Birmingham City Council
Council House
Victoria Square
Birmingham
B1 1BB

24th October 2018

Dear Sir/Madam

GRANT OFFER LETTER - SUBJECT TO PRE-CONDITIONS AND CONTRACT

Birmingham City Council - “the Council”

We are very pleased to inform you that the West Midlands Combined Authority (“WMCA”) via its Brownfield Land & Property Development Fund is willing to offer funding of £20,075,000 to the Council by way of a non-repayable grant (the “Grant”) to support the acquisition, remediation and redevelopment of c.24 acres of land at Perry Barr, Birmingham to facilitate the delivery of the Commonwealth Games Athletes Village including costs of relocating both the National Express Depot (“NE”) and the Department for Education (“DFE”) land (the “Development”).

The Grant will be drawn in tranches to pay costs incurred in relation to the acquisition, remediation and redevelopment costs as set out in the final development appraisal (the “Development Appraisal”) supported by independent third-party Valuation and Monitoring Surveyor reports. The Council is required to confirm all development funding are in place and capable of being drawn to complete the project as detailed in your plans and appraisal. The Council should ensure that it has its own borrowing available for all contributions as and when required.

This offer is conditional upon our receiving written acceptance of the contents of this letter (and the appendices) from you on or before 30th November 2018, and is also subject to WMCA, acting as the accountable body, being satisfied that the conditions precedent referred to in this letter have been met.

The offer of funding is based on the use of our standard documentation. If you require any changes to our standard documentation, then this will potentially necessitate a change to the terms of funding.

1. Terms of the offer

The Funding will be provided on and subject to the terms of:

- this letter;
- a grant agreement which will be entered into between (1) the Council; and (2) WMCA as accountable body (the “Grant Agreement”);
such other documentation as may be required in connection with the Funding.
confirmation that relevant restrictions on title have been registered in favour of WMCA.

The key terms of the Grant Agreement are set out in Appendix 1 to this offer letter.

2. Conditions Precedent

The Funding is subject to the following key conditions:

- WMCA being satisfied with the independent valuation of the Development particularly the DFE land and NE land.
- WMCA being satisfied with the results of its financial & professional due diligence
- WMCA being satisfied with the professional team and contractors’ suitability to deliver the project
- Confirmation that all sources of funding (including Council borrowing and Infrastructure funding) are available and committed
- Satisfactory Planning Permission
- WMCA being satisfied that funding is State Aid compliant
- the agreement, execution and delivery (as appropriate) of all Finance Documents in relation to the Grant offer.

3. Consents

A standard set of consents over matters requiring the consent of WMCA will be contained within the legal documentation. These will include, by way of example (further detail included in paragraph 18 of Appendix 1 below):

- The Council should not create any other charge over the Development without the prior consent of WMCA
- The Council should not dispose (to include any sale, letting, assignment or other form of transfer to a third party) of the whole of or any part of the DFE Land or NE land without the prior consent of WMCA.

4. Legal and Professional Fees

The Council will also be responsible for WMCA’s legal, valuation and monitoring surveyor costs that may be incurred in relation to the Funding irrespective of whether the Grant is completed.

We will provide copies of our standard legal documents encompassing the terms as set out in this offer letter. If, during the legal stages you and/or your solicitors feel the need to negotiate the legal terms of those documents, we may need to appoint external lawyers to review these amendments on our behalf.

7. State aid obligations

You are required to comply with the provisions of Appendix 2 to this letter.

8. Governing Law and Jurisdiction

This offer letter and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.
Yours sincerely

Ed Bradburn
Investment Director – Property Finance
Frontier Development Capital

We agree to the above, subject to contract, as stated
As Authorised Representative of Birmingham City Council

..........................................
Authorised Representative

...........................................
Name

...........................................
Date
## APPENDIX 1 – KEY TERMS OF THE FUNDING

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<tr>
<td><strong>1. The Council</strong></td>
<td>Birmingham City Council</td>
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<td><strong>2. Lender</strong></td>
<td>West Midlands Combined Authority</td>
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<td><strong>3. Grant Amount</strong></td>
<td>£20,075,000</td>
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<td><strong>4. Form of Grant</strong></td>
<td>Non-repayable Grant</td>
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<td><strong>5. Drawing period</strong></td>
<td>2 years from first drawdown.</td>
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<td><strong>6. Purpose of Grant</strong></td>
<td>The acquisition, remediation and redevelopment of c.24 acres of land in Perry Barr, Birmingham to facilitate the delivery of the Commonwealth Games Athletes Village including costs of relocating both the National Express Depot (“NE”) and the Education Funding Agency (“DFE”) land (the “Development”).</td>
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<td><strong>7. Drawdown</strong></td>
<td>The Grant will be drawn in tranches to fund the acquisition, remediation, redevelopment and relocation costs. The Council must ensure that it has available funds to satisfy each drawdown request (where applicable) and that all other sources of funding to complete the project are in place and available to draw. Independent Valuations are to be provided to prior to any acquisition funding been drawn confirming the Market Value of that land.</td>
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| **8. Repayment and Clawback** | The Grant is non-repayable, however the Council will indemnify the WMCA against any misuse or misappropriation of grant funds. Additionally, the Council agrees to indemnify WMCA in relation to grant clawback (“Clawback”) in the event of the following:  
- the Disposal (to include a transfer or re-finance to/by another related Council entity) of the Legacy Housing generates a surplus  
- in the event that a surplus is generated Clawback will be shared with the Infrastructure funding and be limited to the amount of the grant.  
- Clawback will be assessed on the earlier of disposal or the date falling 2 years after the games.  
- when assessing the Clawback amount an independent valuation may be required to assess Market Value as defined in the most recent version of the RICS Red Book at that time. The cost of any valuation will be for the applicants account. |
| **9. Security** | In the absence of Security, a restriction on title is proposed to require WMCA consent for any disposition of all of part of the sites acquired using the Grant. Disposition is to include any sale, letting, assignment or other form of transfer to a third party. |
| **11. Events of Default** | The usual Events of Default will apply and will include, but without limitation insolvenecy events, unlawfulness, material litigation and such other Events of Default as deemed appropriate following due diligence. |
| **12. Reporting and Information** | The Council shall provide WMCA via its Fund Manager with usual financial information to include, but without limitation the following:  
a. copies of all material notices or other documents in relation to the Development  
b. details of any litigation, whether current, threatened, pending or otherwise in relation to the Development  
c. such other documentation and access to the site that WMCA and its Fund Manager may reasonably require from time to time. |
APPENDIX 2
STATE AID OBLIGATIONS

As some of the funding to be provided pursuant to this transaction is from the Brownfield Land and Property Development Fund the Funding provided by WMCA has to comply with the EU state aid rules and by signing this letter you are acknowledging and, where relevant, agreeing to comply with the information and obligations set out in this Appendix 2.

1. The provision of State aid to the Council is made in accordance with (a) the European Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation) GBER or (b) in a manner consistent with the European law “market economic investor principle i.e. loans must be made on market terms so no economic advantage is conferred on the Council or (c) “de minimus” aid under commission regulations EC 1998/2006 (the “de minimus” aid regulations). This ensures that the responsibility for compliance with the State aid requirements is also passed onto the successful applicants and congruent to the State aid vehicle utilised for the scheme approval.


3. The Council must immediately notify WMCA of any other grant or other similar funding it has received, or receives, or use of any assets, facilities or equipment, from any other government or other public authority source(s) for the Project. Any such funding received may reduce the level of funding being provided through this Agreement.

4. The Council shall provide WMCA with such information which WMCA reasonably requires so as to enable the full assessment of any other such assistance received by the Council to enable WMCA’s compliance with a request from the Commission of the European Union for disclosure of details concerning the financial assistance given to the Council by WMCA.

5. If it is determined by either the WMCA or the Commission that there has been a breach in EU State aid rules, including any obligation to notify the European Commission, the Council agree to repay the amount of the funding, together with any interest and costs, required to comply with EU State aid rules, and to indemnify the WMCA against all losses it has incurred in entering into the proposed transaction.