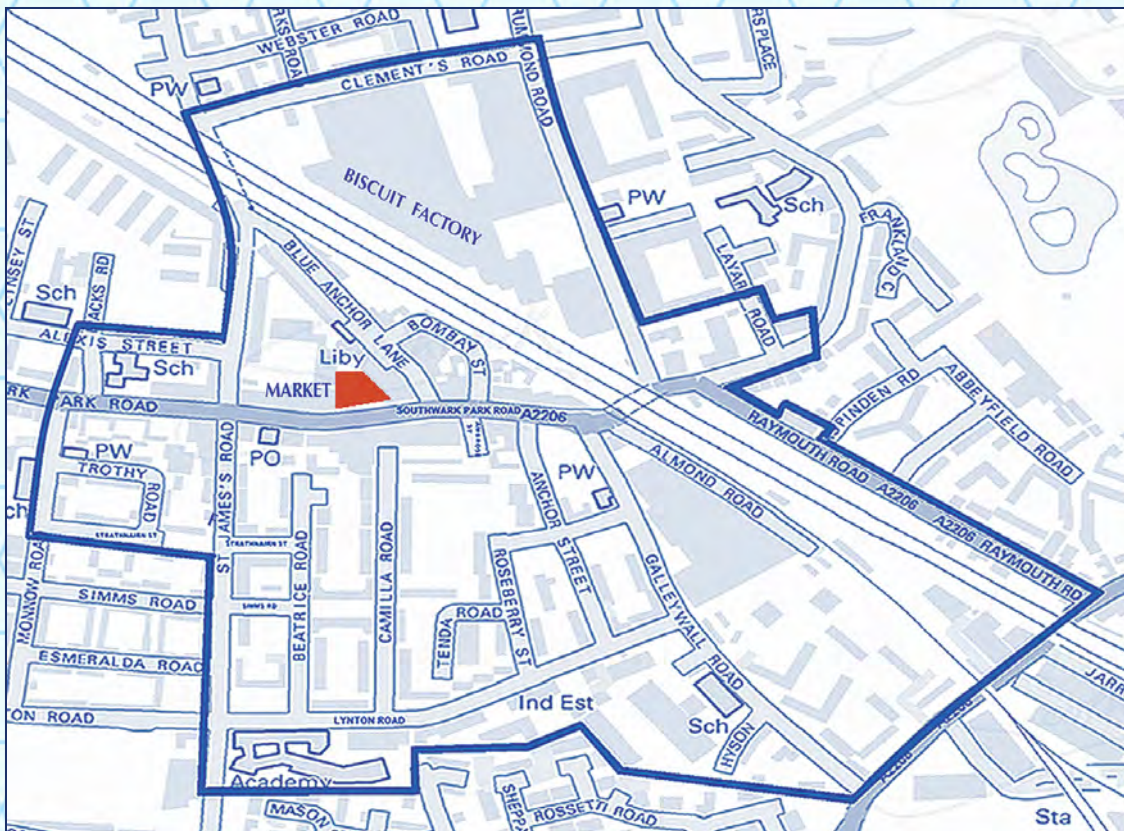
16.3 The award shall be in writing signed by the Tribunal.

16.4 The award shall be final and binding both on the parties and on any persons claiming through or under them.

**SCHEDULE: 1**

**BID AREA MAP AND LIST OF STREETS:**

- |                     |                              |
|---------------------|------------------------------|
| Alexis Street       | Macks Road                   |
| Almond Road         | Market Place                 |
| Ambrose Street      | Monnow Road 1-21             |
| Anchor Street       | Raymouth Road                |
| Beatrice Road       | Rockgrove Way                |
| Blue Anchor Lane    | Roseberry Street             |
| Bombay Street       | Rotherhithe New Road 206-264 |
| Camilla Road        | St James Road – 103-245 AND  |
| Clements Road       | RAILWAY ARCHES 654-659       |
| Drummond Road       | Simms Road                   |
| Frank Mews          | Southwark Park Road 148-345  |
| Galleywall Road     | Strathnairn Street           |
| Hyson Road          | Tenda Road                   |
| Layard Road         | Trothy Road                  |
| Lynton Road 240-362 |                              |





## SCHEDULE: 2

## THE STANDARD SERVICES:

**KEY: Cells coloured in grey indicate services provided by Southwark Council.**

Baseline Street Cleaning Service - Blue Bermondsey B.I.D										
Road	Daily litter pick and sweep	Alternate day litter pick	Manual sweep every 4 weeks	Mechanical Sweep	Pavement wash (railway arches only)	Graffiti removal	Fly-tip removal	Dog waste removal	Litter Bin Washing	Weed control
Blue Anchor Lane				Once per week						
Combal Street										
Camilla Road				Once per week						
Clements Road				Once per week						
Drummond Road				Once per week						
Frank Mews										
Gallerwall Road				Twice per week						
Hison Road										
Laird Road										
240-360 Lynton Road				Once per week						
Macks Road										
Manet Place										
1-21 Monnow Road				Once per week						
Raymouth Road				Twice per week						
Rockgrove Way										
Rosaberry Street										
203-264 Rotherhithe New Road				Twice per week	Once per week					
103-245 St James Road				Twice per week	Once per week					
Railway Arches 654-659										
Simms Road										
148-345 Southwark Park Road				Twice per week	Once per week					
Strathnairn Street										
Tenda Road										
Trothy Road				Once per week						

**Notes**  
 Offensive graffiti removed within 4 hours  
 Non-offensive graffiti removed within 24 hours  
 Fly tip removed within 24 hours  
 Dog waste removed within 48 hours  
 Litter bins washed every 6 months  
 Weed control - 3 applications of herbicide per year

Frank Mews and Railway Arches 654-659 are not part of existing street cleaning contract  
 Rockgrove Way is maintained by our estate cleaning service

