# KILKENNY COUNTY COUNCIL

#### COMMUNITY AND CULTURAL FACILITIES CAPITAL SCHEME 2015-2017

#### Schedule of Conditions attached to offer of Capital Assistance Grant

The grant of **€XXX** offered by Kilkenny County Council (hereinafter referred to as ‘the Council’) to **XXX** **(**hereinafter referred to as ‘the grantee’) in a letter of grant offer dated **XXX**

1. **Qualifying expenditure:-**

(a) The Grantee will submit to the Council details of receipted total expenditure of which the grant amount will be no greater than 75%.

(b) Grants shall be expended on the works proposed in the application or as otherwise agreed.

(c) Where work has commenced on the project evidence satisfactory to the Council must be produced if required, to verify that the works were not commenced prior to the date on which the grant application was approved Kilkenny County Council.

(d) The Grantee must comply with Kilkenny County Council public procurement requirements

1. **Special Conditions:-**

Works for which the grant aid was approved shall be completed and the grant claim made by **XXX.**

1. **Payment of the Grant:-**

No part of the Grant will be payable until the conditions of this Agreement herein have been complied with. The grant at the amount of **€XXX** is payable on approved expenditure vouched as paid. The determination of approved expenditure is the decision of the Council. Should the actual expenditure by the Grantee be less than the qualifying expenditure as submitted to the Council, then the Grant, at the discretion of the Council may be reduced. The Grant may be paid in instalments (not more than three), subject to terms to be determined by the Council, until the full amount of the Grant is paid.

The payment of monies or the provision of aid by the Council to the Grantee(s) shall be based on the amount of work carried out, records supplied and private or other funds invested in the Project concerned.

For the purpose of the foregoing all qualifying expenditure claimed shall be vouched and certified as paid. In particular the Council require that any claim for Grant payment will include original invoices, and where appropriate, accompanied by a Certificate of a Qualified Auditor or other professional advisor as agreed, certifying that the amount in respect of which the claim is made has been expended and paid for the purposes and in conformity with the conditions of the Grant concerned.

1. Procurement of goods and services:-

The following are Kilkenny Local Authorities guidelines for the handling of non-European contracts. Thresholds should be assessed exclusive of VAT.

|  |  |  |  |
| --- | --- | --- | --- |
|  | THRESHOLD | PROCEDURE |  |
|  | Less than €1,000 | Verbal quotation |  |
|  | Between €1,000 and €5,000 | Verbal quotation from three or more suppliers or service providers. |  |
|  | Between €5,000 and €25,000 for **SUPPLIES & SERVICES** | At least 3 written quotations |  |
|  | Between €5,000 and €50,000 for **WORKS** |  |  |
|  | Between €25,000 and EU threshold for SUPPLIES & SERVICES | Formal advertising inviting tenders using[www.etenders.gov.ie](http://www.etenders.gov.ie)  |  |
|  | Between €50,000 and EU threshold for **WORKS** |  |
|  | Above EU threshold | Formal advertising inviting tenders advertising on OJEU (Via [www.etenders.gov.ie](http://www.etenders.gov.ie)) *(OJEU notice)* |  |

At least three quotations for each aspect of the works being funded must be submitted where the total value of the project is less than €50,000.00. These quotations must be received in a sealed envelope by a specified date. No quotations will be allowable after that date. Written evidence outlining the process undertaken in selecting the contractor, a list of the persons involved in this decision along with their signatures must be held for record purposes by the grantee.

Where the total value of the project exceeds €50,000.00 the project must be procured in accordance with the relevant Public Works Contract. Guidance on the use of Public Works Contracts and the appropriate procurement procedure to be followed in relation to these contracts is available from <http://constructionprocurement.gov.ie>.

1. **Balance of Funds:-**

The Grantee(s) will make satisfactory arrangements for the provision of the balance of funds required to meet the total project expenditure and will provide evidence sufficient to satisfy the Council of the availability of the balance of funds required and will undertake to meet any costs in excess of those estimated in the application.

1. **General Regulations:-**
2. The Grantee must certify that the project has been granted Planning Permission as required by the planning authority or that Planning Permission will be obtained before the Grantee requests payment of any part of the Grant.
3. All permits, licences and authorisations required for the works concerned or for the operation of the proposed project which may be required under any Statute, Regulation or Order having the force of law, including but exclusively Fire Certificate, Building Control Act requirements will have been obtained by the Grantee(s), and that a copy of any relevant documentation (such as a valid Commencement Notice and a FireSafety Certificate for building/works design) will be furnished to the Council, if required.
4. That in respect of the proposed works, drawings, specifications, Bills of Quantity (if available) and a Standard Cost Plan (in such a manner as may be specified by the Council) will be submitted to and approved by the Council, if required.
5. That the Grantee(s) will undertake to meet the costs of maintaining the services, where applicable.
6. The grantee must comply with the Safety, Health and Welfare at Work Construction Regulations, 1995.
7. **Time Limit:-**

That the proposed works will commence within **the year** from the date of acceptance of the Grant offer and that the Grant shall be fully drawn down by the Grantee(s) not later than **XXX** and any amount of the Grant not drawn down within that period shall be deemed to be de-committed. However, a time extension may be entertained in exceptional circumstances, by prior written agreement.

1. **Restrictions:-**

That the Grant aided assets shall not be alienated, assigned, sold or otherwise disposed of within a ten year period, without the consent in writing of the Council. In the event of the Council granting said consent the Council shall be entitled to attach such conditions to the Consent as the Council deems appropriate to include refund of the Grant paid.

1. **Withholding:-**

The Council reserves the right to reduce the Grant or withhold it completely if in its opinion the work done is unsatisfactory or is not in accordance with specifications or the materials used are not up to the required standard or the Grantee(s) fails to observe fully any of the required conditions. All or any portion of the grant which has been unpaid may be withheld by the Council or any portion of grant paid may be recovered where any of the terms and conditions of the Scheme are not being complied with or where there is a material change in the proposal for which the Application was made.

1. **Structure and Equipment:-**

The Council accepts no liability for the stability of any structure or the soundness of any materials used or the adequacy for its purposes of any buildings or of any facility grant aided by the Council under this offer.

The offer of Grant by the Council does not imply any warranty on the part of the Council as to the construction or condition of the grant aided asset(s) or that the asset(s) are free from defect or as to whether the purchase price is reasonable. No responsibility whatsoever is implied or accepted by the Council and no warranty is given as to the value or condition of the Grant aided assets.

1. **Insurance:-**

The grant aided asset(s) will be kept insured against loss or damage through fire, storm, flooding or theft and if there should be such damage or loss the entire insurance compensation received will be used to restore the property so damaged and lost and in the event of such compensation being insufficient for that purpose the deficiency will be made good by the Grantee(s). The Grantee(s) shall confirm in such a manner as the Council may determine:-

a) The sums insured on building and/or equipment.

b) That the perils of fire and explosion are included in the Policy.

c) That the insurance is on a re-instatement basis.

d) That the Council will be notified in the event of material alteration or cancellation

 of the Insurance Policy.

The Grantee(s) shall effect and produce evidence of appropriate Employer’s Liability (if appropriate) and Public Liability Insurance to a limit specified by the Council. The Grantee(s) shall agree to be responsible for any loss, damage or injury to person(s) or property arising out of the provision or use of the facility and shall indemnify the Council against all claims howsoever arising.

1. **Tax Affairs:-**

That the Grantee(s) provides its tax number and produces a current Tax Clearance Certificate from the Revenue Commissioners. Where the Grantee(s) claims wages as part of the expenditure, these wages are subject to income tax and should be returned to the Revenue Commissioners by the Grantee(s) and evidence of compliance therewith furnished to the Council. Further, the Grantee(s) shall ensure that any contractor employed in connection with the construction works complies with Tax Clearance requirements. The Main Contractor will supply a current Tax Certificate for the time when payment is being made by the Council. The Grantee(s) shall keep their tax affairs in order and provide evidence to that effect whenever so requested by the Council.

1. **Revocation/Recovery of Grant:-**

The Council at any time from the date of acceptance of the offer of grant may revoke, cancel, recover or abate the Grant in the event of any or one or more of the following events happening:-

1. If at any time any of the foregoing conditions shall not be complied with to the satisfaction of the Council.
2. If there should be a material change in the proposals which form the basis of the application made for the Grant.
3. If an order is made or any effective resolution is passed for the winding up of the operation of the Grantee(s).
4. If a Receiver is appointed over the Grant aided property or if a distress or execution is levied or served on any of the property and is not paid off within fourteen (14) days.
5. If progress on the development or refurbishment of the facility is not carried out to the satisfaction of the Council.
6. If without the consent of the Council the operation of the Project shall cease.
7. **Repayment:-**

That if the Grant shall be revoked, cancelled or abated by the Council under the provision of Clause 13 above, the Grantee will repay to the Council all sums received in respect of the grant or so much as the Council may determine and that in default of such repayment such sum shall be recovered by the Council as a simple contract debt.

1. **Development/Administration:-**

That the Grantee shall ensure that the general development of the undertaking will be in accordance with the particulars given in the application for the Grant. In particular the Grantee shall ensure the nature and amount of public access to the facility as proposed in the application.

The Grantee(s) must meet the public procurement provisions as laid down by the Council at Clause 4 above.

1. **Records and Accounts:-**

That the Grantee will maintain proper records and accounts relating to the Project and agree to any inspection of the said records and accounts by Officers of the Council, or such other persons as the Council may request to carry out an inspection considered necessary and further agrees to facilitate the carrying out of such inspection.

The Council reserves the right to seek submission of the Minutes of any Annual or Extraordinary General Meeting or the Audited Financial Accounts of the Grantee(s).

The grantee must keep all documents relating to the project for which funding has been received for at least three years after the facility has been completed.

1. **Inspection:-**The Council, its officers and agents reserve the right to arrange for the inspection at all reasonable times of any lands, premises, plant, equipment, receipts for purchased items and records relevant to the project.
2. **Record of Grant:-**

The Council, its officers and agents reserve the right to include details of this Grant in official Reports and Summaries as necessary. Receipt of assistance under the Scheme must be appropriately recognised by the Grantee(s) in a manner prescribed by the Council.

1. **Title:-**

The Grantee(s) must produce appropriate satisfactory evidence of clear and valid title to the lands or buildings to be funded under the Scheme. Where title is leasehold the interest must be for a minimum of fifteen years.

1. **False Declaration:-**

If for the purpose of obtaining Grant aid from the Council or consent under Clause 8, the Grantee or such person or Body applying to the Council for such grant aid or consent knowingly makes a false or misleading statement or withholds essential information all or such portion of the Grant aid paid or to be paid to the Grantee or such person or Body applying to the Council, as the Council may determine shall be reimbursed to the Council or withheld from the Grantee or such other person or Body as the case may be.

**21. Interpretation:-**

That in any dispute arising on the interpretation of the above conditions; the decision of the Council shall be final and binding.

 **Signed on behalf of the Council by:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 *Director of Services.*

 **Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Two officials/trustees to sign below:**

 **Signed on behalf of the grantee by:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **Position Held:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Signed on behalf of the grantee by:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **Position Held:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**