**COMHAIRLE CHONTAE ÁTHA CLIATH THEAS
SOUTH DUBLIN COUNTY COUNCIL**

**MEETING OF SOUTH DUBLIN COUNTY COUNCIL**

**Monday, 11th July 2016**

**ITEM NO. H – I (7) (c)**

 **M50 Upgrade Order, 2004 - Exchange of lands at Red Cow Roundabout between South Dublin County Council/Capel Developments Ltd. (In Receivership)/Bluebell United FC**

 The South Dublin County Council Compulsory Purchase (M50 Motorway Upgrade Scheme) Order 2004 was confirmed with modifications by An Bord Pleanála on 29th April 2005. Notices to treat were served on 15th August 2005 and Notice of Intention to enter was served on 2nd December 2005 on Capel Developments Ltd., who are the owners of the freehold interest in Plots 124c and 41a2 of the aforementioned Compulsory Purchase Order. Manager’s Order LA/156/2007 dated 29th June 2007 approved a number of terms and conditions, which were considered fair and reasonable. Following payment of compensation, the transaction proceeded on a “resting in contract” basis with all but €250,000 of the monetary consideration being paid by the Council to Capel Developments Ltd. Following an issue with a mound of earth deposited on the Council owned land (Plot 1 of Map No. CSK-010 refers), a proposal to pay Capel Developments Ltd. an additional €200,000 was agreed, subject to NAMA’s approval, to be paid in lieu of South Dublin County Council’s obligation to remediate the Council owned site.

Capel Developments Ltd. went into receivership in April 2012.

Following agreement between the Council, NAMA and the Receiver for Capel Developments (“the Receiver”), the Council’s Solicitor has recommended the following terms:-

1. The Receiver will transfer the lands identified as Plots 2a, 2b, 3 and 4, shown on Map CSK- 010, to South Dublin County Council in consideration of the payment of the balance of the purchase price in the amount of €250,000.
2. The County Council owned land shown as Plot 1 on Map No. CSK-010, (“the Land”) will be transferred, at the nomination of the Receiver, from South Dublin County Council to Bluebell United Football Club, by way of sub-sale for a nominal amount, for use as playing pitches.
3. South Dublin County Council will transfer the Land as it is and neither the Receiver nor Bluebell United F.C. will seek any indemnity from South Dublin County Council in respect of the presence or contents of the mound on the land.
4. Both the Receiver and Bluebell United F.C. will acknowledge that the payment of the additional amount of €200,000 to the Receiver is in lieu of the Council’s obligation to remove the spoil heap and remediate the land and is in full and final settlement and will waive all and any future claims against the Council in respect of the mound.
5. The issue of access to Plot 1 is a matter to be agreed between Bluebell United Football Club and Capel Development’s Receiver.
6. The Receiver will waive the benefit of the contractual commitments on the part of South Dublin County Council, as set out at paragraphs 2(ii), 2(iii) and 3 of LA156/2007 in respect of plots no.2a and no.4 (to grant easements to Capel Developments Ltd. and to provide an access road and piped services over plots no. 2a and plot no. 4).
7. No environmental warranties or indemnities would be provided or sought by any of the parties to the transaction.
8. That the claimant holds the unencumbered freehold interest with vacant possession.
9. That all outstanding charges, rates and taxes (if any) on the property shall be cleared prior to the completion of the transaction.
10. The above proposal is subject to satisfactory proof of title.
11. The above proposal is subject to the necessary approvals and consents being obtained.

The expenditure in this case will be charged to job code C2100042.

I concur with the above recommendation of the Council’s Solicitor and that the transfer of the Council owned lands be made in accordance with Section 211 of the Planning and Development Act 2000 and subject to the provisions of Section 183 of the Local Government Act 2001.

The lands being transferred by the Council form part of lands acquired from Elizabeth, Daniel & Bridget Cullen in 1987 as part of the Western Parkway Roads Scheme (now known as M50).

**Daniel McLoughlin**

**Chief Executive**