

BID Operating Agreement with the Borough Council of Newcastle-under-Lyme

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Date:

OPERATING AGREEMENT

between

THE BOROUGH COUNCIL OF NEWCASTLE UNDER LYME (BCNUL)

and

THE NEWCASTLE UNDER LYME BID LIMITED (NULBL)

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OPERATING AGREEMENT

Dated the: 1st day of October 2015

Between

THE BOROUGH COUNCIL OF NEWCASTLE UNDER LYME (BCNUL)
Address: Civic Offices, Merrial Street, Newcastle-under-Lyme, Staffs, ST5 2AG

And

THE NEWCASTLE UNDER LYME BID LIMITED (NULBL) Registered Company Limited by Guarantee in England with company registration number
Registered Address:

1. Background

- 1.1 Part 4 of the Local Government Act 2003 and the Business Improvement Districts (England) Regulations 2004 ('BID Statutory Provisions') provide a legislative framework for the establishment and operation of a business improvement district ('BID').
- 1.2 The NULBL has proposed the formation of a BID for Newcastle under Lyme town centre. The detailed proposals are set out in the BID Business Plan 2015 to 2020. The establishment of the BID is subject to approval by eligible persons in the ballot held in accordance with the BID Statutory Provisions.
- 1.3 The BID ballot was concluded on 16 July 2015 with a YES vote.
- 1.4 The NULBL is the BID body for the purposes of the BID Statutory Provisions and started trading from 1st October 2015. The BID period will last 5 years commencing 1 October 2015.
- 1.5 The Newcastle under Lyme Business Improvement District will enable the businesses in that area to identify, invest in and implement specific services and facilities to improve their common trading environment. A fundamental principle of BID legislation is that such services and facilities should be additional to (not in substitution for) those already provided by the Borough Council of Newcastle-under-Lyme (BCNUL).
- 1.6 NULBL is legally and operationally responsible to the businesses in the Newcastle under Lyme BID for all BID activities. The elected BID Board represents the views of the businesses that have voted for the BID and acts on their behalf. The Board is responsible for the appointment of a BID Contracts Officer to identify, implement and monitor the proposed services, reporting to it on progress.

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- 1.7 BCNUL's commitment to the Newcastle under Lyme BID and the working relationships between BCNUL and NULBL are set out in the Memorandum of Understanding.
- 1.8 The Memorandum of Understanding is supported by this BID Operating Agreement and a series of Baseline Statements, each benchmarking a specific service provided by BCNUL to the BID area.
- 1.9 BCNUL will provide additional operational support to the BID in a number of ways. These are set out in Schedule 4.

2. The purpose of this Operating Agreement

- 2.1 BCNUL is the billing authority for the purposes of the Local Government Finance Act 1988 and the BID Statutory Provisions and is responsible for collecting the BID Levy and administering the BID Revenue Account for the Newcastle under Lyme BID.
- 2.2 NULBL is responsible for the operation of the BID and for using the BID Levy for the purposes of achieving the objectives and aspirations set out in the BID Arrangements.
- 2.3 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 BCNUL and NULBL for the duration of the BID.
- 2.4 The purpose of this Agreement is to:
 - Establish the procedure for setting the BID Levy ;
 - Confirm the basis upon which BCNUL will be responsible for collecting the BID Levy;
 - Set out the enforcement mechanisms available for collection of the BID Levy;
 - Set out the procedures for accounting and transference of the BID Levy;
 - Provide for the monitoring and review of the collection of the BID Levy.

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3. Definitions

3.1 The Advance Payment means the sum to be paid to NULBL on 1 October in the first part-year of the BID's operation and at the 1 April in each year thereafter that the BID is in operation, in advance of any collection of BID levy, which will be equal to 1/12th of the total levy due as stated in the Annual Budget Report.

3.2 The **Annual Budget Report** means a report to be prepared by BCNUL which details the estimated BID Revenue Account and supporting budget assumptions for the following financial year.

3.3 The **Monthly Monitoring Report** means a report to be prepared by BCNUL after the end of each month which summarises the following, where appropriate:

- The BID Revenue Account monitoring statement;
- The amount of BID Levy billed for BID Levy Payers;
- The BID Levy collected in relation to BID Levy Payers;
- Outstanding unpaid sum of those BID Levy Payers who have not paid the BID Levy;
- Amount of BID levy outstanding covered by Reminder Notices issued throughout that period;
- Amount of BID levy outstanding covered by Liability Orders obtained or applied for by BCNUL;

Details of any aspect of the above would be made available to NULBL upon request if there were particular queries or issues to discuss.

- Details of changes to the occupiers of hereditaments in the BID area and levy due would be made available upon request.

3.4 **The Annual Accounts Report** means a report to be prepared by BCNUL which details the following:-

- The BID Revenue Account Outturn Statement which includes the total amount of BID Levy collected during the relevant Financial Year;
- Details of the percentage collection rate for the BID Levy;
- BCNUL's recommendations (if any) to help improve any efficiency measures in the collection and enforcement of the BID Levy;

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- Details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy; and
 - BCNUL's recommendations for bad or doubtful debts.
- 3.5 **Bad or Doubtful Debts** shall have the same meaning as further described in Part 2 of Schedule 3 of the Regulations.
- 3.6 the **Monthly Levy Payment** means the sum of the BID levy collected in the previous calendar month less for the first monthly payment for the Advance Payment,.
- 3.7 **the Balancing Payment** means the difference between the Advance Payment and the total Monthly Levy Payments for the BID year and the actual total sum of the BID Levy collected by BCNUL for the relevant BID year or part year.
- 3.8 **the Ballot Result Date** means 17 July 2015. It is the date upon which a ballot result was declared in accordance with paragraph 17 of Schedule 2 of the Regulations in favour of putting in place the BID Arrangements.
- 3.9 **the Individual Baseline Statements** means the individual agreements related to each service in the area as outlined in Schedule 3.
- 3.10 **the BID** means the Business Improvement District which operates within the BID Area.
- 3.11 **the BID Area** means the area of Newcastle under Lyme specified in the BID Arrangements, the streets of which are listed in Schedule 2.
- 3.12 **the BID Arrangements** means those arrangements to be put in place pursuant to the BID Statutory Provisions 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, if approved in the statutory ballot, will form the basis of the BID arrangements referred to in the BID Statutory Provisions;
 - A Memorandum of Understanding entered into between BCNUL and NULBL;
 - This Operating Agreement;
 - Individual Baseline Statements setting out current levels of service provided by BCNUL.
- 3.13 **NULBL** means The Newcastle under Lyme BID Limited.
- 3.14 **NULBL's Report** means a report for each BID Financial Year to be prepared by NULBL which details the following:-
- The total income and expenditure of the BID Levy;

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

3.15 **the BID Levy** means the charge to be levied and collected from BID Levy Payers within the BID area pursuant to the Regulations.

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

3.17 **the BID Levy Rules** means the rules set out in Schedule 1 which sets out how the BID Levy will be calculated, details of Exempt Properties and other requirements related to the BID Levy.

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

3.19 **the BID Term** means the period of five years commencing 1 October 2015.

3.20 **the Commencement Date** means the date this Operating Agreement comes into force .

3.21 **Confidential Information** means

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

whether written, electronic or oral.

3.22 **the Contributors** means the BID Levy Payers or other contributors making voluntary contributions to NULBL.

3.23 **BCNUL** means the Borough Council of Newcastle-under-Lyme.

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

3.25 **Heredity** shall have the same meaning as defined in the Regulations.

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- 3.26 **the Exempt Properties** means those class or classes of properties as identified in the BID Levy Rules which shall be exempt from any requirement to pay the BID Levy.
- 3.27 **the BID Financial Year** means the period of 1 April to 31 March.
- 3.28 **Liability Order** means an order obtained from the Magistrates' Court.
- 3.29 **the Operational Date** means the date upon which the BID Arrangements come into force, 1 October 2015.
- 3.30 **the Public Meeting** means the meeting to be held of all BID Levy Payers pursuant to regulation 18(1) (a) (ii) of the Regulations.
- 3.31 **the Regulations** and the **BID Regulations** mean the Business Improvement Districts (England) Regulations 2004 and such amendments made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time).
- 3.32 **the Reminder Notice** means the notice to be served in respect of an unpaid levy.
- 3.33 **the Monitoring Group** means the group, with membership from both NULBL and BCNUL, established to monitor the BID Arrangements

4. Statutory Authorities

- 4.1 This Agreement is made pursuant to Part 4 of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers.

5. Commencement

- 5.1 This Agreement takes effect on the date of this agreement.
- 5.2 If, at the end of the BID Term a renewal ballot is planned this Agreement will be reviewed and revised if appropriate in advance of the ballot. Should the renewal ballot be successful then the terms of the reviewed Agreement shall be of effect for the new BID term.

6. Setting the BID Levy

- 6.1 By the 1st September or as soon as reasonably practicable in the first financial year and 1st March or as soon as reasonably practicable in subsequent financial years BCNUL shall:-
- Calculate the BID Levy due from each BID Levy Payer in accordance with the BID Levy Rules;
 - Confirm in writing to NULBL, as soon as practicable after billing, the BID Levy payable annually by each BID Levy Payer; and

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- Provide the Annual Budget Report.

7. The BID Revenue Account

- 7.1 BCNUL shall have in place for the 1st September in the first year and 1st March of each BID financial year, thereafter, a BID Revenue Account.
- 7.2 NULBL shall provide BCNUL with details of its bank account and sort code by 1 December in the first year and 31 March of each year thereafter, or the next available working day preceding the start of the BID financial year.
- 7.3 BCNUL shall have set up in its Accounts Payable system by the 1st September of the first year and 1st March of each BID year thereafter, the NULBL bank account and sort code details for payment by BACS, or other bank to bank transfer, of the advance payment and monthly levy payments from the BID Revenue Account.

8. Charges to NULBL for BCNUL services

- 8.1 NULBL shall reimburse BCNUL's reasonable charges and expenses in performing its duties and obligations under this agreement. Initial costs are as set out in Schedule 5.
- 8.2 Costs to be charged by BCNUL will be invoiced to NULBL on a monthly basis in the month following that in which they were incurred. NULBL will pay invoices within a period of 30 days from the date of issue.
- 8.3 The BID Revenue Account will include the charge and the income from NULBL.

9. Collecting the BID Levy

- 9.1 The BID Levy Payer shall be billed for the BID Levy; by a separate BID Levy bill sent out on the 1 September or as soon as reasonably practicable in the first year and by 1 March or as soon as reasonably practicable for future years..
- 9.2 The BID Levy is due for payment on the 1st October in the first year and the 1st April of each year thereafter.
- 9.3 The method of payment to BCNUL is by direct debit, BACS, credit/debit card, cash or BCNUL online payment facility. The methods of payment will be reviewed yearly and any changes made will be made in time to affect the next billing period.
- 9.4 BCNUL shall serve the Demand Notices on each BID Levy payer and thereafter shall continue to calculate the BID Levy and serve the Demand Notices throughout the BID Term.
- 9.5 BCNUL shall maintain a list which identifies payment and/or non payment of the BID Levy and shall make this available to NULBL upon its reasonable request.

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- 9.6 BCNUL shall use all reasonable endeavours to collect the BID Levy on 1st October in the first year and then on the 1st April for all subsequent years and thereafter on an annual basis and in accordance with the procedure set out in Schedule 4 of the Regulations.
- 9.7 Cash received by NULBC shall be allocated to the correct account where known. Where not known and the intended allocation cannot be determined, NULBC reserve the right to allocate the cash in line with its standard procedures which initially shall be allocate to the oldest undisputed debt first and then in the proportion of the original debit.

10 Procedures available to BCNUL for enforcing payment of the BID Levy

10.1 In the event that the BID Levy is not paid within 14 days from the date that it becomes payable then unless otherwise agreed between the parties BCNUL shall serve a Reminder Notice on such relevant BID Levy Payer which shall:-

- Identify the sum payable;
- Provide a further 14 days for payment to be made;
- Confirm that BCNUL will make an application to the Magistrates' Court for a Liability Order to recover the unpaid sum and costs.

10.2 If after a further 28 days from the payment date stated in the Reminder Notice the outstanding sum of the BID Levy has not been paid BCNUL shall make an application to the Magistrates' Court for a Liability Order to recover the outstanding sum of the BID Levy as is permitted by the Regulations and the Non Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989 (as amended).

10.3 BCNUL shall make recommendations to the BID Board on debts deemed to be uncollectible.

10.4 BCNUL shall only write off debts on receipt of an approval in the form of a signed off authorisation from 2 designated Board Business Directors

11 Payment to NULBL

11.1 On 1 October 2015 of the first part year levy collection and the 1st April or next available working day for each year thereafter BCNUL shall pay NULBL by BACS or other bank to bank transfer:

- BCNUL's total levy due for BCNUL properties;
- The Advance Payment

11.2 BCNUL shall thereafter make a Monthly Levy payment by the 7th of the following calendar month, or next available working day, based on a BACS transfer of the total amount of levy

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collected for the previous calendar month less the following deductions provided that the levy collected is equal to or more than the total of the deductions :-

- A deduction equal to the amount of the Advance Payment not previously deducted;

12 Performance Monitoring and Reporting

12.1 By 1 March or as soon as reasonably practicable thereafter, each year BCNUL shall provide NULBL with an Annual Budget Report.

12.2 Within 10 working days of the end of each calendar month BCNUL shall provide NULBL with the Monthly Monitoring Report.

12.3 Within 30 working days after the end of the financial year BCNUL shall provide NULBL with the pre-audited Annual Accounts Report.

12.4 BCNUL will supply a final Annual Accounts Report within 30 working days of external audit certification of its accounts for the financial year in question, which accounts include the BID Revenue Account which shall thereby be deemed to have been externally audited. If any further external audit is required in relation to the Annual Accounts Report, the cost of this shall be borne by NULBL.

12.5 If, following audit, BCNUL's accounts are amended such that there is any change in the amount of levy collected and payable to NULBL, this shall be added to or deducted (depending on whether the amendment is an addition or reduction in the amount of levy collected) from the next payment of levy to be made by BCNUL to NULBL after the provision of the final Annual Accounts Report to NULBL.

12.6 Within 60 working days after the end of the financial year NULBL shall provide the NULBL's Report to BCNUL.

12.7 Within 30 working days from the date of receipt of the final Annual Accounts Report NULBL shall provide the final NULBL's Report to BCNUL.

12.8 Within one month from the Commencement Date the parties shall agree the dates when the Monitoring Group will meet. There will be at least two such meetings in each BID Year (throughout the duration of the BID Term). Further meetings of the Monitoring Group shall be arranged by the service of written notice by either party no less than 28 days prior to the date of the proposed meeting, unless both parties agree that such meetings can be dispensed with altogether.

12.9 The parties shall annually review the operation of this Agreement and shall meet from time to time to:

- Review the effectiveness of the collection and enforcement of the BID Levy; and

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- If required, review and assess the information provided by BCNUL and NULBL and make any recommendations for implementation as may be agreed (and which are permitted by the Regulations and the terms of this Agreement).

13. Termination of BID arrangements

Termination by BCNUL

13.1 So far as it considers it reasonably practicable to do so, where BCNUL is contemplating terminating the BID Arrangements under regulation 18(1) of the Regulations it shall endeavour to first meet with NULBL to discuss and review any issues, and put in an appropriate timescale to resolve them.

13.2 BCNUL may terminate the BID Arrangements if, in its opinion, there are insufficient finances available to NULBL to meet its liabilities for the chargeable period and BCNUL has:-

- Offered NULBL a reasonable opportunity (three months) 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
- Given BID Levy Payers an opportunity, at a Public Meeting, to make representations in relation to the termination of the BID Arrangements.

13.3 BCNUL may terminate the BID Arrangements if it is unable, due to any cause beyond its control, to provide works or services which are necessary for the BID to continue and BCNUL has:-

- Consulted with NULBL formally in writing; and
- Conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate;

13.4 BCNUL shall notify NULBL in writing of its intention to terminate the BID Arrangements at least 28 days before the date of termination.

Termination by NULBL

13.5 NULBL may terminate the BID Arrangements where:-

- The works or services to be provided under the BID Arrangements are no longer required; or
- NULBL is unable, due to any cause beyond its control, to provide works or services which are necessary for the BID to continue.

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13.6 The NULBL shall take no steps to terminate the BID Arrangements until:-

- It has consulted with BCNUL as the Billing Authority, formally in writing; and

Conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate;

13.7 NULBL shall notify the BCNUL in writing of its intention to terminate the BID Arrangements at least 28 days before the date of termination.

13.8 Any balances remaining in the BID Revenue Account will be dealt with in Accordance with BID Regulations 14 (3) (4) and (5).

13.9 Where the BID Arrangements are terminated BCNUL 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.

14. Confidentiality and Access to Data.

14.1 Subject to the following provisions, neither party shall disclose any Confidential Information (whether verbal, in writing or in electronic form).

14.2 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.

14.3 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

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- 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.

14.4 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.

14.5 Each party agrees that, in the performance of its respective obligations under this Operating Agreement, it shall comply with the provisions of the Data Protection Act 1998.

14.6 The obligations contained in clause 14 shall survive the termination or lapse of the BID Arrangements.

15 Notices

15.1 Any notice or other written communication to be served or given to or upon BCNUL shall be valid or effective if it is sent by prepaid post or delivered by hand to the BCNUL's Chief Executive at Civic Offices, Merrial Street, Newcastle under Lyme, Staffordshire ST5 2AG or such other BCNUL offices or address as the Council may have notified to the NULBL in writing.

15.2 Any notice to be served on NULBL shall be valid and effective if sent by prepaid post or delivered by hand to the registered office of NULBL or delivered by hand to the Chairman or a Director (other than a Director nominated by BCNUL) of NULBL.

15.3 Any notice sent by post shall be deemed to have been validly served on the second working day after posting. For these purposes a working day is any day on which BCNUL's main administrative offices are open to the public.

16. Miscellaneous

16.1 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.

16.2 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.

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

16.4 References to BCNUL include any successors to its function as the billing authority for the purposes of the BID.

16.5 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,

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variation, replacement or extension of the same from time to time and for the time being in force.

17. Exercise of BCNUL's powers

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

18. Contracts (Rights Of Third Parties)

18.1 The parties do not intend any third party to have the right to enforce any provision of this agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

19. Dispute resolution

19.1 In the event of any dispute arising out of or relating to the BID Arrangements, each party agrees not to commence legal proceedings without first attempting in good faith to resolve the dispute amicably and speedily having regard to the aims and objectives of the BID Arrangements.

19.2 Any dispute or difference of any kind whatsoever arising between the parties out of or in connection with this Agreement which cannot be resolved through normal business channels may be referred by either party to the Chairman of the NULBL and the Chief Executive of BCNUL (or their respective nominated senior representatives).

19.3 Any dispute which cannot be resolved between the parties shall be referred to arbitration before a single arbitrator.

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

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

19.6 In the event of a reference to arbitration the parties agree to:-

19.7 Prosecute any such reference expeditiously and

19.8 Do all things or take all steps reasonably necessary in order to enable the Tribunal to deliver any award (interim, final or otherwise) as soon as reasonably practicable.

19.9 The award shall be in writing signed by the Tribunal and shall be finalised within 21 days from the date of such award.

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

Signed on behalf of:

The Borough Council of Newcastle-under-Lyme

By

Authorised Officer

Signed on behalf of:

The Newcastle under Lyme BID Ltd

By:

Authorised Person

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Schedule 1 – The BID Levy Rules

A hereditament is defined in Section 115 (1) of the General Rate Act 1967 (the 1967 Act) as: 'property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list'. For the purposes of this levy criteria the words, 'land, 'properties' and 'premises' will also be interpreted as a hereditament.

1. Assuming a positive BID vote by a majority of businesses by number and rateable value of those who vote, the BID levy will be charged on all hereditaments listed in the local Non-Domestic Rating List located within the BID area. This applies irrespective of whether or how a business has voted in the formal BID ballot. Legislation within the Local Government Finance Act (2003) enables the local authority to issue a bill for the levy. The levy is collected by the billing authority, Newcastle-under-Lyme Borough Council. The Newcastle-under-Lyme BID Company will invoice the billing authority, Newcastle-under-Lyme Borough Council, for the levy collected for exclusive use of the BID.
2. All businesses which will be subject to the BID will be entitled to vote for the BID proposal in a 28 day postal ballot which will commence on 17th June 2015, with the close of ballot at 5pm on Thursday 16th July 2015. The result will be announced the following day or as soon as possible thereafter.
3. If successful at the ballot, the BID will commence operation on 1st October 2015, and will be for a fixed term of 5 years
4. The levy amounts for ratepayers who have business premises which fall inside the ring road of Newcastle under Lyme will be applied as follows:
 - a. The BID levy will be 1.5% of the 2010 rateable value shown on Newcastle-under-Lyme Borough Council's (the billing authority's) Capita's NNDR billing system as at 1st May 2015 for each defined business within the scope of the BID, with the exception of those hereditaments with a rateable value of less than £10,000 showing on the billing authority's Capita system as at 1st May 2015.
 - b. Ratepayers with a RV of less than £10,000 but more than £2,999 will pay a fixed contribution of £150.
 - c. Ratepayers with a RV of less than £3,000 will pay nothing for these hereditaments and will not have a vote for these hereditaments although they will enjoy the benefits that come with trading in the BID area
5. The levy amount for ratepayers who have business premises which are situated within the boundary of the BID but outside the ring road of Newcastle under Lyme, will be applied as follows:

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- a. The BID levy will be 1% of the 2010 rateable value shown on Newcastle-under-Lyme Borough Council's (the billing authority's) Capita's NNDR billing system as at 1st May 2015 for each defined business within the scope of the BID, with the exception of those hereditaments with a rateable value of less than £10,000 showing on the billing authority's Capita system as at 1st May 2015.
 - b. Ratepayers with a RV of less than £10,000 but more than £2,999 will pay a fixed contribution of £100.
 - c. Ratepayers with a RV of less than £3,000 will pay nothing for these hereditaments and will not have a vote for these hereditaments although they will enjoy the benefits that come with trading in the BID area
6. The levy will be due from businesses who are liable to pay business rates, including empty properties other than those that are exempt within the criteria laid out in this section 12 of this business plan 'BID Levy Criteria for the Newcastle-under-Lyme BID'.
 7. The liable person is the ratepayer liable for occupied or unoccupied premises. 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), Newcastle-under-Lyme Borough Council will be responsible for the imposition, administration, collection, recovery and application of the BID levy. The Council will also be responsible for any enforcement action that may be appropriate in case of non-payment of the levy.
 8. There will be an annual inflationary increase of all levy charges (including fixed band charges) year on year for the duration of the Business Improvement District. This will be a minimum of 2% increase year on year or the inflation percentage as determined by the Consumer Price Index as at the 1st January of the year of the next billing process, whichever is the greater, rounded to the nearest tenth of a penny. (e.g if a levy bill is £150 the inflation applied to this at a level of 2% would be £3 per annum). Negative inflation will not apply. Inflation will not apply for the first billing cycle in 2015.
 9. The levy will be charged annually in advance, although businesses which cease to have liability for business rates during the year will be entitled to a refund for the remainder of the period, and the new occupier will be charged on a pro-rata basis.
 10. Any changes to the physical nature or use of a hereditament during the life of the BID will be handled as follows:
 - a. New premises, or properties which were not on the rate valuation list at the start of the BID but become subject to rates within the BID boundary or on new streets within the BID boundary after the BID is in force, will be expected to pay a BID Levy based on the % or fixed levy charge appropriate in relation to its new/current rateable value
 - b. Where property is split, two or more BID levies should be made on the revised premises from the date of split on the basis of the revised new/current rateable values.

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- c. Where premises are merged the BID Levy should be based on the % or fixed levy charge appropriate in relation to the revised property's new/current rateable value.
 - d. Adjustments will be made for any of these changes and revised bills issued provided that the amount due on charge or refund is £50 or more. The charge or refund amount will be calculated pro rata between the date of the change in occupation and the date of the financial year end.
11. Any changes to the use of a property during the life of the BID will be handled as follows:
- a. Any change of use of a property or the creation of a new business hereditament within the BID boundary will be liable to the levy rate based on the rateable value at the time of change of use or creation of the new business hereditament.
 - b. Adjustments will be made for changes in use or creation of a new business hereditament and if a property is deleted from the rating list and revised bills issued provided that the amount due on charge or refund is £50 or more. The charge or refund amount will be calculated pro rata between the date of the change covered by paragraph 11.a and the date of the financial year end.
12. No amendments will be made to the levy of any property in the BID area as a result of any general or property specific rate re-valuation within the life of the BID other than for the criteria listed above in paragraphs 10 and 11.
13. No other relief will be given to any class of non-domestic ratepayer and there is no distinction made between occupied or unoccupied hereditaments, both occupancy status attracting the full BID levy, unless it is a hereditament: -
- a. whose owner is prohibited by law from occupying it or allowing it to be occupied;
 - b. which is kept vacant by reason of action taken by or on behalf of the Crown or any local or public authority with a view to prohibiting the occupation of the hereditament or to acquiring it;
 - c. which is vacant and is included in the Schedule of monuments compiled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979(b);
 - d. where, in respect of the owner's estate, there subsists a bankruptcy order within the meaning of section 381(2) of the Insolvency Act 1986(c);
 - e. whose owner is entitled to possession of the hereditament in his capacity as trustee under a deed of arrangement to which the Deeds of Arrangement Act 1914(d) applies;
 - f. whose owner is a company which is subject to a winding-up order made under the Insolvency Act 1986 or which is being wound up voluntarily under that Act;
 - g. whose owner is a company in administration within the meaning of paragraph 1 of Schedule B1 to the Insolvency Act 1986 or is subject to an administration order made under the former administration provisions within the meaning of article 3 of the Enterprise Act 2002 (Commencement No. 4 and Transitional Provisions and Savings) Order 2003(e);
 - h. whose owner is entitled to possession of the hereditament in his capacity as liquidator by virtue of an order made under section 112 or section 145 of the Insolvency Act 1986.

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in which case the hereditament will be exempt.

14. For clarity a hereditament which is the subject of a building preservation notice within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990(a) or is included in a list compiled under section 1 of that Act will be subject to levy unless its use is covered by any of the other exemptions listed in this section 12 of this business plan 'BID Levy Criteria for the Newcastle-under-Lyme BID'
15. The BID levy contribution will not be reassessed if the rateable value is amended after the end of the BID. New or altered properties entered into the valuation list will become liable for the levy from the date they appear in the list
16. Businesses with a rateable value of less than £3,000 will be exempt from the levy and will not be permitted to vote in the ballot. Any business with an R.V which falls below this will be encouraged to enter into a voluntary arrangement direct with the BID Company so that they can benefit from the full range of services provided by the BID. These businesses will also receive BID bill with zero charge to aid administration
17. Hereditaments used as hostels, places of refuge or rehabilitation, places of religious worship and any creches, nursery schools, schools or academies will be exempt from the levy for that hereditament only and will not be permitted to vote for this hereditament in the ballot. Places of Further Education and other training will not be exempt. No other discounts or reductions shall apply. Any of the premises exempted will be permitted to enter into a voluntary arrangement with the BID Company.
18. The BID financial year will start on 1st April and last for 365 days (366 in a leap year). The BID charge is a daily charge based on rateable value. It is to be paid in full in advance, the payment date being the 1st April of that year. The daily BID levy charge for each individual ratepayer is to be calculated by multiplying its rateable value by the BID percentage levy or levy charge from either of the fixed bands and dividing the result by the number of days in the financial year.
19. Subject to this criteria stated above and within the BID boundary as defined in this document, the BID levy is a statutorily compulsory payment regardless of whether the business exercised its vote or voted against the BID.

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Schedule 2 - BID Area - list of streets

Streets included in the BID Area

INSIDE RING ROAD
Bridge Street
Castle Walk
Church Street
Corporation Street
Fellgate Court
Fogg Street
Friars Street
Froghall
Hassell Street (Both inside and Outside Ring Road)
Hick Street
Hickman Street
High Street
Holborn Court
Ironmarket
Lad Lane
Lancaster Building
Liverpool Road (Both inside and Outside Ring Road) (inside ring road – between junction with High Street and junction with Ryecroft)
Lower Street
Merial Street
Nelson Place
Paradise Street
Pepper Street
Queens Parade
Ryecroft
Stubbs Street
The Midway
York Place

The BID area includes any and all of the smaller business areas, courtyards and parks located off these roads that are located within the boundary of the defined BID area as per the shaded area on the map shown in section 5 in this Business Plan, even if they are not listed in the tables for the Inside or Outside Ring Road tables shown above and below. It will also include any roads yet to be constructed and named and any new development sites created within the shaded area of the map shown in section 5 in this Business Plan.

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OUTSIDE RING ROAD	
Albert Street	John Street
Andrew Place	King Street - between Barracks Road roundabout to Elliott Street
Ashfields New Road - between Knutton Lane and Jason Street	Knutton Lane - between junction at A34 to Moran Road
Bailey Street	Liverpool Road (Both inside and Outside Ring Road) Outside Ring Road – between junction with Ryecroft to junction with Ashfields New Road
Barracks Road	London Road - outside the ring road between the junction with Barracks Rd and up to (excluding) the Holy Trinity Church
Blackfriars Road - between junction with Friarswood Road up to roundabout at Lower Street	Lyme Valley Road
Borough Road	Marsh Parade
Boundary Street	Miller Street
Brampton Road - from Queen Street to the roundabout at Wulstan Dr and Sandy Lane	Mount Pleasant - between West Street and Princess Street
Brindley Street	North Street
Broad Street	Pool Dam - between Orme Road to the roundabout at Lower Street
Brook Lane - between junction with Friarswood Road up to roundabout at London Road and Barracks Road	Pool Side
Brunswick Street	Princess Street
Castle Hill Road	Prospect Terrace
Cherry Orchard	Queen Street
Dunkirk	Queens Court
Dunkirk Court	Rye Bank Crescent
Enderley Street	School Street
Fletcher Bank	Scott Street
Florence Street	Seagrave Street
Garden Street (between Hassell Street and West Street)	Shaw Street
George Street - between Brunswick Street and Boundary Street	Sidmouth Avenue
Goose Street	Silverdale Road - between junction of Pool Dam and the B5367
Gower Street	Stanier Street
Granville Avenue	Stubbs Gate
Hall Street	Water Street
Hanover Street	Well Street
Hart Court	West Brampton
Hassell Street (Both inside and Outside Ring Road)	West Street
Hatrell Street	Wharf Street
Heath Street	Wilson Street
Holborn	Windsor Street
	York Street

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Schedule 3 – Individual Baseline Statements

Individual Baseline Statements

In full support of the above commitments, BCNUL will draw up Baseline Statements relating to the specific services they are responsible for. These documents define the benchmarks for the provision of these services and the fact that any change will not disproportionately impact upon the BID area more than any other area outside the BID within the Borough's administrative boundary. They also cover how the services will be measured.

The Baseline Services are defined below:

- Christmas Lights
- Environmental Health
- Grounds Maintenance and Arboricultural services
- Markets
- Newcastle Partnership
- Off Street Parking
- Public Area CCTV
- Street Cleansing and waste

Further Services provided by Staffordshire County Council may be the subject of Baseline Statements provided by that authority. Where this is the case, a separate Memorandum of Understanding will be agreed and signed by NULBL and Staffordshire County Council. These services may include:

- Cycling
- Highways Maintenance
- On Street Parking Operations
- Public transport
- Highways lighting
- Tourism
- Trading Standards
- Highways Signs

The process of having creating the baseline agreements proves valuable to both the service providers and NULBL. The development of these partnerships and the additional focus on the services provided in the area, will give tangible benefits over and above those derived from the projects outlined below.

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Schedule 4 – BCNUL’s Operational Support for Newcastle under Lyme BID

BCNUL’s support for the BID will take practical shape in the following specific ways:

- Conducting, through the BCNULs Democratic Services, the formal BID vote in accordance with current BID legislation and procedures
- Arranging for all BCNUL hereditaments within the Newcastle under Lyme BID area with a liability to business rates area to vote Yes in the formal BID vote
- Assuming a positive outcome to the BID vote, collecting the BID levy defined in the BID Business Plan from Newcastle under Lyme town centre businesses and transferring the levy sums direct to NULBL. BCNUL proposes to make a charge for the BID levy collection and will pay the levy sums to NULBL as set out in paragraphs 11.1 and 11.2 of this agreement.
- Provide a Councillor to sit as a Director on the NULBL Board
- Provide a senior council officer to act as adviser to the NULBL Board and to provide a business-focused dynamic link on all BID matters with senior Council staff
- Paying the appropriate BID levy set out in the Business Plan in respect of all its own hereditaments within the Newcastle under Lyme town centre BID area.

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Schedule 5 - BCNUL Costs and charges plus 'in kind' support details.

'In kind' support details

Other initial one off 'in kind' support from BCNUL includes legal input in setting up the Operating Agreement and other Heads of Service contributions in drawing up the Baseline Service Statements. BCNUL has also borne the costs of the initial BID ballot.

Billing Authority Administration Charges

The cost of raising demand notices for the bid levy and the maintenance of the billing system equates to a charge of 3% of the levy revenue billed in each year. NULBL will reimburse NULBC with the amount of the total charges when invoiced.

Summons and Liability Order Costs

If the billing authority has to issue a summons for the non-payment of the BID levy and obtain a liability order from the Magistrates Court a cost of £110 will be added to the levy payers account. This cost will be retained by NULBC.

Enforcement Charges

BCNUL may pass levy payer accounts to an enforcement agent for collection. The enforcement agent has the power to uplift goods, and levy payers will incur further costs as follows: Levy payers will have to pay a £75 Compliance fee as soon as BCNUL pass an unpaid account to the enforcement agent for collection. This fee is payable per individual Order. This fee will be amended in line with any legislative changes.

A further Enforcement fee of £235 will be due if the levy payer does not make arrangements to pay or defaults on payments and a visit becomes necessary. This is a one off fee regardless of the number of Liability Orders. This fee will be amended in line with any legislative changes.

The levy payer will have to pay a further £110.00 at the sale or disposal stage. This fee will be amended in line with any legislative changes.

A further 7.5% on enforcement and sale if the debt is over £1,500 excluding fees. This is only chargeable at the enforcement or sale/disposal stages. This fee will be amended in line with any legislative changes.

All costs will be reviewed annually and confirmed with NULBL All of these costs will be retained by BCNUL or the enforcement agent, as determined by BCNUL.