

Response to Request for Information

Reference FOI 001237
Date 19 June 2017

Bilston BID Operating Agreement and Business Plan

Request:

I am requesting a copy of the operating agreement between yourselves and Bilston BID Ltd.

[See attached.](#)

I also request a copy of the minutes regarding any meeting's where the business improvement district Ltd was discussed from initial planning to the current day and the backing you provide for this private Ltd company.

I can confirm that City of Wolverhampton Council holds this information. The information you have requested is exempt under Section 21 of the Freedom of Information Act (FOIA), because the information is accessible to you, as it is already in the public domain.

Please see link supplied below (agenda item 8):

<http://wolverhampton.moderngov.co.uk/ieListDocuments.aspx?CId=130&MId=203&Ver=4>

An advance of £40,000 was made to the BID company on or before 1 April 2016 to be subsequently deducted from the BID Revenue Account. Details are contained in the attached Operating Agreement.

I would also like to request how many hereditaments the Council own who A - had a vote in the B.I.D ballot B - how many pay the levy C - how much each hereditament pay's.

The table below also shows how much each pays:

Charge Band	Prop Ref No.	Payable		
		2015/16 (part)	2016/17	2017/18
BAND-1	N062902008J	62.16	250	250
BAND-1	N100402887J	62.16	250	250
BAND-1	N208102140J	62.16	250	250
BAND-1	N378702041J	62.16	250	250
BAND-1	N521302064J	62.16	250	250
BAND-1	N35740232000J	62.16	250	250
BAND-2	N35750369008K	87.02	350	350
BAND-2	N30760215004K	87.02	350	350
BAND-3	N068602480L	186.48	750	750
BAND-3	N378402005L	186.48	750	750
BAND-7	N307602117P	2486.34	10000	10000
BAND-8	N34240001000Q	3729.51	15000	15000

Dated

BID LEVY OPERATING AGREEMENT

WOLVERHAMPTON CITY COUNCIL

- and -

BILSTON BID LIMITED

Agreement

THIS DEED is made the _____ **day of** _____ **201[6]**
BETWEEN

(1) **WOLVERHAMPTON CITY COUNCIL** of Civic Centre St Peter's Square
Wolverhampton WV1 1RG ("the Council")

(2) **BILSTON BID LIMITED (Company Number 09845682)** whose registered
office is situated at C/O Mr Raj Randhawa, Bilston Motor Spares, 57 High Street,
Bilston, Wolverhampton, WV14 0EZ "Bilston BID [Company] Limited",
("the Bid Company")

Each being a party and together being the Parties

Recitals

- A The Council is the billing authority for the purposes of the BID Statutory Provisions and is responsible for collecting the BID Levy (as hereinafter defined) and administering the BID Revenue Account which shall be used towards the operation of the BID within the area of the Local Authority and the funding of the BID Arrangements.
- B The BID Company is responsible for the operation of the BID and for using the BID Levy lawfully for the purposes of achieving the BID Arrangements.
- C 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.
- D The purpose of this Agreement is to:
- (1) establish the procedure for setting the BID Levy;
 - (2) confirm the basis upon which the Council will be responsible for collecting the BID Levy;
 - (3) set out the enforcement mechanisms for collection of the BID Levy;
 - (4) set out the procedures for accounting and transference of the BID Levy;

- (5) provide for the monitoring and review of the collection of the BID Levy;
- (6) confirm the manner in which the Council expenses incurred in collecting the BID Levy shall be paid.

1. Definitions

Interpretation

In this Agreement the following words and expressions have the following meanings:

Advance Payment means the sum £40,000 paid by the Council to the Bid Company

Alteration BID Proposals means the proposals for the BID Arrangements in an alteration ballot

Annual Report means a report prepared by the Council which details the following:

- The cash collection outturn statement which includes the total amount of BID Levy collected during the relevant Financial Year and the amount paid to the BID with a statement of the Council deductions;
- Details of the percentage collection rate of the BID Levy;
- Details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy; and

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

Balancing Payment means the difference between the Advance Payment and the total quarterly or monthly Levy Payments for the BID year and the actual total sum of the BID Levy collected by the Council for the relevant BID year.

Ballot Result Date means; the date upon which a successful ballot result has been declared in accordance with paragraph 17 of Schedule 2 of the Regulations in favour of putting in place the BID Arrangements.

BID means the Business Improvement District which operates within Bilston Town centre and which is managed and operated by the BID Company.

BID Area means the area of Bilston specified in the BID Arrangements, the streets of which are listed in Schedule 2.

BID Arrangements means those arrangements to be put in place pursuant to the Regulations for the operation of the BID set out in the following documents:-

- BID Proposals set out in the BID Business Plan 2015 to 2020 which forms the basis of the BID arrangements referred to in the BID Statutory

Provisions;

BID Ballot means a ballot of the non-domestic ratepayers in the BID who are to be liable for the proposed BID Levy

BID Board means the board of directors of the BID Company

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

- The total income and expenditure of the BID Levy;
- Other income and expenditure not being the BID Levy;
- The various initiatives and schemes upon which the BID Levy has been expended;
- Recommendations for the operation of the BID for the following financial year.

BID Levy means the charge to be levied and collected from BID Levy Payers within the BID Area pursuant to the Regulations but not including costs awards relating to the issuing of court summons, liability orders other proceedings or further enforcement action

BID Levy Payer(s) means the non-domestic rate payers responsible for paying the BID Levy.

BID Levy Rules means the rules set out in Schedule 1 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)

BID Proposals means the proposals for the BID Arrangements.

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

BID Statutory Provisions means the Local Government Finance Act 1988, part 4 of the Local Government Act 2003 ("the Act") and the Business Improvement Districts (England) Regulations 2004 and or any subsequent regulations or enactment or consolidation of the Local Government Finance Act 1988 Act or the Act or the regulations which provide a legislative framework for the establishment and operation of a BID.

BID Term means the period of five years commencing 1st January 2016.

Chargeable Period means 1st January 2016 to 31 March 2016 and thereafter a single financial year between 1st April 2016 and 31st December 2020 . The final chargeable period will be 1st April 2020 to 31st December 2020

Commencement Date means 1st January 2016.

Confidential Information means information whether written, electronic or oral:-

- Any information provided by one party to the other party under or in connection with this agreement or the BID Arrangements which is notified in writing to the receiving party as either being a trade secret or sufficiently commercially sensitive to justify such information being kept confidential;
- Personal data within the Data Protection Act 1998.

Contributors means the BID Levy Payers or other contributors making voluntary contributions to the BID Company

Demand Notice means the demand notice required to be served by paragraph 2 of Schedule 4 of the Regulations.

Electronic Communications 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:

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

Enforcement Notice means a notice to be served by the BID Company as specified in Clause 8 and Clause 11.

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

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

Financial Year means the financial year in respect of the BID which runs from 1st April to 31st March.

Force Majeure means any circumstances beyond the reasonable control of any Party (including, without limitation, any strike, lock-out or other form of industrial action)

Heredity shall have the same meaning as defined in the Regulations referred to in BID Statutory Provisions

Liability Order means an order obtained from the Magistrates Court.

Monitoring Group means a group will be established to monitor the performance of the BID Levy collection. The Group will consist of BID Director, Revenues & Benefits representative, Legal Services representative, Finance/Accountancy representative of the Council.

Monthly Levy Payment means the sum of the BID Levy collected in the previous calendar month.

NNDR means National Non Domestic Rates.

Rateable Value- means the value of the dwelling for Non Domestic Rates in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (S.I. 1989/1058) and the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1989 (S.I. 1989/1060) and subsequent enactments

Re-ballot BID Proposals means the proposals for the BID Arrangements in a renewal ballot/ re-ballot

Renewal BID Proposals means the proposals for the BID Arrangements in a renewal ballot

Reminder Notice means the notice to be served in respect of an unpaid BID Levy (Clause 8.1).

Single Instalment Due Date means the date by which the bid levy should be paid

Sum unpaid means the amount of bid levy unpaid on an individual account or group of accounts

2. Statutory Authorities

2.1 This Agreement is entered into pursuant to the BID Statutory Provisions and Section 111 of the Local Government Act 1972 and all other enabling powers.

2.2 Nothing contained in this Agreement or implied in it shall prejudice or affect the rights, discretions, powers 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

3. Commencement

3.1 This Agreement shall take effect on 1 January 2016 and in any event shall determine and cease to be of any further effect in the event that:

3.1.1 the BID Company fails to secure approval of the, Renewal proposals or Alteration Proposals in a ballot, renewal ballot, alteration ballot or rebalot;

- 3.1.2 the Secretary of State declares void a BID ballot renewal ballot alteration ballot or re-ballot;
- 3.1.3 the Council exercises its veto and there is no successful appeal against the veto;
- 3.1.4 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 rebalot 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 rebalot provided, in relation to Renewal Proposals and Alteration Proposals the Council consents to such continuation;
- 3.1.5 the Council exercises its discretion to terminate the BID Arrangements in accordance with clause 16 and/or in exercise of powers under regulation 18 of the Regulations.

4. Setting the BID Levy

- 4.1 As soon as possible after the 1st January 2016 the Council shall:
 - 4.1.1 calculate the BID Levy for each BID Levy Payer in accordance with the BID Levy Rules and having regard to the initial chargeable period ; and
 - 4.1.2 confirm in writing to the BID Company the BID Levy payable by each BID Levy payer for the chargeable period from 1 January 2016 to 31 March 2016 and thereafter for the forthcoming year.

5. The BID Revenue Account

- 5.1 As soon as is reasonably practicable following the 1st January 2016 the Council shall keep a BID Revenue Account in accordance with regulations and accounting codes of practice in force at the time and provide written confirmation to the BID Company of the same.
- 5.2 As soon as reasonably practicable following the 1st January 2016 the BID Company shall provide the Council with details of its bank account into which the BID Levy shall be transferred from the BID Revenue Account and any other details which the Council may reasonably require.
- 5.3 The Council will pay to the BID Company on account for services provided in administering the BID arrangements on behalf of the Council, each month a sum equal to the monies collected in the month and properly credited to the BID Revenue Account net of cost of collection and refunds. The payment to be made within 10 working days of the month end.
- 5.4 Annually the Council will pay to the BID Company or receive from it the

Balancing Payment having taken account of the monthly on account payments and balance on the BID Revenue Account at the year end. The final payment to be made by 30 June following the year end.

- 5.5 All sums will be subject to Value Added Tax (VAT) where applicable under VAT legislation and regulations in force at the time.
- 5.6 The BID Company and the Council as appropriate will issue VAT receipts, where applicable under VAT legislation and regulations in force at the time, for monies received within 7 working days of receipt of the monies.
- 5.7 The Council will make Advance Payment agreed between the parties on or before the 1st April 2016 which will be subsequently deducted from the BID Revenue Account

6. Collecting the BID Levy

- 6.1 As soon as reasonably practicable following the 1st January 2016 the Council shall confirm to the BID Company the anticipated date of the despatch of Demand Notices for the initial chargeable period and the anticipated Single Instalment Due Date.
- 6.2 The Council shall serve an initial Demand Notice on each BID Levy Payer for the initial chargeable Period and thereafter shall continue to calculate the BID Levy and serve an annual Demand Notice throughout the BID Term.
- 6.3 The Council shall maintain a list of those BID Levy Payers who have paid the BID Levy and those BID Levy Payers who have not paid the BID Levy and shall make the list available to the BID Company upon its reasonable request if in accordance with the Data Protection Act 1998.
- 6.4 The Council shall serve a Demand Notice or amended Demand Notice on a BID Levy Payer as soon as reasonably practicable after the Council receives notice of a change that affects liability for the BID Levy.
- 6.5 The Council shall use reasonable endeavours to collect the BID Levy throughout the BID Term in accordance with clauses 6, 7 and 8 of this Agreement and the BID rules.
- 6.6 If any payment received from the BID Levy Payer is not specifically stated to be in respect of the BID Levy and the intended allocation cannot be determined the Council reserves the right to allocate the payment to NNDR payments in respect of the BID Levy Payer's Hereditament in line with its standard procedures.
- 6.7 If the BID Levy Payer subsequently confirms that the payment was intended for the BID levy account, the appropriate reallocation will be made.

7. Procedures available to the Council for enforcing payment of the BID Levy

- 7.1 Procedures for the enforcement and recovery of the BID Levy will be in line with the enforcement procedure for NNDR and the Council shall comply with these enforcement procedures (where appropriate) in enforcing payment of the BID Levy against BID Levy Payers.
- 7.2 The above process will be subject to review throughout the life of the BID to ensure effective and efficient management of collection processes are used, taking into consideration best practice. A separate operational recovery document detailing exact processes and permitted variations will be agreed by all parties, and subjected to external scrutiny.
- 7.3 The Council shall write off debts deemed to be uncollectable and report to the BID Company in line with regular reporting arrangements.
- 7.4 The Council shall only write back credits after it can be demonstrated that all opportunities to refund the money to the BID Levy Payer have been exhausted. All credits arising through overpayment shall be offset against future charges unless a refund is specifically requested by the BID payer

8. Enforcement Mechanisms In The Event That The Council Fails to Enforce Collection of the BID Levy

- 8.1 In the event that the Council fails to enforce payment of the BID Levy pursuant to Clause 7 the BID Company shall be entitled to serve an Enforcement Notice on the Council requesting that:
 - 8.1.1 the Council serve a Reminder Notice or
 - 8.1.2 In the event that the Council has already served a Reminder Notice that the Council applies for a Liability Order and the Council shall thereafter provide written confirmation of the action it shall take to comply with the Enforcement Notice.
 - 8.1.3 If the Council fails to provide written confirmation of the action it is taking in relation to the Enforcement Notice within 21 days of the issue of the Enforcement Notice the BID Company shall be entitled to serve an Appeal Notice on the Director of Finance of the Council and such notice shall:
 - detail the Sum Unpaid
 - confirm that the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the Sum Unpaid; and
 - include written notice requesting that a meeting of the Monitoring Group take place in order to achieve a solution and/or agree a strategy to recover the Sum Unpaid such meeting to take place no later than 28 (twenty eight) days from the date of the Appeal Notice.

9. Accounting Procedures and Monitoring

- 9.1 Within 21 working days of the end of the quarter (or such lesser period as shall be agreed between the Parties) and every quarter thereafter (for the duration of BID Term) the Council shall provide the BID Company with:
- (i) the amount of the BID Levy for each BID Levy Payer;
 - (ii) the amount of the BID Levy collected for each BID Levy Payer;
 - (iii) details of BID Levy Payers who have not paid the BID Levy;
 - (iv) details of Reminder Notices issued;
 - (v) details of Liability Orders made or applied for;
 - (vi) details of agreement made, if any, between the Council and BID Levy Payers where it has been agreed that payment of a Demand Notice can be made over a period of 3 (three) months or more from the date of such Demand Notice.
- 9.2 The Council shall be entitled to recover its reasonable and proper costs from the BID Levy Payer in respect of issuing summons and/or demand notices, obtaining Liability Orders and other legal costs and shall be entitled to retain any sums and/or costs it receives.
- 9.3 Within one month from the 1st January 2016 the parties shall agree the dates when there will be meetings of the Monitoring Group and there will 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 Monitoring Group shall be arranged by the service of written notice by either party.
- 9.4 At each meeting the Monitoring Group shall only:
- 9.4.1 review the effectiveness of the collection and enforcement of the BID Levy; and
 - 9.4.2 if required by either party review and assess information provided by the parties.
- 9.5 Within one month after the end of the financial year (for the duration of the Bid Term) the BID Company shall provide the Council with its pre-audited annual accounts.
- 9.5.1 The BID Company will arrange the annual audit of the draft annual accounts. This audit will be conducted in a manner acceptable to the Council's auditors.
 - 9.5.2 Within one month from the date of receipt of the Annual Report in each financial year (for the duration of the BID Term) the BID Company shall provide a BID Company Report to the Council
- 9.6 Within three months after the end of each Financial Year (for the duration of the Bid Term) the Council shall provide an Annual Report to the BID Company

- 9.7 The BID Revenue Account will be subject to the normal internal & external audit arrangements of the Council. The Council will make available to the BID Company and its appointed auditors such information as requested by the BID Company and its appointed auditors and that it is able to do so under legislation and regulation

10 Confidentiality

- 10.1 Subject to the following provisions, neither party shall disclose any Confidential Information (whether verbal, in writing or in electronic form).
- 10.2 Such Confidential Information or any part thereof may only be disclosed to or used by persons such as employees, sub-contractors and agents of a party who need to know the same for the purposes of performing its obligations under the BID Arrangements. Each party shall keep the Confidential Information secret and confidential and shall procure that such persons shall comply with substantially similar obligations of confidentiality as set out in this agreement.
- 10.3 The restriction on disclosure shall not apply to Confidential Information to the extent that it:-
- is required to be disclosed by law (including under the Freedom of Information Act 2000) or by any governmental or other regulatory authority acting within the scope of its powers;
Is or becomes part of the public domain through no fault of the receiving party;
 - Is known to the receiving party prior to the disclosure by the disclosing party without
an obligation to keep such Confidential Information confidential;
 - Is subsequently furnished by the disclosing party to a third party without restriction on disclosure or use; or
Is subsequently obtained by the receiving party from a third party without breach of any obligation of confidentiality owed to any third party or the disclosing party.
- 10.4 Each party shall use a reasonable standard of care in dealing with the Confidential Information so as to maintain confidentiality and security of the Confidential information.
- 10.5 Each party agrees that, in the performance of its respective obligations under this Agreement, it shall comply with the provisions of the Data Protection Act 1998.

- 10.6 This obligation shall survive the termination or lapse of the BID Arrangements

11 Notices

- 11.1 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 7 days written notice

- 11.2 A notice may be served by;
- delivery to the Section 151 Officer or other responsible officer at the address of the Council specified above; or
 - delivery to the Company Secretary at the address of the BID Company specified above;
 - registered or recorded delivery post to such addresses;
 - electronic Communication (provided that it is in legible form and is capable of being used for subsequent reference) to such addresses.
- 11.3 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.

12 Contracts (Rights of Third Parties)

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

13 Disputes

- 13.1 If any dispute arises between the Parties arising out of the provisions of this Agreement the Parties shall endeavour to resolve the dispute by agreement as quickly as possible but if the dispute has not been resolved within ten (10) working days then any Party may request the others to participate in a meeting of their respective senior managers, in order to discuss the dispute and to agree a strategy to resolve it. The Parties shall then liaise in good faith to arrange and implement the meeting within ten (10) working days and shall exchange statements at least three (3) clear working days prior to the date of the meeting, setting out their respective views of the disputed issues.
- 13.2 If notwithstanding any steps taken by the Parties pursuant to clause 13.1, the dispute between them remains unresolved then at the request of any Party it shall be referred (in the absence of any express provision to the contrary) to an independent person (the "Independent Person") appointed jointly by the Parties.
- 13.3 The Independent Person is to have at least 10 years relevant post qualification experience and his/her identity shall be agreed between the Parties.
- 13.4 If the Parties cannot agree on the Independent Person's identity the Independent Person is to be appointed at the request of any of the Parties by the president or chairman for the time being of whichever of the following bodies is most appropriate having regard to the nature of the dispute:
- 13.5 The Royal Institution of Chartered Surveyors;

- 13.6 The Institute of Chartered Accountants in England & Wales; or
- 13.7 The Law Society of England and Wales.
- 13.8 The Independent Person is to act as arbitrator in accordance with the Arbitration Act 1996 and the costs of the arbitration shall be payable by the Parties in the proportions determined by the Independent Person.
- 13.9 Where costs of the Independent Person remain unpaid by the Party liable to pay them pursuant to this clause, the other Parties or any of them may discharge those costs and recover the sum so paid from the defaulting Party as a debt on written demand.

14 Force Majeure

- 14.1 If any Party is affected by Force Majeure it shall forthwith notify the other Parties of the nature and extent thereof.
- 14.2 No Party shall be deemed to be in breach of this Agreement, or otherwise be liable to the others, by reason of any delay in performance, or the non-performance, of any of its obligations hereunder, to the extent that such delay or non-performance is due to any Force Majeure of which it has notified the other Parties, and the time for performance of that obligation shall be extended accordingly.
- 14.3 If the Force Majeure in question prevails for a continuous period in excess of three months, the Parties shall enter into bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable.

15. Charges to the BID Company for the Council's services

- 15.1 The BID Company shall reimburse the Council's reasonable charges and expenses in performing the Council's duties and obligations under this agreement set out in Schedule 3 for the agreed amount of £3904 for each year of the BID Term.
- 15.2 Costs to be charged by the Council will be invoiced to the BID Company on an annual basis. The BID Company will pay invoices within a period of 30 days from the date of issue.
- 15.3 The BID Revenue Account will include the charge and the income from the BID Company.
- 15.4 The Council will cover all charges and costs for the purchase, maintenance and updates for the BID billing software required for the collection of the levy.

16 Termination of BID arrangements

- 16.1 The Council may terminate the BID Arrangements if, in its opinion, there are insufficient finances available to the BID Company to meet its liabilities for the Chargeable Period and the Council has:-
- 16.1.1 Offered the BID Company a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BID Arrangements which is sufficient to meet the shortfall; and
- 16.1.2 Given BID Levy Payers an opportunity, at a Public Meeting, to make representations in relation to the termination of the BID Arrangements.
- 16.2 The Council may terminate the BID Arrangements if it is unable, due to any cause beyond its reasonable control, to provide works or services which are necessary for the BID to continue and the Council has:-
- Consulted the BID Company; and
 - Conducted a consultation with such representatives of the business community for the BID Area as it thinks appropriate.
- 16.3 The Council shall notify the BID Company in writing of its intention to terminate the BID Arrangements at least 28 days before the date of termination.
- 16.4 So far as it considers it reasonably practicable to do so, where the Council is contemplating terminating the BID Arrangements under regulation 18(1) of the Regulations it shall endeavour to first meet with the BID Company to discuss and review any issues, and put in a reasonable timescale to resolve them.
- 16.5 The BID company may terminate the BID Arrangements where:-
- The works or services to be provided under the BID Arrangements are no longer required; or
 - The BID Company is unable, due to any cause beyond its control, to provide works or service which are necessary for the BID to continue.
- 16.6 The BID Company shall take no steps to terminate the BID Arrangements until:-
- It has consulted the Council and
 - Conducted a consultation with such representatives of the business community for the BID Area as the Council thinks appropriate.
- 16.7 The BID Company shall notify the Council in writing of its intention to terminate the BID Arrangements at least 28 days before the date of termination.
- 16.8 Any balances held by the BID Company at the time of termination and / or at the end of the BID term (insofar as there has not been a successful ballot to

continue the BID for a further term) shall be passed to the Council for the Council to repay to the BID Levy Payers in a manner pursuant to Regulation 14 of the Regulations.

16.9 Where the BID Arrangements are terminated the Council shall, as soon as is reasonably practicable give notice of the termination in writing to the BID Levy Payers pursuant to Regulation 18(6) of the Regulations and the notice shall include an explanation as to whether any part of the BID Levy is to be repaid to BID Levy payers under Regulation 14(4) of the Regulations.

17. Miscellaneous

17.1 For the avoidance of doubt, in the event of any conflict between any provision in the above documents and the BID Statutory Provisions the latter shall prevail.

17.2 If any provision of this Agreement shall become or shall be declared by any court or tribunal of competent jurisdiction to be invalid or unenforceable in any way whatsoever, such invalidity or unenforceability shall in no way impair or affect any other provision of the Agreement, which shall remain in full force and effect.

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

17.4 References to the Council include any lawful successors to its function as the billing authority for the purposes of the BID.

17.5 References to any enactment, order, regulation, code of practice or other similar provision shall be construed as a reference to any amendment, re-enactment, consolidation, variation, replacement or extension of the same from time to time and for the time being in force.

Signed on behalf of

The Council

Name.....Date.....
Position Held.....

(Bilston BID Limited)

Name.....Date.....
Position Held.....

Schedule 1- BID Levy Rules

BID Rules

The BID legislation of 2004 sets out the rules and regulations under which the BID ballot must be carried out, and the framework under which the BID must operate.

This document can be found on the following web site:

<http://www.legislation.gov.uk/ukxi/2004/2443/contents/made>

The key points are:

BID Creation and the BID Ballot

- Each eligible business ratepayer within the defined area have had one vote, provided they are listed on the National Non-Domestic Rates list as provided by the Council on the 01 November 2015.
- None of the costs incurred through the development of the BID, before the formal ballot, will be recovered through the BID Levy.

The BID Levy and Who Contributes

- The BID Levy rate will be fixed in accordance with the table on page 16 of the BID Business Plan 2015-2020 for the full term of the BID (five years) and will not be subject to inflation or alterations.
- The BID Levy will be applied to all businesses within the defined area with a rateable value of £1 or more], provided they are listed on the National Non-Domestic Rates list as provided by the Council. The BID Levy will be calculated using the rateable value on 31 December 2015 for the chargeable period 01 January 2016 to 31 March 2016 and thereafter the rateable value on 01 April each year.
- Non-retail charities with no trading income, arm or facilities, not-for-profit subscription and volunteer-based organisations will be exempt from paying the BID Levy.
- Where a new assessment is brought into the Rating List (eg a newly erected property or a property resulting from a split or merger), the BID Levy will be due on the new assessment from the effective date of the entry in the rating list.
- If a business ratepayer is liable for the premises for less than one year, the levy will be apportioned to reflect a daily charge.
- Vacant properties, undergoing refurbishment or being demolished will be liable to pay the BID Levy by the property owner or registered business ratepayer based on the rateable value on 31 December 2015 for the chargeable period 01 January 2016 to 31 March 2016 and thereafter the rateable value on 01 April each year.
- The BID Levy will not be altered by retrospective adjustments to rateable value that are reassessed to a period prior to 31 December 2015 for the chargeable period 01 January 2016 to 31 March 2016 and thereafter prior to the rateable value on 01 April each year.
- The BID Company will consider any requests for exemptions to the BID Levy in conjunction with the Council subject to the principle that the BID Levy is a

statutorily compulsory payment regardless of whether the business exercised its vote or voted against the BID

- The BID Levy will not be affected by the small business rate relief scheme, service charges paid to landlords, exemption, discretionary relief or discount periods in the non-domestic rate regulations 1989 made under the Local Government Finance Act 1988 .
- VAT will not be charged on the BID Levy.

BID Operations and Management

- The Council and its agents are the only authorised bodies able to collect the BID Levy on behalf of the BID Company.
- The BID funding will be kept in a separate BID account and transferred to the BID company.
- BID projects, costs and timescales may be altered by the Board of Directors, provided they remain in line with the overall BID objectives.
- The BID Board of Directors will meet at least six times a year. Every levy paying business will be eligible to be a member of the BID Company and vote at general annual general meetings.
- The BID Company will produce a set of annual accounts made available to all company Members and the Council .
- BID staff will be appointed through the BID Company and will work with the appropriate agencies to deliver the programme of projects set out in the BID Business Plan 2015-2020.
- The BID will last until 31 December 2020. Before the end of this period , a ballot must be held if businesses wish to continue with the BID.

Schedule 2 - BID Area - list of streets as set out on page 22 in the BID Business Plan 2015- 2020

Black Country Route "part"
 Bankfield Road "part"
 Batchcroft
 Bath Street
 Bilston Bus Station
 Bilston Central Metro Station
 Bow Street
 Caledonia Street
 Church Street
 Coseley Road "part"
 Fleet Street
 Fraser Street
 Greencroft "part"
 Hall Street
 Hartshorne Street "part"
 High Street
 Homers Fold
 Lichfield Street
 Linton Court
 Market Street
 Market Way
 Mill Court
 Mount Pleasant
 Mountford Lane "part"
 Nettlefolds Way
 Oxford Street "part"
 Pinfold Street
 Pipes Meadow
 Prosser Street
 Railway Street
 Smith Street
 Stafford Street
 Stonefield Walk
 Stonefield Road
 The Orchard
 Thompson Street
 Walsall Street
 Wellington Road "part"
 Wood Street

Schedule 3 - Schedule of Recovery of BID Accounts

Bilston Centre Bid - Schedule of Recovery of BID Accounts

1.1 A proposed timetable is set out below:

Stage	Period 1	Period 2	Period 3 onwards
Bills	01 January	01 June	01 June
Reminder 1	+28 days	+ 28 days	+ 21 days
Reminder 2		+ 28 days	not issued
Summons		+ 21 days	+ 21 days
Liability order court	+21 days	+ 21 days	+ 21 days
Liability order court will be next available day (

1.2 The assumption is that there will be many queries in the first quarter and also in the first full year. It is therefore proposed to allow extra time between stages, together with an added stage of a second reminder before court action commences.

1.3 Second reminder notices for period 1 will be issued at the end of the financial year or by agreement with the BID manager.

2. Ongoing Changes in Liability

2.1 Revised bills for changes in liability e.g. moving in/out will be issued on a daily basis. Reminders for those will be issued weekly in line with the approximate timeframes above. Summonses will be issued for the next available court based on numbers and existing courts for recovery of unpaid council tax and business rates.

2.2 The timetable will be reviewed on an ongoing basis in the light of experience and caseload.

2.3 Contact Officer for Schedule 3 Recovery Manager Revenues and Benefits Service

Schedule 4 Council's Duties and Obligations

The Council will:

Provide a Councillor (the Cabinet Member for Economic Regeneration and Prosperity) to sit as a Board member on the BID Company Board

- Provide a senior council officer to act as adviser to the BID Company Board

Provide a business-focussed dynamic link on all BID matters with senior Council staff

- Collect the BID Levy in accordance with arrangements set out in this Operating Agreement
- Support the BID Board in the co-ordination of projects and activity by including representatives of the BID in key strategic decision making groups governing the development of Bilston

Dated

BID LEVY OPERATING AGREEMENT

WOLVERHAMPTON CITY COUNCIL

- and -

BILSTON BID LIMITED

Agreement

THIS DEED is made the _____ **day of** _____ **201[6]**
BETWEEN

(1) **WOLVERHAMPTON CITY COUNCIL** of Civic Centre St Peter's Square
Wolverhampton WV1 1RG ("the Council")

(2) **BILSTON BID LIMITED (Company Number 09845682)** whose registered office is situated at C/O Mr Raj Randhawa, Bilston Motor Spares, 57 High Street, Bilston, Wolverhampton, WV14 0EZ "Bilston BID [Company] Limited", ("the Bid Company")

Each being a party and together being the Parties

Recitals

- A The Council is the billing authority for the purposes of the BID Statutory Provisions and is responsible for collecting the BID Levy (as hereinafter defined) and administering the BID Revenue Account which shall be used towards the operation of the BID within the area of the Local Authority and the funding of the BID Arrangements.
- B The BID Company is responsible for the operation of the BID and for using the BID Levy lawfully for the purposes of achieving the BID Arrangements.
- C 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.
- D The purpose of this Agreement is to:
- (1) establish the procedure for setting the BID Levy;
 - (2) confirm the basis upon which the Council will be responsible for collecting the BID Levy;
 - (3) set out the enforcement mechanisms for collection of the BID Levy;
 - (4) set out the procedures for accounting and transference of the BID Levy;

- (5) provide for the monitoring and review of the collection of the BID Levy;
- (6) confirm the manner in which the Council expenses incurred in collecting the BID Levy shall be paid.

1. Definitions

Interpretation

In this Agreement the following words and expressions have the following meanings:

Advance Payment means the sum £40,000 paid by the Council to the Bid Company

Alteration BID Proposals means the proposals for the BID Arrangements in an alteration ballot

Annual Report means a report prepared by the Council which details the following:

- The cash collection outturn statement which includes the total amount of BID Levy collected during the relevant Financial Year and the amount paid to the BID with a statement of the Council deductions;
- Details of the percentage collection rate of the BID Levy;
- Details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy; and

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

Balancing Payment means the difference between the Advance Payment and the total quarterly or monthly Levy Payments for the BID year and the actual total sum of the BID Levy collected by the Council for the relevant BID year.

Ballot Result Date means; the date upon which a successful ballot result has been declared in accordance with paragraph 17 of Schedule 2 of the Regulations in favour of putting in place the BID Arrangements.

BID means the Business Improvement District which operates within Bilston Town centre and which is managed and operated by the BID Company.

BID Area means the area of Bilston specified in the BID Arrangements, the streets of which are listed in Schedule 2.

BID Arrangements means those arrangements to be put in place pursuant to the Regulations for the operation of the BID set out in the following documents:-

- BID Proposals set out in the BID Business Plan 2015 to 2020 which forms the basis of the BID arrangements referred to in the BID Statutory

Provisions;

BID Ballot means a ballot of the non-domestic ratepayers in the BID who are to be liable for the proposed BID Levy

BID Board means the board of directors of the BID Company

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

- The total income and expenditure of the BID Levy;
- Other income and expenditure not being the BID Levy;
- The various initiatives and schemes upon which the BID Levy has been expended;
- Recommendations for the operation of the BID for the following financial year.

BID Levy means the charge to be levied and collected from BID Levy Payers within the BID Area pursuant to the Regulations but not including costs awards relating to the issuing of court summons, liability orders other proceedings or further enforcement action

BID Levy Payer(s) means the non-domestic rate payers responsible for paying the BID Levy.

BID Levy Rules means the rules set out in Schedule 1 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)

BID Proposals means the proposals for the BID Arrangements.

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

BID Statutory Provisions means the Local Government Finance Act 1988, part 4 of the Local Government Act 2003 ("the Act") and the Business Improvement Districts (England) Regulations 2004 and or any subsequent regulations or enactment or consolidation of the Local Government Finance Act 1988 Act or the Act or the regulations which provide a legislative framework for the establishment and operation of a BID.

BID Term means the period of five years commencing 1st January 2016.

Chargeable Period means 1st January 2016 to 31 March 2016 and thereafter a single financial year between 1st April 2016 and 31st December 2020 . The final chargeable period will be 1st April 2020 to 31st December 2020

Commencement Date means 1st January 2016.

Confidential Information means information whether written, electronic or oral:-

- Any information provided by one party to the other party under or in connection with this agreement or the BID Arrangements which is notified in writing to the receiving party as either being a trade secret or sufficiently commercially sensitive to justify such information being kept confidential;
- Personal data within the Data Protection Act 1998.

Contributors means the BID Levy Payers or other contributors making voluntary contributions to the BID Company

Demand Notice means the demand notice required to be served by paragraph 2 of Schedule 4 of the Regulations.

Electronic Communications 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:

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

Enforcement Notice means a notice to be served by the BID Company as specified in Clause 8 and Clause 11.

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

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

Financial Year means the financial year in respect of the BID which runs from 1st April to 31st March.

Force Majeure means any circumstances beyond the reasonable control of any Party (including, without limitation, any strike, lock-out or other form of industrial action)

Heredity shall have the same meaning as defined in the Regulations referred to in BID Statutory Provisions

Liability Order means an order obtained from the Magistrates Court.

Monitoring Group means a group will be established to monitor the performance of the BID Levy collection. The Group will consist of BID Director, Revenues & Benefits representative, Legal Services representative, Finance/Accountancy representative of the Council.

Monthly Levy Payment means the sum of the BID Levy collected in the previous calendar month.

NNDR means National Non Domestic Rates.

Rateable Value- means the value of the dwelling for Non Domestic Rates in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (S.I. 1989/1058) and the Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1989 (S.I. 1989/1060) and subsequent enactments

Re-ballot BID Proposals means the proposals for the BID Arrangements in a renewal ballot/ re-ballot

Renewal BID Proposals means the proposals for the BID Arrangements in a renewal ballot

Reminder Notice means the notice to be served in respect of an unpaid BID Levy (Clause 8.1).

Single Instalment Due Date means the date by which the bid levy should be paid

Sum unpaid means the amount of bid levy unpaid on an individual account or group of accounts

2. Statutory Authorities

2.1 This Agreement is entered into pursuant to the BID Statutory Provisions and Section 111 of the Local Government Act 1972 and all other enabling powers.

2.2 Nothing contained in this Agreement or implied in it shall prejudice or affect the rights, discretions, powers 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

3. Commencement

3.1 This Agreement shall take effect on 1 January 2016 and in any event shall determine and cease to be of any further effect in the event that:

3.1.1 the BID Company fails to secure approval of the, Renewal proposals or Alteration Proposals in a ballot, renewal ballot, alteration ballot or rebalot;

- 3.1.2 the Secretary of State declares void a BID ballot renewal ballot alteration ballot or re-ballot;
- 3.1.3 the Council exercises its veto and there is no successful appeal against the veto;
- 3.1.4 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 reballot 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 reballot provided, in relation to Renewal Proposals and Alteration Proposals the Council consents to such continuation;
- 3.1.5 the Council exercises its discretion to terminate the BID Arrangements in accordance with clause 16 and/or in exercise of powers under regulation 18 of the Regulations.

4. Setting the BID Levy

- 4.1 As soon as possible after the 1st January 2016 the Council shall:
 - 4.1.1 calculate the BID Levy for each BID Levy Payer in accordance with the BID Levy Rules and having regard to the initial chargeable period ; and
 - 4.1.2 confirm in writing to the BID Company the BID Levy payable by each BID Levy payer for the chargeable period from 1 January 2016 to 31 March 2016 and thereafter for the forthcoming year.

5. The BID Revenue Account

- 5.1 As soon as is reasonably practicable following the 1st January 2016 the Council shall keep a BID Revenue Account in accordance with regulations and accounting codes of practice in force at the time and provide written confirmation to the BID Company of the same.
- 5.2 As soon as reasonably practicable following the 1st January 2016 the BID Company shall provide the Council with details of its bank account into which the BID Levy shall be transferred from the BID Revenue Account and any other details which the Council may reasonably require.
- 5.3 The Council will pay to the BID Company on account for services provided in administering the BID arrangements on behalf of the Council, each month a sum equal to the monies collected in the month and properly credited to the BID Revenue Account net of cost of collection and refunds. The payment to be made within 10 working days of the month end.
- 5.4 Annually the Council will pay to the BID Company or receive from it the

Balancing Payment having taken account of the monthly on account payments and balance on the BID Revenue Account at the year end. The final payment to be made by 30 June following the year end.

- 5.5 All sums will be subject to Value Added Tax (VAT) where applicable under VAT legislation and regulations in force at the time.
- 5.6 The BID Company and the Council as appropriate will issue VAT receipts, where applicable under VAT legislation and regulations in force at the time, for monies received within 7 working days of receipt of the monies.
- 5.7 The Council will make Advance Payment agreed between the parties on or before the 1st April 2016 which will be subsequently deducted from the BID Revenue Account

6. Collecting the BID Levy

- 6.1 As soon as reasonably practicable following the 1st January 2016 the Council shall confirm to the BID Company the anticipated date of the despatch of Demand Notices for the initial chargeable period and the anticipated Single Instalment Due Date.
- 6.2 The Council shall serve an initial Demand Notice on each BID Levy Payer for the initial chargeable Period and thereafter shall continue to calculate the BID Levy and serve an annual Demand Notice throughout the BID Term.
- 6.3 The Council shall maintain a list of those BID Levy Payers who have paid the BID Levy and those BID Levy Payers who have not paid the BID Levy and shall make the list available to the BID Company upon its reasonable request if in accordance with the Data Protection Act 1998.
- 6.4 The Council shall serve a Demand Notice or amended Demand Notice on a BID Levy Payer as soon as reasonably practicable after the Council receives notice of a change that affects liability for the BID Levy.
- 6.5 The Council shall use reasonable endeavours to collect the BID Levy throughout the BID Term in accordance with clauses 6, 7 and 8 of this Agreement and the BID rules.
- 6.6 If any payment received from the BID Levy Payer is not specifically stated to be in respect of the BID Levy and the intended allocation cannot be determined the Council reserves the right to allocate the payment to NNDR payments in respect of the BID Levy Payer's Hereditament in line with its standard procedures.
- 6.7 If the BID Levy Payer subsequently confirms that the payment was intended for the BID levy account, the appropriate reallocation will be made.

7. Procedures available to the Council for enforcing payment of the BID Levy

- 7.1 Procedures for the enforcement and recovery of the BID Levy will be in line with the enforcement procedure for NNDR and the Council shall comply with these enforcement procedures (where appropriate) in enforcing payment of the BID Levy against BID Levy Payers.
- 7.2 The above process will be subject to review throughout the life of the BID to ensure effective and efficient management of collection processes are used, taking into consideration best practice. A separate operational recovery document detailing exact processes and permitted variations will be agreed by all parties, and subjected to external scrutiny.
- 7.3 The Council shall write off debts deemed to be uncollectable and report to the BID Company in line with regular reporting arrangements.
- 7.4 The Council shall only write back credits after it can be demonstrated that all opportunities to refund the money to the BID Levy Payer have been exhausted. All credits arising through overpayment shall be offset against future charges unless a refund is specifically requested by the BID payer

8. Enforcement Mechanisms In The Event That The Council Fails to Enforce Collection of the BID Levy

- 8.1 In the event that the Council fails to enforce payment of the BID Levy pursuant to Clause 7 the BID Company shall be entitled to serve an Enforcement Notice on the Council requesting that:
 - 8.1.1 the Council serve a Reminder Notice or
 - 8.1.2 In the event that the Council has already served a Reminder Notice that the Council applies for a Liability Order and the Council shall thereafter provide written confirmation of the action it shall take to comply with the Enforcement Notice.
 - 8.1.3 If the Council fails to provide written confirmation of the action it is taking in relation to the Enforcement Notice within 21 days of the issue of the Enforcement Notice the BID Company shall be entitled to serve an Appeal Notice on the Director of Finance of the Council and such notice shall:
 - detail the Sum Unpaid
 - confirm that the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the Sum Unpaid; and
 - include written notice requesting that a meeting of the Monitoring Group take place in order to achieve a solution and/or agree a strategy to recover the Sum Unpaid such meeting to take place no later than 28 (twenty eight) days from the date of the Appeal Notice.

9. Accounting Procedures and Monitoring

- 9.1 Within 21 working days of the end of the quarter (or such lesser period as shall be agreed between the Parties) and every quarter thereafter (for the duration of BID Term) the Council shall provide the BID Company with:
- (i) the amount of the BID Levy for each BID Levy Payer;
 - (ii) the amount of the BID Levy collected for each BID Levy Payer;
 - (iii) details of BID Levy Payers who have not paid the BID Levy;
 - (iv) details of Reminder Notices issued;
 - (v) details of Liability Orders made or applied for;
 - (vi) details of agreement made, if any, between the Council and BID Levy Payers where it has been agreed that payment of a Demand Notice can be made over a period of 3 (three) months or more from the date of such Demand Notice.
- 9.2 The Council shall be entitled to recover its reasonable and proper costs from the BID Levy Payer in respect of issuing summons and/or demand notices, obtaining Liability Orders and other legal costs and shall be entitled to retain any sums and/or costs it receives.
- 9.3 Within one month from the 1st January 2016 the parties shall agree the dates when there will be meetings of the Monitoring Group and there will 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 Monitoring Group shall be arranged by the service of written notice by either party.
- 9.4 At each meeting the Monitoring Group shall only:
- 9.4.1 review the effectiveness of the collection and enforcement of the BID Levy; and
 - 9.4.2 if required by either party review and assess information provided by the parties.
- 9.5 Within one month after the end of the financial year (for the duration of the Bid Term) the BID Company shall provide the Council with its pre-audited annual accounts.
- 9.5.1 The BID Company will arrange the annual audit of the draft annual accounts. This audit will be conducted in a manner acceptable to the Council's auditors.
 - 9.5.2 Within one month from the date of receipt of the Annual Report in each financial year (for the duration of the BID Term) the BID Company shall provide a BID Company Report to the Council
- 9.6 Within three months after the end of each Financial Year (for the duration of the Bid Term) the Council shall provide an Annual Report to the BID Company

- 9.7 The BID Revenue Account will be subject to the normal internal & external audit arrangements of the Council. The Council will make available to the BID Company and its appointed auditors such information as requested by the BID Company and its appointed auditors and that it is able to do so under legislation and regulation

10 Confidentiality

- 10.1 Subject to the following provisions, neither party shall disclose any Confidential Information (whether verbal, in writing or in electronic form).
- 10.2 Such Confidential Information or any part thereof may only be disclosed to or used by persons such as employees, sub-contractors and agents of a party who need to know the same for the purposes of performing its obligations under the BID Arrangements. Each party shall keep the Confidential Information secret and confidential and shall procure that such persons shall comply with substantially similar obligations of confidentiality as set out in this agreement.
- 10.3 The restriction on disclosure shall not apply to Confidential Information to the extent that it:-
- is required to be disclosed by law (including under the Freedom of Information Act 2000) or by any governmental or other regulatory authority acting within the scope of its powers;
Is or becomes part of the public domain through no fault of the receiving party;
 - Is known to the receiving party prior to the disclosure by the disclosing party without
an obligation to keep such Confidential Information confidential;
 - Is subsequently furnished by the disclosing party to a third party without restriction on disclosure or use; or
Is subsequently obtained by the receiving party from a third party without breach of any obligation of confidentiality owed to any third party or the disclosing party.
- 10.4 Each party shall use a reasonable standard of care in dealing with the Confidential Information so as to maintain confidentiality and security of the Confidential information.
- 10.5 Each party agrees that, in the performance of its respective obligations under this Agreement, it shall comply with the provisions of the Data Protection Act 1998.

- 10.6 This obligation shall survive the termination or lapse of the BID Arrangements

11 Notices

- 11.1 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 7 days written notice

- 11.2 A notice may be served by;
- delivery to the Section 151 Officer or other responsible officer at the address of the Council specified above; or
 - delivery to the Company Secretary at the address of the BID Company specified above;
 - registered or recorded delivery post to such addresses;
 - electronic Communication (provided that it is in legible form and is capable of being used for subsequent reference) to such addresses.
- 11.3 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.

12 Contracts (Rights of Third Parties)

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

13 Disputes

- 13.1 If any dispute arises between the Parties arising out of the provisions of this Agreement the Parties shall endeavour to resolve the dispute by agreement as quickly as possible but if the dispute has not been resolved within ten (10) working days then any Party may request the others to participate in a meeting of their respective senior managers, in order to discuss the dispute and to agree a strategy to resolve it. The Parties shall then liaise in good faith to arrange and implement the meeting within ten (10) working days and shall exchange statements at least three (3) clear working days prior to the date of the meeting, setting out their respective views of the disputed issues.
- 13.2 If notwithstanding any steps taken by the Parties pursuant to clause 13.1, the dispute between them remains unresolved then at the request of any Party it shall be referred (in the absence of any express provision to the contrary) to an independent person (the "Independent Person") appointed jointly by the Parties.
- 13.3 The Independent Person is to have at least 10 years relevant post qualification experience and his/her identity shall be agreed between the Parties.
- 13.4 If the Parties cannot agree on the Independent Person's identity the Independent Person is to be appointed at the request of any of the Parties by the president or chairman for the time being of whichever of the following bodies is most appropriate having regard to the nature of the dispute:
- 13.5 The Royal Institution of Chartered Surveyors;

- 13.6 The Institute of Chartered Accountants in England & Wales; or
- 13.7 The Law Society of England and Wales.
- 13.8 The Independent Person is to act as arbitrator in accordance with the Arbitration Act 1996 and the costs of the arbitration shall be payable by the Parties in the proportions determined by the Independent Person.
- 13.9 Where costs of the Independent Person remain unpaid by the Party liable to pay them pursuant to this clause, the other Parties or any of them may discharge those costs and recover the sum so paid from the defaulting Party as a debt on written demand.

14 Force Majeure

- 14.1 If any Party is affected by Force Majeure it shall forthwith notify the other Parties of the nature and extent thereof.
- 14.2 No Party shall be deemed to be in breach of this Agreement, or otherwise be liable to the others, by reason of any delay in performance, or the non-performance, of any of its obligations hereunder, to the extent that such delay or non-performance is due to any Force Majeure of which it has notified the other Parties, and the time for performance of that obligation shall be extended accordingly.
- 14.3 If the Force Majeure in question prevails for a continuous period in excess of three months, the Parties shall enter into bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable.

15. Charges to the BID Company for the Council's services

- 15.1 The BID Company shall reimburse the Council's reasonable charges and expenses in performing the Council's duties and obligations under this agreement set out in Schedule 3 for the agreed amount of £3904 for each year of the BID Term.
- 15.2 Costs to be charged by the Council will be invoiced to the BID Company on an annual basis. The BID Company will pay invoices within a period of 30 days from the date of issue.
- 15.3 The BID Revenue Account will include the charge and the income from the BID Company.
- 15.4 The Council will cover all charges and costs for the purchase, maintenance and updates for the BID billing software required for the collection of the levy.

16 Termination of BID arrangements

- 16.1 The Council may terminate the BID Arrangements if, in its opinion, there are insufficient finances available to the BID Company to meet its liabilities for the Chargeable Period and the Council has:-
- 16.1.1 Offered the BID Company a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BID Arrangements which is sufficient to meet the shortfall; and
- 16.1.2 Given BID Levy Payers an opportunity, at a Public Meeting, to make representations in relation to the termination of the BID Arrangements.
- 16.2 The Council may terminate the BID Arrangements if it is unable, due to any cause beyond its reasonable control, to provide works or services which are necessary for the BID to continue and the Council has:-
- Consulted the BID Company; and
 - Conducted a consultation with such representatives of the business community for the BID Area as it thinks appropriate.
- 16.3 The Council shall notify the BID Company in writing of its intention to terminate the BID Arrangements at least 28 days before the date of termination.
- 16.4 So far as it considers it reasonably practicable to do so, where the Council is contemplating terminating the BID Arrangements under regulation 18(1) of the Regulations it shall endeavour to first meet with the BID Company to discuss and review any issues, and put in a reasonable timescale to resolve them.
- 16.5 The BID company may terminate the BID Arrangements where:-
- The works or services to be provided under the BID Arrangements are no longer required; or
 - The BID Company is unable, due to any cause beyond its control, to provide works or service which are necessary for the BID to continue.
- 16.6 The BID Company shall take no steps to terminate the BID Arrangements until:-
- It has consulted the Council and
 - Conducted a consultation with such representatives of the business community for the BID Area as the Council thinks appropriate.
- 16.7 The BID Company shall notify the Council in writing of its intention to terminate the BID Arrangements at least 28 days before the date of termination.
- 16.8 Any balances held by the BID Company at the time of termination and / or at the end of the BID term (insofar as there has not been a successful ballot to

continue the BID for a further term) shall be passed to the Council for the Council to repay to the BID Levy Payers in a manner pursuant to Regulation 14 of the Regulations.

16.9 Where the BID Arrangements are terminated the Council shall, as soon as is reasonably practicable give notice of the termination in writing to the BID Levy Payers pursuant to Regulation 18(6) of the Regulations and the notice shall include an explanation as to whether any part of the BID Levy is to be repaid to BID Levy payers under Regulation 14(4) of the Regulations.

17. Miscellaneous

17.1 For the avoidance of doubt, in the event of any conflict between any provision in the above documents and the BID Statutory Provisions the latter shall prevail.

17.2 If any provision of this Agreement shall become or shall be declared by any court or tribunal of competent jurisdiction to be invalid or unenforceable in any way whatsoever, such invalidity or unenforceability shall in no way impair or affect any other provision of the Agreement, which shall remain in full force and effect.

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

17.4 References to the Council include any lawful successors to its function as the billing authority for the purposes of the BID.

17.5 References to any enactment, order, regulation, code of practice or other similar provision shall be construed as a reference to any amendment, re-enactment, consolidation, variation, replacement or extension of the same from time to time and for the time being in force.

Signed on behalf of

The Council

Name.....Date.....
Position Held.....

(Bilston BID Limited)

Name.....Date.....
Position Held.....

Schedule 1- BID Levy Rules

BID Rules

The BID legislation of 2004 sets out the rules and regulations under which the BID ballot must be carried out, and the framework under which the BID must operate.

This document can be found on the following web site:

<http://www.legislation.gov.uk/ukxi/2004/2443/contents/made>

The key points are:

BID Creation and the BID Ballot

- Each eligible business ratepayer within the defined area have had one vote, provided they are listed on the National Non-Domestic Rates list as provided by the Council on the 01 November 2015.
- None of the costs incurred through the development of the BID, before the formal ballot, will be recovered through the BID Levy.

The BID Levy and Who Contributes

- The BID Levy rate will be fixed in accordance with the table on page 16 of the BID Business Plan 2015-2020 for the full term of the BID (five years) and will not be subject to inflation or alterations.
- The BID Levy will be applied to all businesses within the defined area with a rateable value of £1 or more], provided they are listed on the National Non-Domestic Rates list as provided by the Council. The BID Levy will be calculated using the rateable value on 31 December 2015 for the chargeable period 01 January 2016 to 31 March 2016 and thereafter the rateable value on 01 April each year.
- Non-retail charities with no trading income, arm or facilities, not-for-profit subscription and volunteer-based organisations will be exempt from paying the BID Levy.
- Where a new assessment is brought into the Rating List (eg a newly erected property or a property resulting from a split or merger), the BID Levy will be due on the new assessment from the effective date of the entry in the rating list.
- If a business ratepayer is liable for the premises for less than one year, the levy will be apportioned to reflect a daily charge.
- Vacant properties, undergoing refurbishment or being demolished will be liable to pay the BID Levy by the property owner or registered business ratepayer based on the rateable value on 31 December 2015 for the chargeable period 01 January 2016 to 31 March 2016 and thereafter the rateable value on 01 April each year.
- The BID Levy will not be altered by retrospective adjustments to rateable value that are reassessed to a period prior to 31 December 2015 for the chargeable period 01 January 2016 to 31 March 2016 and thereafter prior to the rateable value on 01 April each year.
- The BID Company will consider any requests for exemptions to the BID Levy in conjunction with the Council subject to the principle that the BID Levy is a

statutorily compulsory payment regardless of whether the business exercised its vote or voted against the BID

- The BID Levy will not be affected by the small business rate relief scheme, service charges paid to landlords, exemption, discretionary relief or discount periods in the non-domestic rate regulations 1989 made under the Local Government Finance Act 1988 .
- VAT will not be charged on the BID Levy.

BID Operations and Management

- The Council and its agents are the only authorised bodies able to collect the BID Levy on behalf of the BID Company.
- The BID funding will be kept in a separate BID account and transferred to the BID company.
- BID projects, costs and timescales may be altered by the Board of Directors, provided they remain in line with the overall BID objectives.
- The BID Board of Directors will meet at least six times a year. Every levy paying business will be eligible to be a member of the BID Company and vote at general annual general meetings.
- The BID Company will produce a set of annual accounts made available to all company Members and the Council .
- BID staff will be appointed through the BID Company and will work with the appropriate agencies to deliver the programme of projects set out in the BID Business Plan 2015-2020.
- The BID will last until 31 December 2020. Before the end of this period , a ballot must be held if businesses wish to continue with the BID.

Schedule 2 - BID Area - list of streets as set out on page 22 in the BID Business Plan 2015- 2020

Black Country Route "part"
 Bankfield Road "part"
 Batchcroft
 Bath Street
 Bilston Bus Station
 Bilston Central Metro Station
 Bow Street
 Caledonia Street
 Church Street
 Coseley Road "part"
 Fleet Street
 Fraser Street
 Greencroft "part"
 Hall Street
 Hartshorne Street "part"
 High Street
 Homers Fold
 Lichfield Street
 Linton Court
 Market Street
 Market Way
 Mill Court
 Mount Pleasant
 Mountford Lane "part"
 Nettlefolds Way
 Oxford Street "part"
 Pinfold Street
 Pipes Meadow
 Prosser Street
 Railway Street
 Smith Street
 Stafford Street
 Stonefield Walk
 Stonefield Road
 The Orchard
 Thompson Street
 Walsall Street
 Wellington Road "part"
 Wood Street

Schedule 3 - Schedule of Recovery of BID Accounts

Bilston Centre Bid - Schedule of Recovery of BID Accounts

1.1 A proposed timetable is set out below:

Stage	Period 1	Period 2	Period 3 onwards
Bills	01 January	01 June	01 June
Reminder 1	+28 days	+ 28 days	+ 21 days
Reminder 2		+ 28 days	not issued
Summons		+ 21 days	+ 21 days
Liability order court	+21 days	+ 21 days	+ 21 days
Liability order court will be next available day (

1.2 The assumption is that there will be many queries in the first quarter and also in the first full year. It is therefore proposed to allow extra time between stages, together with an added stage of a second reminder before court action commences.

1.3 Second reminder notices for period 1 will be issued at the end of the financial year or by agreement with the BID manager.

2. Ongoing Changes in Liability

2.1 Revised bills for changes in liability e.g. moving in/out will be issued on a daily basis. Reminders for those will be issued weekly in line with the approximate timeframes above. Summonses will be issued for the next available court based on numbers and existing courts for recovery of unpaid council tax and business rates.

2.2 The timetable will be reviewed on an ongoing basis in the light of experience and caseload.

2.3 Contact Officer for Schedule 3 Recovery Manager Revenues and Benefits Service

Schedule 4 Council's Duties and Obligations

The Council will:

Provide a Councillor (the Cabinet Member for Economic Regeneration and Prosperity) to sit as a Board member on the BID Company Board

- Provide a senior council officer to act as adviser to the BID Company Board

Provide a business-focussed dynamic link on all BID matters with senior Council staff

- Collect the BID Levy in accordance with arrangements set out in this Operating Agreement
- Support the BID Board in the co-ordination of projects and activity by including representatives of the BID in key strategic decision making groups governing the development of Bilston