



Eich cyf / Your ref:  
Ein cyf / Our ref:

Christine Salter  
Corporate Director, Resources  
Cardiff City Council  
[C.Salter@cardiff.gov.uk](mailto:C.Salter@cardiff.gov.uk)

22 March 2017

Dear Christine,

**Payment of Funding in relation to Cardiff Capital Region City Deal Investment Fund for the years 2016-17 to 2020-21.**

**1. Award of Funding**

- (a) HM Treasury has committed to provide funding totalling £375m over 20 years for the purposes of the Cardiff Capital Region City Deal (CCRCD), profiled as follows:
  - 2016-17 to 2020-21 £10m resource funding per year;
  - 2021-22 to 2030-31 £22m capital funding per year;
  - 2031-32 to 2035-36 £21m capital funding per year.
- (b) The funding will be provided to Welsh Government with the expectation that it will be passed to CCRCD on the agreed profile.
- (c) This letter relates to the provision of the agreed HM Treasury funding by Welsh Government to CCRCD for the years 2016-17 to 2020-21.
- (d) Welsh Government will pay £10m resource funding to CCRCD in respect of each of the years 2016-17 to 2020-21 or until a Gateway Review of CCRCD is conducted by HM Government, whichever is the earlier. The payment of this funding by Welsh Government to CCRCD is conditional on the equivalent funding being provided to Welsh Government by HM Treasury.
- (e) Funding for 2021-22 and subsequent years is conditional on CCRCD passing an outcome based Gateway Review to be led by HM Treasury. If the Gateway Review is passed and continued HM Treasury funding agreed, a further grant letter will be issued.



## 2. Statutory Authority and State Aid

- (a) This award of Funding is made on and subject to the Conditions and under the authority of the Cabinet Secretary for Finance and Local Government, one of the Welsh Ministers, acting pursuant to section 31 of the Local Government Finance Act 2003.
- (b) You must comply with the European Commission's State Aid Rules.

## 3. Interpreting these Conditions

Any reference in these Conditions to:

**'you', 'your'** is to Cardiff City Council as Accountable Body for CCRCD.

**'we', 'us', 'our'** is to the Welsh Ministers;

**'Welsh Government Official'** is to Debra Carter, Deputy Director, Local Government Finance Policy, or such other Welsh Government official as we may notify you.

**'Programme Manager'** is to

Sheila Davies, Programme Manager, Cardiff Capital Region City Deal.

**'Conditions'** is to the terms and conditions set out in this letter;

**'Costs Incurred'** is to the cost of goods and services you have received.

**'Notification Event'** is to any of the events listed in Schedule;

**'Personnel'** is to your management/employees and suppliers or any other person appointed or engaged by you in relation to the Funding;

**'Schedule'** is to the schedule attached to this letter;

**'State Aid Rules'** is to the rules set out in Articles 107 to 109 of the Treaty on the Functioning of the European Union (or in those Articles that may succeed Articles 107 to 109), secondary legislation such as frameworks, guidelines and block exemptions produced by the European Commission derived from Articles 107 to 109, case law of the European Courts and decisions of the European Commission regarding the application of Articles 107 to 109; and

**any legislation** will include all amendments to and substitutions and re-enactments of that legislation in force from time to time;

## 4. What you must use the Funding for

- (a) You must use the Funding solely to support the objectives of the CCRCD through the implementation of projects, schemes and interventions agreed by the Cardiff

Capital Region Joint Cabinet (Regional Cabinet) in accordance with the arrangements set out in its Joint Working Agreement, Wider Investment Fund Assurance Framework, CCRCD Implementation Plan and, when agreed, the JWA Business Plan ("the purposes").

- (b) Where any borrowing has been undertaken for the purpose of (a), the Funding may be used to pay off the debt principle.
- (c) Any change to the purposes will require our written consent which must be obtained from us in advance of implementing any change. Please note that we are not obliged to give our consent but we will consider all reasonable written requests.
- (d) You must not use any part of the Funding for: (1) party political purposes; (2) the promotion of particular secular, religious or political views; (3) gambling; (4) pornography; (5) offering sexual services; (6) purchasing capital equipment (other than as specified in the Purposes); (7) your legal fees in relation to this letter; (8) Costs Incurred or costs incurred and defrayed by you in the delivery of the Purposes prior to the period referred to in Condition 1 (c); (9) any kind of illegal activities; or (10) any kind of activity which in our opinion could bring us into disrepute.

## **5. Payment Profile**

- (a) The first payment of funding of £10m, originally profiled for 2016-17, will be made within the first six months of 2017-18.
- (b) Thereafter, four payments of £10m will be made within the first six months of each of the years 2017-18 to 2020-21, provided the equivalent funding has been paid to Welsh Government by HM Treasury.
- (c) You will be permitted to carry forward unspent funding between years, up to and including carrying forward unspent funding from 2019-20 to 2020-21.
- (d) If CCRCD does not pass its Gateway Review, any unspent funding may be subject to repayment to Welsh Government, if HM Treasury so advise or if HM Treasury require the repayment of this funding by Welsh Government.

## **6. Your general obligations to us**

You must:

- (a) safeguard the Funding against fraud generally and, in particular, fraud on the part of your management, employees and/or suppliers and notify us immediately if you have reason to suspect that any fraud has occurred or is occurring or is likely to occur. You must also participate in such fraud prevention initiatives as we may require from time to time.
- (b) comply with all applicable laws or regulations or official directives whether derived from domestic, EU or international law;
- (c) put in place and maintain adequate insurances to cover against the risks which may arise in connection with any property or any activity undertaken in delivery of the Purposes. We reserve the right to require you provide proof of your insurance;

- (d) put in place and maintain appropriate systems to undertake due diligence before utilising any part of the Funding to provide a grant to or procure any goods or services from third parties;
- (e) co-operate fully with the Welsh Government Official and with any other employee of the Welsh Government or consultant appointed by us to monitor your use of the Funding and your compliance with these Conditions.

## **7. Declarations**

You declare that:

- (a) you have the power to enter into and to perform the obligations set out in these Conditions and you have taken all necessary action to authorise the entry into and performance of the obligations under these Conditions;
- (b) no litigation or arbitration is current or pending or, so far as you are aware, threatened, which have or could have an adverse effect on your ability to perform and comply with any of these Conditions;
- (c) you have disclosed to us all material facts or circumstances which need to be disclosed to enable us to obtain a true and correct view of your business and affairs (both current and prospective) or which ought to be provided to any person who is considering providing funding to you;

## **8. Notification Events and their consequences**

- (a) You must notify us immediately if a Notification Event has occurred or is likely to occur but we also reserve the right to notify you where we believe a Notification Event has occurred or is likely to occur.
- (b) If we consider it appropriate, taking into account both the seriousness of the Notification Event and whether or not in our opinion it can be remedied, we will seek to discuss the Notification Event with you and to agree a course of action to be taken to address the Notification Event.
- (c) We will be entitled to take any of the actions listed in Condition 8(d) if:
  - (i) despite our reasonable efforts we have been unable to discuss the Notification Event with you, or
  - (ii) we notify you that the Notification Event is not capable of remedy, or
  - (iii) a course of action is agreed with you but you fail to follow it, or any conditions attached to it are not met (including without limitation the timescale for such course of action), or
  - (iv) the course of action fails to remedy the Notification Event to our satisfaction.
- (d) If any of the circumstances set out in Condition 8(c) occurs we may by notice to you:

- (i) withdraw the award of Funding; and/or require you to repay all or part of the Funding immediately; and/or
  - (ii) suspend or cease all further payment of Funding; and/or
  - (iii) make all further payments of Funding subject to such conditions as we may specify; and/or
  - (iv) deduct all amounts owed to us under these Conditions from any other funding that we have awarded or may award to you; and/or
  - (v) exercise any other rights against you which we may have in respect of the Funding.
- (e) All repayments of Funding must be made to us within 28 days of the date of our demand. You must pay interest on any overdue repayments at a rate of 1.5% per annum above the Bank of England Bank Rate from time to time or at such other rate as may be required by the State Aid Rules. Interest will accrue on a daily basis from the date the repayment is due until actual repayment of the Funding, whether before or after judgment. You must pay the interest together with the overdue repayment.

## **9. Monitoring Requirements**

You must:

- (a) provide us with such documents, information and reports which we may reasonably require from time to time in order for us to monitor your compliance with the Conditions. This will include quarterly reports on progress in implementing the CCRCD and progress towards achievement of its objectives, as required by the CCRCD Wider Investment Fund Assurance Framework.
- (b) meet with the Welsh Government Official and such other of our representatives as we may from time to time reasonably require. This will include regular progress meetings as required by the CCRCD Wider Investment Fund Assurance Framework;
- (c) ensure that the Programme Manager (or such other person as we may agree) attends all meetings with the Welsh Government Official.

## **10. Audit Requirements**

- (a) You must:
  - (i) maintain clear accounting records identifying all income and expenditure in relation to the Purposes;
  - (ii) without charge, permit any officer or officers of the Welsh Government, Wales Audit Office or European Commission at any reasonable time and on reasonable notice being given to you to visit your premises and/or to inspect any of your activities and/or to examine and take copies of your books of account and such other documents or records as in such officer's reasonable view may relate in any way to your use of the Funding. This undertaking is without prejudice and subject to any other statutory rights and powers exercisable by the Welsh Government, Wales Audit Office or the European Commission or any officer, servant or agent of any of the above;

- (iii) retain this letter and all original documents relating to the Funding until we inform you in writing that it is safe to destroy them.
- (b) Under paragraph 17 of Schedule 8 to the Government of Wales Act 2006 the Auditor General for Wales has extensive rights of access to documents and information relating to monies provided by the Welsh Government. He and his officials have the power to require relevant persons who control or hold documents to give any assistance, information and explanation that they may require; and to require those persons to attend before them for such a purpose. The Auditor General and his staff may exercise this right at all reasonable times.

## **11. Third Party Obligations**

- (a) Nothing in the Conditions imposes any liability on us in respect of any liability incurred by you to any third party (including, without limit, employees and contractors).
- (b) You must indemnify us against any liabilities, claims, proceedings, demands, losses, costs and expenses suffered or incurred by us directly or indirectly arising as a result of or in connection with any failure by you to perform fully or in part any obligation you may have to a third party.

## **12. Intellectual Property Rights & Publicity**

Nothing in these Conditions transfers to us any rights in any intellectual property created by you as a result of the Purposes.

## **13. Access to Information**

- (a) You acknowledge that we are subject to the requirements of the Freedom of Information Act 2000 (the "FOIA"), the Environmental Information Regulations 2004 (the "EIR") and the Data Protection Act 1998 (the "DPA").
- (b) You acknowledge that we are responsible for determining in our absolute discretion whether:
  - (i) to disclose any information which we have obtained under or in connection with the Funding to the extent that we are required to disclose such information to a person making a disclosure request under the FOIA or the EIR; and/or
  - (ii) any information is exempt from disclosure under the Code, the FOIA or the EIR.

## **14. Buying Goods and Services**

If you decide to buy any goods and/or services to deliver the Purposes, they must be purchased in a competitive and sustainable way so as to demonstrate that you have achieved best value in the use of public funds.

## 15. Giving Notice

- (a) Where notice is required to be given under these Conditions it must be in writing (this does not include email but may include a letter attached to an email) and must prominently display the following heading:

***“Notice in relation to Cardiff Capital Region City Deal funding”.***

- (b) The address and contact details for the purposes of serving notice under these Conditions are as follows

You: the Project Manager at the address stated in Condition 3.

Us: the Welsh Government Official at the address stated in Condition 3.

- (c) A notice will be deemed to have been properly given as follows:-

Prepaid first class post: on the second working day after the date of posting.

By hand: upon delivery to the address or the next working day if after 4pm or on a weekend or public holiday.

By email attachment: upon transmission or the next working day if after 4pm or on a weekend or public holiday.

## 16. Equal Opportunities

You must apply a policy of equal opportunities as employers, as users of volunteers, and as providers of services, regardless of race, gender/gender identification, sexual orientation, religion and belief, age or any disability.

## 17. Welsh Language

Where the Purposes include or relate to the provision of services in Wales they must be provided in such a way as to not treat the Welsh language less favourably than English, in line with the Welsh Language Measure (Wales) 2011.

## 18. Sustainability

Your use of the Funding must (where reasonably practicable) meet the Welsh Government's current agenda for sustainable development and the environment.

## 19. Welsh Ministers' Functions

You acknowledge that the Welsh Ministers have a range of functions which will continue to accrue and be amended and that decisions in relation to each such function are obliged to be taken in the light of all relevant and to the exclusion of all irrelevant considerations. You agree that nothing contained or implied in , or arising under or in

connection with, these Conditions will in any way prejudice, fetter or affect the functions of the Welsh Ministers or any of them nor oblige the Welsh Ministers or any of them to exercise, or refrain from exercising, any of their functions in any particular way.

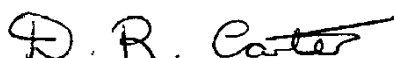
## **20. General**

- (a) If at any time any of these Conditions is deemed to be or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.
- (b) No failure or delay on our part to exercise any power, right or remedy under these Conditions will operate as a waiver of any such power, right or remedy or preclude its further exercise or the exercise of any other power, right or remedy. The powers, rights or remedies hereby provided are cumulative and not exclusive of any powers, rights or remedies provided by law.
- (c) Any amendment or variation to these Conditions must be in writing and signed by us and you in the same manner as this letter.
- (d) You may not assign or otherwise dispose of in any way your rights, benefits, obligations or duties under these Conditions.
- (e) Conditions 6, 8, 10, 13, and 20(e) and such other Conditions which by implication need to continue in force beyond the final payment of Funding will so continue in full force and effect.
- (f) The award of the Funding is to you alone and no one else is entitled to make any claim in respect of the Funding or seek to rely on or enforce any of these Conditions.
- (g) These Conditions are to be governed by and construed in accordance with the laws of Wales and England as applied in Wales and the parties hereto submit to the exclusive jurisdiction of the courts of Wales and England.

## **21. How to accept this offer of Funding**

- (a) To accept this award of Funding you must sign and return a copy of this letter to the Welsh Government Official. None of the Funding will be paid to you until we have received your signed letter.

Yours sincerely



Signed by Debra Carter, Deputy Director for Local Government Strategic Finance, under authority of the Cabinet Secretary for Finance and Local Government, one of the Welsh Ministers.



## **SCHEDULE**

### **Notification Events**

The Notification Events referred to in Condition 8 are listed below:

1. repayment of any part of the Funding is required under European Law (whether under State Aid Rules or otherwise);
2. you fail to comply with any of the Conditions;
3. the Funding, in full or in part, is not being used for the Purposes;
4. you fail to provide information about the Purposes requested by us, the European Commission or the European Court of Auditors, or any of their auditors, agents or representatives;
5. there is any suspicion that you and/or any of your Personnel is/are involved in fraudulent activity or has/have been involved in fraudulent activity whilst the Purposes are/were being carried out;
6. we have made an overpayment of Funding to you;
7. any declaration made in Condition 7 is incorrect in any respect or, if repeated at any time with reference to the facts and circumstances then existing, would be incorrect;
8. any event occurs or circumstances arise which in our opinion gives reasonable grounds for believing that you may not, or may be unable, to perform or comply with any of your obligations under these Conditions.

## **TWO SIGNATORIES ARE REQUIRED**

We hereby accept the award of Funding in relation to Cardiff Capital Region City Deal Investment Fund for the years 2016-17 to 2020-21 and the Conditions relating to the Funding

\_\_\_\_\_  
An authorised signatory of Cardiff City Council, Accountable Body for CCRCD

Christine Salter  
\_\_\_\_\_  
Name

Corporate Director, Resources  
\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
An authorised signatory of Cardiff City Council, Accountable Body for CCRCD

Ian Allwood  
\_\_\_\_\_  
Name

Head of Finance  
\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date