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Councillor Alan Amos, Cabinet Member with Responsibility for Highways

John Hobbs, Strategic Director of Economy and Infrastructure

1. The 2016 Collaboration Agreement (henceforth referred to as CA1) between WMRL and the DfT is the primary agreement by which WMRL's responsibilities for franchise management and government grant funding are set out and enshrined. CA1 was signed in April 2017 following Secretary of State and WMRL approval (the latter by means of a Special Resolution).

2. In summary, CA1 includes provisions for:

a) A Strategic Board between WMRL and DfT

intending to endure until March 2026. However, the changes to passenger rail contracting by the DfT in response to the COVID crisis now mean that the Franchise Agreement is expected to terminate on 19 September 2021. As such it is now necessary to negotiate and enter into a successor agreement with the DfT to take effect from the termination of the existing Franchise Agreement.

4. Discussions with DfT officials have concluded that in general CA1 has worked effectively and is a solid foundation on which to build. Consequently, the revised Collaboration Agreement (henceforth referred to as CA2), represents an evolution of its predecessor.

5. The main areas of amendment in CA2 reflect the changing landscape of rail franchising and the meeting structure. The latter was based on the model used by Transport for the North for the Northern and Trans Pennine Franchises, but experience has shown that it is not as effective for the West Midlands Franchise. The structure proposed in CA2 is more closely aligned to DfT's governance arrangements, which should help speed up decision making and give WMRL a stronger voice within DfT.

6. There are no proposed changes to the grant WMRL receive from DfT, or to the arrangements in place for the savings account held jointly between WMRL and DfT. The Heads of Terms for CA2 be found in Appendix B. Since these were written one change has been made. Following feedback from WMRL partner authorities Schedule 1 has been reinstated with minor amendments. This had originally been removed on the grounds of brevity.

7. WMRL and DfT are also using this an opportunity to incorporate a change to CA1 that was made by side letter in March 2019. This was a technical amendment to permit the WMCA to hold any monies earned or saved by WMRL and DfT from the Franchise.

8. The CA2 draft has been reviewed by Pannone Corporate, the WMRL external legal advisors.

9. CA2 was approved in principle by the WMRL Board at its AGM on 15 June 2021.

10. In accordance with the WMRL Articles of Association, paragraph 8.3, any change to the WMRL relationship with the DfT or substantial changes to that agreement must gain the prior approval of WMR 'Member'<sup>1</sup> authorities by special resolution. As such, the change to the Collaboration Agreement drafting must be endorsed by a minimum of 75% of Member authorities.

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<sup>1</sup> WMR Member authorities are the West Midlands Combined Authority and the seven Shire and Unitary Local Transport Authorities. In the continuing spirit of inclusivity, approval from individual Metropolitan District Authorities have also been sought throughout this process, although this is not required under WMRL Articles of Association

16. The financial implications remain unchanged, and the commitment from DfT to fund WMRL for franchise management costs (£500K per year) remains in force. There is no proposed change to the level of contribution sought from WMRL partner authorities

17. There are no additional legal implications arising from the change to the Collaboration Agreement drafting.

18. Cabinet agreed to join West Midlands Rail Ltd at its meeting on 19 November 2015, and the Leader appoints the relevant Cabinet Member and substitute to the Board. In September 2016 it further agreed that West Midlands Rail should enter into a partnership agreement with the Department for Transport. A Cabinet Member Decision in March 2017 agreed changes to the draft agreement.

Appendix A: The executed version of CA1 is included as appendix A

Appendix B The Heads of Terms for CA2 is included as Appendix B

Specific Contact Points for this report

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In the opinion of the proper officer (in this case the Strategic Director for Economy and Infrastructure) the following are the background papers relating to the subject matter of this report:

Cabinet reports:

- 19 November 2015 (minute 1702):