

## ABERDEEN CITY COUNCIL

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COMMITTEE	Enterprise, Planning & Infrastructure
DATE	24 <sup>th</sup> May 2011
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	Aberdeen Business Improvement District – Next Steps
REPORT NUMBER:	EPI/11/198

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### 1. PURPOSE OF REPORT

This report updates Members on the present stage for the proposal for the Aberdeen Business Improvement District (The BID), the timetable being pursued, and the initial projects for implementation (The Proposal) following the conclusion of a successful ballot.

### 2. RECOMMENDATIONS

Members are recommended to: -

- 1 Authorise the Director of Enterprise, Planning and Infrastructure to progress consultations on all aspect of the delivery of the Aberdeen BID proposal with partner organisations and relevant stakeholders within the BID area in conjunction with the Aberdeen BID Steering Group and the Aberdeen BID Board, as set out in sections 6.1 and 6.2 of the report.
- 2 Consent to the continuation of the process towards the planned Ballot of the eligible businesses within the proposed Aberdeen BID area and, as the Ballot Holder, to conduct the election process as set out in section 6.3 of the report.
- 3 Authorise the Chief Executive, as the Ballot Holder, or her nominee, to conduct the election process within the prescribed timeline, as set out in section 6.3 of the report.
- 4 Authorise the Head of Legal and Democratic Services, in consultation with Corporate Directors to undertake the final negotiations, completion and approval of all appropriate documentation on behalf of the City Council for the implementation of the Aberdeen BID, as set out in sections 6.4 and 6.5 of the report.
- 5 Authorise payment of a monthly grant from the date of the Ballot, equivalent to one-twelfth of the total annual levy charge, until the levy is collected and disbursed to the BID – at which point any grant paid will be deducted from the levy collected, as set out in section 6.2 of the report

### 3. FINANCIAL IMPLICATIONS

Funding from Aberdeen City Council for the Aberdeen Business Improvement District (BID) initiative up to the point of ballot was approved by this Committee at its meeting on 23rd February 2010 – article 20 refers.

Following the successful completion of the ballot, the Business Improvement District financial projections as shown in the Proposal at Appendix 2 indicate that the approx. £4.25m income from the levy is anticipated to be generated over the 5 year duration of the Business Improvement District, approximately £0.75m will be required for the costs associated with operating the BID itself. The remaining balance of £3.50m will be available for implementation of the various improvement proposals selected, however, these figures are currently under review and may change in the final business documents to be produced prior to the Ballot.

The successful completion of the Ballot will require the City Council to meet the cost of an additional levy on its non-domestic properties in the BID area based on the rateable value of those properties. This levy is estimated to be in the order of £38,500 in a full year

### 4. SERVICE & COMMUNITY IMPACT

This report relates to Vibrant, Dynamic and Forward Looking policy statement:

- 1) Ensure the sustainability of the successful economy of the Aberdeen City and Shire.
- 2) Continue to drive regeneration and take advantage of regeneration opportunities citywide as they present themselves and identify, in consultation with the local communities, immediate priorities for regeneration purposes.

City centre re-development is a strategic priority of the Aberdeen City and Shire Economic Future (ACSEF) Economic Manifesto with the establishment of a Business Improvement District identified as a key priority in the action plan for the city centre.

### 5. OTHER IMPLICATIONS

If the BID project does not progress to ballot there is a policy and reputational risk accruing to Aberdeen City Council in respect of private sector co-operation and support for this initiative resulting in potential loss of momentum for the project.

#### ***Equality and Human Rights implications***

A full equality and human rights impact was not required, as this proposal will have a positive impact for all the equality target groups.

### 6.0 REPORT

## 6.1 **Background**

- 6.1.1 A Business Improvement District (BID) is a partnership between a local authority and the city centre business community with the objective of developing and implementing projects considered to be beneficial to the trading environment within the boundary of a clearly defined commercial area.
- 6.1.2 Aberdeen City Council has actively encouraged and supported the establishment of a Business Improvement District project in Aberdeen as a means of a) regenerating and promoting the city centre, and b) providing an improved balance across the various business sectors within the central area. The area covered by the proposed Aberdeen Business Improvement District is shown in the map contained in Appendix 1
- 6.1.3 The Aberdeen BID operates through a stand-alone private company limited by guarantee (Company No. SC352258) with no share capital and was established following approval of Full Council to the company's formation on 13<sup>th</sup> August 2008 and 12<sup>th</sup> November 2008 respectively. The Company [the Aberdeen BID Development Co Ltd] has a Board of Directors consisting of Cllr Kevin Stewart, Depute Leader of the City Council, Gordon McIntosh, Director of Enterprise, Planning and Infrastructure, John Michie of Aberdeen City Centre Association and Barry Matheson, Managing Director of John Lewis Aberdeen and Edinburgh.
- 6.1.4 In compliance with the Planning etc (Scotland) Act 2006 and The Business Improvement District Regulations 2007, businesses are required to indicate their collective support for the Business Improvement District in a Ballot. If successful, the Company then draws its funding from a levy from eligible properties within the City Centre footprint. This in turn is used to implement a series of beneficial projects and programmes. The levy is based on one per cent of the non-domestic rateable value for each eligible business property with a rateable value of £27,500 and above, which is collected by the applicable local authority and then remitted to the Company. A Business Improvement District has a normal lifecycle of five years following which the businesses are then re-balloted.
- 6.1.5 In the ballot all the eligible businesses in the prescribed area are requested to vote on the basis of one vote per property. For a successful 'YES' vote to be achieved, the majority of ballot papers returned must be in favour of the Business Improvement District and the aggregate rateable value of those businesses who vote for the Business Improvement District must exceed the aggregate rateable value of those that vote against the Business Improvement District. If both these majorities are achieved, the Business Improvement District will come into operation for a period of five years.
- 6.1.6 The Planning etc (Scotland) Act 2006, Part 9 – Business Improvement Districts, provides local authorities with the option to exercise its right of veto over a BID Proposal and hence to influence whether a ballot is subsequently held or not. In the case of Aberdeen, the Aberdeen BID Development Co Ltd has produced a BID Proposal on which the Council is now required to consider whether to exercise its option of veto based on, a) the formal assessments outlined below, and/or b) wider

considerations associated with Aberdeen City as a whole which may impact generally upon the Business Improvement District.

6.1.7 The current key dates in the BID timeline are

- Ballot Date-98 (14<sup>th</sup> May)  
BID proposer sends copy of proposal to the City Council, billing body and Scottish Ministers
- Ballot Date-70 (26<sup>th</sup> May 2011)  
Last date for veto
- Ballot Date-56 (11<sup>th</sup> June 2011)  
Request to hold ballot
- Ballot Date-42 (23<sup>rd</sup> June 2011)  
Ballot underway
- Ballot Date (4<sup>th</sup> August 2011)  
Last day of ballot (42 day cycle)

6.1.8 The City Council is required to consider the BID Proposal within a prescribed period of 28 days from receipt of the Proposal (B-98 days) to last day for veto (B-70 days) of the ballot date and to provide notice that it is or is not going to veto the proposal. If exercising a veto, the City Council must set out the reason why and provide details of the right of appeal to the eligible businesses. Similarly, if the City Council is not exercising its veto, it must set out its reasons for not so doing.

6.1.9 The statutory deadlines include a requirement for Aberdeen BID Development Company to notify Aberdeen City Council of its intention to go to ballot (not less than 154 days); submission of Business Improvement District Proposal (not less than 98 days); option to veto (not less than 70 days) and, request to hold a ballot (not less than 56 days).

6.1.10 In accordance with its statutory obligations the Aberdeen BID Development Co Ltd served on the City Council on 29<sup>th</sup> January 2011, Notice in accordance with the B - 154 day statutory deadline, that it intends to hold a ballot of the selected businesses to confirm the above support.

## 6.2 Proposal Document

6.2.1 The Aberdeen BID Development Co Ltd has researched the strength of support for a Business Improvement District within the prospective Business Improvement District area. Evidence recorded on the database demonstrates positive feedback and the strength of that support [at the time of writing, this is more than one hundred businesses representing over 5% of the total recorded as being in favour], the BID Steering Group of private sector businesses has developed a proposal which will lead to a postal ballot scheduled to be undertaken from 23<sup>rd</sup> June 2011, with balloted papers to be returned by 3<sup>rd</sup> August 2011; ballot day is 4<sup>th</sup>

August and the results will be published in the week commencing 8<sup>th</sup> August 2011. The BID Proposal document is a statutory requirement and is necessary for balloting purposes to provide non-domestic ratepayers with a clear understanding of the proposed scheme in order to enable them to cast their votes on an informed basis:

6.2.2 The Proposal document is shown at Appendix 2 and contains the following information:

- The projects to be implemented;
- The geographical area to be covered by the BID arrangements;
- Details of the levy basis and how the levy will be calculated;
- Indicative costs incurred in implementing the BID proposals;
- The ballot process, ballot date and date of ballot announcement;
- The duration of the BID arrangements and when they will start.

6.2.3 Following the consultation process with the business community the Aberdeen BID Development Co Ltd has decided upon a 1% levy which will be applied to the non domestic rateable values of each of the selected businesses within the Business Improvement District area. There are also on-going discussions with regards to possible reduced levies for mall operators and tenants therein. The levy is expected to raise an income of approximately £850k per year or £4.25m over the five-year duration of the Business Improvement District [following which the businesses will be re-balloted].

6.2.4 Following the successful completion of Business Improvement District ballot, the City Council will then collect the levy on behalf of the Aberdeen BID Co Ltd during each year of the operations phase [in a separate invoice to that of the business rates], will hold these funds in a separate Business Improvement District 'Revenue Account' and will subsequently remit these funds to the Aberdeen BID Co Ltd. The cost of providing resources to discharge this responsibility will be recovered on an annual basis by Aberdeen City Council from the Aberdeen BID Co Ltd.

6.2.5 Members' attention is drawn to the fact that Aberdeen City Council is also a bona fide property tenant and owner occupier within the BID area. The City Council has no less than 14 properties [including offices and public car parks] in the proposed BID area with a total rateable value as at 1<sup>st</sup> July 2010 of not less than £3,850,000. Subject to the completion of Marischal College and the subsequent consolidation of Council tenanted, owned and occupied properties the City Council will thus be liable for a levy payment of some £38,500 per annum].

6.2.6 If the ballot is successful, the Aberdeen BID Co Ltd will start its operational phase [as opposed to its development phase] from 3<sup>rd</sup> October 2011. This will involve setting up office accommodation, recruiting staff and finalising arrangements for the delivery of Business Improvement District area projects. These projects will be progressively introduced over a defined period of time from 3<sup>rd</sup> October 2011.

6.2.7 Members are also being recommended to agree to provide a monthly grant, equivalent to one-twelfth of the annual levy until this is levy is collected and disbursed to the BID. Any grant will be deducted from levy fees before disbursed to the BID.

### 6.3 Proposal Assessment

6.3.1 An assessment of the BID Proposal against the prescribed requirements set out in the Planning etc (Scotland) Act 2006; part 9 refers, and the associated Business Improvement Districts (Scotland) Regulations 2007 has been undertaken.

6.3.2 In undertaking this assessment the City Council is required to remain impartial, ensuring that the BID Proposal, a) does not conflict with any established overall Council policies or planning proposals and as they apply to the area, b) has been applied in a balanced, fair and non-discriminatory manner, c) defines the extent of consultation undertaken with the business community and the local authority, and d) is transparent with regards financial donors and support.

6.3.3 The Planning etc (Scotland) Act 2006, Part 9 – Business Improvement Districts, gives the Council the option to exercise a right of veto over a BID proposal and ensures that no ballot shall be held. The City Council is required to consider a BID proposal within the prescribed period of 28 days from receipt of the BID Proposal (B-98 days) to last day for veto (B-70 days). This means that for the Aberdeen BID proposal, the veto must be exercised by 26<sup>th</sup> May 2011 and give notice that it is or is not going to veto the proposal.

- If exercising a veto the local authority must set out the reason why and give details of the right of appeal;
- If not exercising a veto then the local authority must set out its reasons for not doing so.

6.3.4 The circumstances under which a local authority may exercise its veto are prescribed in the Act and the Business Improvement Districts (Scotland) Regulations 2007. This assessment is structured around these prescribed circumstances.

<b>Planning etc (Scotland) Act 2006</b>	
42 (4) (a)	<i>'to conflict with any structure plan, local plan, strategic development plan or local development plan which has been approved or adopted under the principal Act and which applies to the proposed business improvement district or any part of it'</i>

	<p>The BID improvements fall into two distinct categories ‘functional’ and ‘physical’. Functional improvements involve promotion and marketing of the central area whilst physical improvements generally involve enhancements to the streetscape, safety and security initiatives. ‘Functional’ improvements do not conflict whilst ‘physical’ improvements are pitched at a scale which compared to those of any structure plan, local plan, strategic development plan or local development plan are similarly not in conflict. However, where synergies are apparent advantage will be taken of them with the objective of creating a more integrated and harmonious overall approach.</p> <p><b>On the basis of the above it is considered that there are no grounds to exercise the right of veto.</b></p>
<p>42 (4) (b)</p>	<p><i>‘to conflict to a material extent with any policy formally adopted by and contained in a document published by the authority (whether or not the authority are under a statutory duty to prepare such a document)’</i></p> <p><b>With reference to current policies associated with economic sustainability and regeneration opportunities the proposal for the creation of a business improvement district complements and supports these policies.</b></p> <p><b>On the basis of the above, it is considered that there are no grounds to exercise the right of veto.</b></p>
<p>42 (4) (c)</p>	<p><i>‘to lead to a significantly disproportionate financial burden being imposed on-</i></p> <p><i>(i) any person entitled to vote in the ballot on the proposals</i></p> <p><i>(ii) any class of such person, as compared to other such persons or classes’</i></p> <p>The BID proposal states that the levy will be based on 2010 rateable values at 1p in the rateable pound. The levy will be inflated each year by the equivalent to the UK’s Retail Price Index as of 31 December each year.</p>

	<p>Property tenants will be required to pay the full levy. Exceptions to this are proposed:</p> <ul style="list-style-type: none"> <li>-empty properties do not pay the levy for the first three months thereafter property owners will be required to pay the full levy;</li> <li>- tenants of shopping malls may receive a reduced levy in the rateable pound;</li> <li>- shopping mall operators may also receive a reduced levy in the rateable pound of the balance of the rateable value of their tenants;</li> <li>- places of worship will be exempt;</li> <li>- non-retail charities and non-commercial charities will be exempt;</li> <li>- properties with rateable valuable of £27,500 or less</li> </ul> <p><b>The principle of a discount is acknowledged and whilst there could be some debate on the value of the discount offered it will not through its application significantly and disproportionately impose a financial burden on others who need to pay the full levy.</b></p> <p><b>On the basis of the above it is considered that there are no grounds to exercise the right of veto.</b></p>
<p><b>Business Improvement Districts (Scotland) Regulations 2007</b></p>	
<p>14 (2) (a)</p>	<p><i>'the level of support for the BID proposals ... where this information is available'</i></p> <p>The BID Development Team have implemented a fully defined business Consultation Strategy which consisted of a series of presentations, and face to face consultations with the business community. The BID Development Team has reported that as a consequence of this activity they the level of support recorded reached is more than 5% of the eligible business electorate.</p> <p><b>Whilst the ultimate test for the BID Proposal will take place during the ballot of the business community implementation of the above consultation has provided a clear demonstration that there is sufficient baseline support to justify progressing the BID Proposal to ballot.</b></p> <p><b>On the basis of the above it is considered that there are no grounds to exercise the right of veto.</b></p>



14 (2) (b)	<p>'the nature and extent of the conflicts mentioned in 42(4) of the 2006 Act'</p> <p><b>None beyond those addressed above.</b></p>
14 (2) (c)	<p>'the structure of the proposed BID levy and how the financial burden of the business improvement district is to be distributed amongst ratepayers and other eligible persons in the geographic area of the business improvement district'</p> <p><b>None beyond those addressed above.</b></p>
14 (2) (d)	<p>'how the financial burden of the business improvement district may have been disproportionately distributed among ratepayers and the other eligible persons as a result of the selection of the geographic area or areas of the business improvement district'</p> <p><b>None beyond those addressed above.</b></p>
14 (2) (e)	<p><i>'the extent to which the BID proposer discussed the BID proposals with the authority before submitting the BID proposals to the authority'</i></p> <p>In addition to the involvement of Elected Members of the Council on the BID Board and Steering Groups, preliminary discussions by the BID proposer on the subject of the BID proposal and the BID arrangements have taken place with the Extended Corporate Management Team (CMT). In addition a series of discussions have also taken place with the relevant Corporate Directors and officers of the council on the content and commitments contained in the baseline services statements.</p> <p><b>On the basis of the above it is considered that there are no grounds to exercise the right of veto.</b></p>
14 (2) (f)	<p><i>'the cost incurred by any person in developing the BID proposals and canvassing in relation to the BID proposals'</i></p> <p>Aberdeen City Council and BIDs Scotland have provided funding for the development of the Aberdeen BID. The BID Proposal is thus funded entirely by the public purse as opposed to the private sector. Thus there are no vested interests involved.</p> <p><b>On the basis of the above it is considered that there are no grounds to exercise the right of veto.</b></p>

6.3.5 If Members are minded to endorse the process to proceed to Ballot (by not exercising a veto), then Members are recommended to authorise the Chief Executive, as the Ballot Holder to conduct the election process within the prescribed timeline.

## 6.4 Common Operating Agreement

6.4.1 A Common Operating Agreement (the Agreement) between Aberdeen City Council and the Aberdeen BID Co Ltd has been prepared which defines the roles, responsibilities and accountabilities of each legal entity during the operational phase of the Business Improvement District and the procedures by which they are discharged. The Agreement is an evolving document, hence it is being recommended to Members that they grant delegated authority to the Head of Legal and Democratic Services, in consultation with Corporate Directors to undertake the final negotiations, completion and approval of all appropriate documentation on behalf of the City Council for the implementation of the Aberdeen BID. The contents of the Agreement include the following:

- Definitions
- Statutory Authorities
- Commencement
- Obligations of the Council
- Baseline and Complementary Services
- The BID Revenue Account
- Debits from the BID Revenue Account
- Collection and Remittance of the BID Levy
- Procedures available to the Council for enforcing payment of the BID Levy
- Enforcement Mechanisms for Non-Collection of the BID Levy by the Council
- Accounting Procedures and Monitoring
- Termination
- Confidentiality
- Notices
- Exercise of the Council's Powers
- Arbitration
- Best Endeavours
- Governing Law

6.4.2 The Agreement is required to be formally authorised by the representatives of each entity (i.e. Aberdeen City Council as the relevant local authority and Aberdeen BID Co. Ltd) immediately post the ballot following which the Agreement then becomes operationally active.

## 6.5 Baseline Services Statements

6.5.1 The Common Operating Agreement contains the range of Baseline Services Statements (in effect, Service Level Agreements), as shown in Appendix 3, which define the overall service level delivery within the proposed BID area. The Baseline Services Statements enable the Aberdeen BID Development Co Ltd to assess the extent of the incremental services, [over and above the baseline (statutory plus discretionary) already provided by Aberdeen City Council] as the Company may wish to provide, or procure, within the BID area.

6.5.2 The level of service delivery is defined in each Baseline Services Statement and is critically dependent upon the availability of funds through the Council's own annual budgetary process. Should there be any changes in the level of service delivery it is considered that changes will not be applied within the proposed Business Improvement District area.

6.5.3 Baseline Services Statements have now been produced and are required to be formally agreed by the relevant Corporate Director prior to authorisation of the Common Operating Agreement. The City Council's range of services delivered within the BID area are covered by the Baseline Services Statements listed below and have been prepared in collaboration with representative officers from each of the relevant service delivery Directorates.

- Street Cleansing
- Graffiti and Flypost Removal
- Chewing Gum removal
- Public Toilets
- Grounds Maintenance
- Street Litter Bins
- City Wardens
- Taxi Marshals
- Temporary Public Conveniences
- Safer Aberdeen
- Direction, Non-Direction and Tourist Signage
- Street Lighting
- CCTV
- Car Parking – Off Street
- Car Parking – On Street
- Bus Travel Provision
- City Centre Lighting Strategy (Buildings)
- City Centre Roads Maintenance
- City Centre Winter Maintenance
- City Centre Road Safety & Traffic Management
- Festive Lighting
- Development and Regeneration Activity
- Marketing & Branding
- Events
- Promotional Banners
- Street Entertainment/Street Trading

## 6.6 Summary Conclusions

6.61 As reported to Members of this Committee on 23<sup>rd</sup> February 2010 [Article 20 refers] a number of important preparatory developmental stages planned for an Aberdeen Business Improvement District have now been achieved between the City Council and the Aberdeen BID Development Company Ltd in the lead up to and beyond the planned statutory ballot of businesses in the late summer of this year

- 6.6.2 Given the number of processes, statutory requirements and schedule constraints involved, achievement of the target is dependent upon the timeous realisation of BID milestones and performance outcomes.
- 6.6.3 It is the considered view of the Director of Enterprise, Planning and Infrastructure that the development and delivery of the Aberdeen BID is a viable, beneficial and achievable initiative. Progress in the next few months of progress is critical in terms of meeting the target ballot date in late summer

## 7 REPORT AUTHOR DETAILS

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## 8 BACKGROUND PAPERS

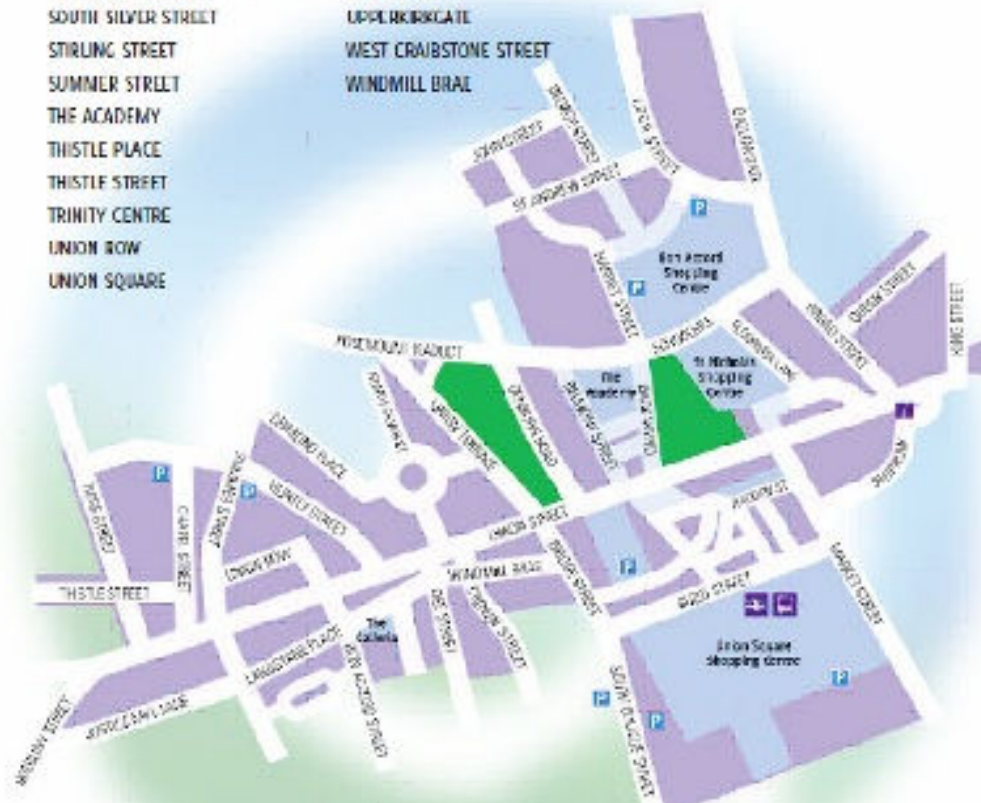
Report to Enterprise, Planning and Infrastructure Committee, 23<sup>rd</sup> February 2010, Article 20 refers

# LIST OF STREETS AND FOOTPRINT

- ADELPHI
- ALFORD PLACE
- BACK WYND
- BATH STREET
- BELMONT STREET
- BERRY STREET
- BON ACCORD CENTRE
- BON ACCORD SQUARE
- BON ACCORD STREET
- BRIDGE PLACE
- BRIDGE STREET
- BROAD STREET
- CARNEGIE'S BRAE
- CASTLE STREET
- CHAPEL STREET
- COLLEGE STREET
- CRIMOND PLACE
- CROWN STREET
- DEE STREET
- DIAMOND STREET
- EAST CRAIBSTONE STREET
- EXCHANGE STREET
- EXCHEQUER ROW
- FLOURMILL LANE
- GALLOWGATE
- GEORGE STREET
- GOLDEN SQUARE
- GUEST ROW
- GUILD STREET
- HADDEN STREET
- HOLBURN STREET
- HUNTLY STREET
- JOHN STREET
- JUSTICE MILL LANE
- KING STREET
- LANGTANE PLACE
- LITTLE BELMONT STREET
- LOCH STREET
- MARKET STREET
- NETHERKIRKGATE/
- MCCOMBIES COURT
- NORTH SILVER STREET
- QUEEN STREET
- RENNIE'S WYND
- ROSE STREET
- ROSEMOUNT VIADUCT
- RUBY PLACE
- SCHOOLHILL
- SHIPROW
- ST ANDREW STREET

- ST NICHOLAS CENTRE
- ST NICHOLAS LANE
- ST NICHOLAS STREET
- SOUTH SILVER STREET
- STIRLING STREET
- SUMMER STREET
- THE ACADEMY
- THISTLE PLACE
- THISTLE STREET
- TRINITY CENTRE
- UNION ROW
- UNION SQUARE

- UNION STREET
- UNION TERRACE
- UNION WYND
- UPPER BRICKGATE
- WEST CRAIBSTONE STREET
- WINDMILL BRAL



## APPENDIX 2

### Aberdeen Business Improvement District Proposal

**Aberdeen Business Improvement District  
Baseline Service Statements**