



## **Business cases, project prioritisation and grant funding agreements**

This procedure sets out the practice that the LEP has adopted in reviewing and prioritising projects.

The LEP will utilise best practice in assessing the impact of schemes. It will utilise the processes set out in its Assurance Framework

### **Business Cases**

Business cases will be required in proportion to the level of funding sought and risk. As a minimum all project promoters will be required to complete a SSLEP CDGD Business Case proforma (Appendix A). In developing the business case the LEP will expect project promoters to undertake an economic appraisal of a business case to be based on Green Book appraisal methods and take into account departmental specific guidance where appropriate e.g. DfT's WebTAG; but particularly where changes in land use is concerned, SSLEP requires analysis consistent with the DCLG Appraisal Guide 2016<sup>1</sup>. The DCLG Appraisal Guide states that interventions around the benefits of changes in land use should be measured using Land Value Uplift, rather than modeling based on jobs and GVA.

The business case must address the DCLG Appraisal Guidance five cases as follows;

- The Strategic Case.
- The Economic Case.
- The Commercial Case.
- The Financial Case.
- The Management Case.

Promoters will be required to

- Demonstrate that there is a clear rationale for the interventions linked with the strategic objectives identified in the Strategic Economic Plan;
- Demonstrate that the proposal has clearly defined inputs, activities, outputs and anticipated outcomes, which are additional, ensuring that factors such as displacement and deadweight have been taken into account where appropriate;
- Set out the benefits of the intervention and demonstrate how they will be delivered, exceed the costs and represent value for money;

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<sup>1</sup> <https://www.gov.uk/government/publications/department-for-communities-and-local-government-appraisal-guide>

- Demonstrate that deliverability and risks have been appropriately considered and if there are likely to be clear mitigations for those.
- Demonstrate a robust governance and project management environment.

The methodology used to assess value for money and the degree of detail to which business cases are developed in support of particular projects or programmes should be proportionate to the funding allocated and in line with established Government guidance including the *HM Treasury Green Book*, DfT Webtag and DCLG Appraisal Guidance 2016. In addition the LEP will follow the guidance set out in the Annexes of the LEP Assurance Framework Guidance published by DCLG in December 2016.

The LEP will review business cases and where necessary utilise external independent advice to validate business cases and provide assurance that they are in conformance with the requirements set out above and will deliver SEP priorities. A business case assessment will be completed for all submissions that are presented to the Executive Board for consideration, SSLEP business case assessment template (Appendix B)

Some larger projects may be managed centrally by Government and the LEP will work with local partners to develop the necessary business cases and provide assurance as necessary.

Final business cases will be published with any confidential elements managed in accordance with the constitution and Departmental<sup>2</sup> requirements.

### **Project appraisal prioritisation and approval**

The LEP will seek the submission of projects for evaluation and prioritisation through an open call process as needed to maintain a pipeline of projects to deliver the SEP, consistent with Government bidding calls and the level of funding available.

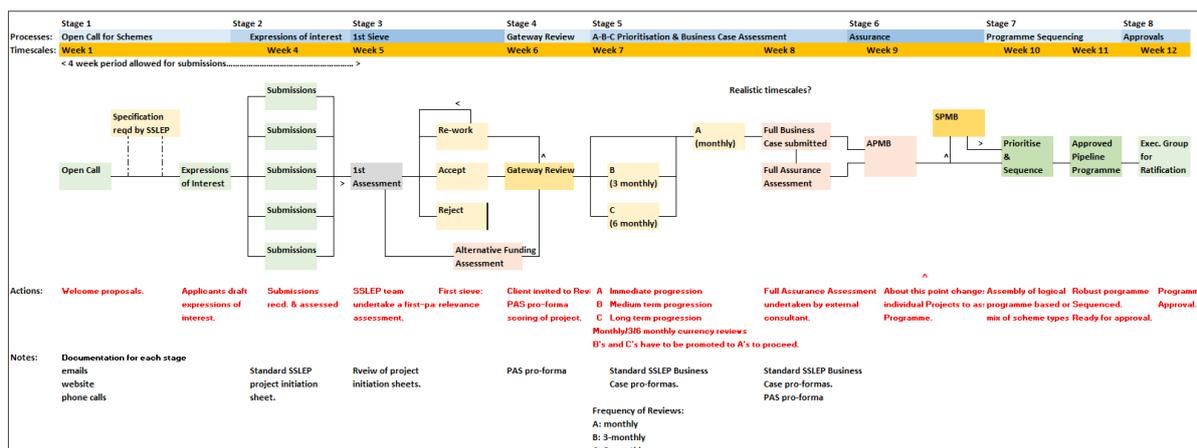
In considering priorities, the LEP will evaluate the degree to which projects deliver the SEP and the comparative benefits delivered as set out in the assurance framework. The prioritisation work will be undertaken by the LEP Secretariat and will utilise independent advice where necessary in advising the Executive Group. In formulating its advice the Secretariat will work with Government advice (December 2016 or as updated)

The Executive Group will review the results of any evaluation and agree priorities with papers being published in accordance with the constitution.

The LEP will utilise a staged approval regime as follows

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<sup>2</sup> For instance DfT Webtag Guidance requires the publication of a Major Scheme Business Case



## Grant funding agreements and monitoring

Where a project is approved by the LEP the promoter will be required to enter into a Grant funding agreement (Appendix C) with the LEP Accountable Body. The grant funding agreement sets out the LEPs monitoring requirements so that it can measure the projects to ensure that the aims and objectives of the approved Project are being achieved and outputs and outcomes delivered.

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**Appendix C – Grant Funding Agreement** - page 16

## Appendix A – SSLEP CDGD Business Case Proforma



### City Deal and Growth Deal Programme Board Business Case Proforma

*All Business Cases will be developed and submitted in accordance with the Stoke-on-Trent and Staffordshire Enterprise Partnership (February 2017) Assurance Framework and the Accountable Body Agreement between Staffordshire County Council and Stoke-on-Trent and Staffordshire Enterprise Partnership.*

Please also refer to <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government> and <https://www.gov.uk/government/publications/department-for-communities-and-local-government-appraisal-guide> for guidance in completing this business case

Please delete all purple text from the final version.

**1. Project title and proposing organisation(s)**

*Enter brief project title and organisation raising the business case.*

**2. Decision date**

*The date by which the Programme Board's decision is required.*

**3. Decision summary: Recommendation etc.**

*Please insert details of the decision required and any recommendations (if appropriate) to the LEP Executive Group.*

**4. Is the decision exempt from being publically reported by the LEP (if so please specify the reasons why)**

*If the decision is subject to a non-disclosure agreement or for example, in commercial confidence and should not be publically reported, please state reasons.*

**5. Options appraisal**

*In addition to considering guidance above please consider background to the recommendation including reasons and justification for decision; include any alternative options considered and reasons for rejection e.g. Do Nothing / Do Minimum / Do Something. Benefits and Disbenefits (potential outcomes perceived as negative by one or more stakeholders, which would arise as actual consequences (not risks) of carrying out proposal). Highlight the preferred option from the options appraisal.*

**5.1. Strategic case**

*In addition to considering guidance above please consider the extent to which the proposal supports one or more of the strategic priorities in the SSLEP Strategic Economic Plan and / or raise productivity levels.*

**5.2. Economic case**

*In addition to considering guidance above please explain how the proposal will support and contribute to economic growth and productivity within the SSLEP area.*

#### *Additionality*

*The extent to which a project's benefits will be realised without the funding (deadweight); the impact of the funding on the speed of delivery of the economic benefits; and the extent to which the funding will shift economic activity from other areas (displacement).*

#### *Wider Economic Impacts*

*The wider impact on the economy of the Stoke on Trent and Staffordshire LEP area (i.e. will it help unlock or bring forward other development sites or economic activity; will it help grow the priority sectors; and the knock-on impacts to other companies in a supply-chain).*

*Social Impact/Community Impact - The extent to which the proposal will have wider social or environmental benefits to the Stoke-on-Trent and Staffordshire LEP area (e.g. providing employment opportunities in deprived areas, supporting people into work through apprenticeships and other access to employment routes).*

### **5.3. Commercial case**

*In addition to considering guidance above: Is the proposal commercially feasible/deliverable? How does the proposal represent value for money to the SSLEP area and UK as a whole? What procurement arrangements are being used and has market testing to ensure effective delivery been undertaken?*

### **5.4. Financial case**

*In addition to considering guidance above, please set out financial appraisal.*

### **5.5. Management case**

*In addition to considering guidance above what project management tools, principles and personnel are in place to ensure successful delivery of the proposal? Is a risk management strategy in place and how will risks be mitigated against and managed?*

### **5.6. Resource and VFM analysis**

*In addition to considering guidance above please consider the following prompts:*

*What is the Land Value Uplift?*

*What is the BCR of the project?*

*What is the status of the funding identified for the proposal?*

*What is the return on investment and how do you guarantee the benefits will be realised?*

*Private Sector Investment/ Other Investment/Match Funding/Leverage - The ability to lever other funding, in particular, private sector funding and the scale of the Investment.*

*Explain the status of project cost estimates including the use of contingency/optimism bias/ /Inflation/Displacement/Deadweight and additionality assumptions.*

*Infrastructure – What type of infrastructure is being proposed?*

*Jobs - The value (quality i.e. permanent vs. temporary and construction jobs) and number of the jobs created. Is there any estimate of the type of jobs to be created by the proposal?*

*Homes – How many new housing units will be delivered as a result of the proposal- (where applicable)?*

*Skills - Delivery of skills outcomes (where applicable).*

*Transport - Total length of new or improved/resurfaced road/cycleway/footways created.*

*Service Improvements - How will the proposal lead to quantified improvements for Bus/Rail/Road/Other users?*

**6. Consultation process**

*Outline relevant organisational approvals (such as Cabinet or Board approvals) and how the proposal has been developed to date, including details of how consultation has shaped/is shaping the preferred option*

**7. Location of proposal**

*Insert an OS location plan of the proposal if possible, or attach as an appendix plan*

**8. Risk analysis**

*Summary of key risks, including indication of likelihood and impact of each risk and proposals for how risks will be mitigated against, managed and controlled. Attach the risk register.*

**9. Legal analysis**

*Provide details of Land ownership/Contractual etc. agreements between proposing party and other key parties. Demonstrate state aid compliance. Confirm applicants Equal Opportunities Policy and compliance with SSLEP SLA with Accountable Body*

**10. Delivery**

*The ability to demonstrate that the proposal is deliverable including: the extent to which it has planning permissions and other legal consents in place; the adequacy of the funding package and contingency arrangements; the financial standing of the delivery partners, risks to timely delivery, land ownerships and acquisition issues which may present a risk to delivery*

*Benefits Realisation – how will you make sure you actually get the intended benefits (outcomes, changed processes) originally planned for your project? A Benefits Realisation Plan should be developed.*

**11. Timetable**

*Provide details of the length of proposal and relevant major milestones to completion. Include period over which benefits will be realised*

**12. Author**

*Business case author's name and contact details.*

*Please identify all supporting documentation and reports and where they can be found.*

*Please date and sign this form to confirm that the business case has been developed in accordance with Green Book and DCLG Guidance.*

**13. Decision details**

*For official use only – details of date considered by SSLEP Executive Group and any additional information for decision record.*

## Appendix B – SSLEP business case assessment template

# Business Case Assessment

Government expects an economic appraisal of a business case to be based on Green Book appraisal methods and take into account departmental specific guidance where appropriate e.g. DfT's WebTAG but where changes in land use is concerned, we would expect analysis consistent with the DCLG Appraisal Guide 2016. The DCLG Appraisal Guide states that interventions around the benefits of changes in land use should be measured using Land Value Uplift, rather than modelling based on jobs and GVA.

<b>Project Name</b>					
<b>Reference</b>					
<b>State Aid (Has state aid compliance been demonstrated).</b>					
<b>Brief description</b>					
<b>Total Cost</b>		<b>SSLEP request</b>		<b>%</b>	
<b>Net GVA/Land Value Uplift/BCR</b>		<b>BCR / RoI/LVU</b>		<b>Period (years)</b>	
<b>Outputs</b>	<b>Output</b>		<b>Number</b>		

Note – Net GVA gives the value of the additional services and good produced resulting from the project (allowing for leakage, displacement and multiplier effects). The assessment focuses on the benefit cost ratio which looks at the return for investment of the publically funded investment. A BCR for transport schemes is not directly comparable to a BCR for other schemes. The DCLG Appraisal Guide states that interventions around the benefits of changes in land use should be measured using Land Value Uplift, rather than modelling based on jobs and GVA.

<b>Strategic Case</b>	
<i>The strategic case sets out the rationale for the proposal. It makes the case for change at a strategic level. It should set out the background to the proposal and explain the objective that is to be achieved.</i>	
Does the proposal support the SEP or other relevant strategy or plan?	Y/N List plans other than SEP
Does the proposal clearly state which SEP objectives (or other relevant strategy or plan) are to be delivered? (State which)	Y/N List which
Is the project specifically named in the SEP or other	Identify page

key plan / strategy?	
Does the proposal clearly state what the objective(s) is/are in “SMART” terms? (Specific, Measurable (delivery / achievement can be objectively Monitored), Achievable, Relevant and Time constrained. If not then is the objective clearly set out so that its achievement can be monitored? <i>(If it cannot be monitored the proposal cannot be judged as good value for money).</i>	Y/N If deficient explain
<b>Outputs</b> <i>Should be based on net figures and applicants should attach additionality calculations allowing for leakage, displacement and multiplier effects.</i>	
<ul style="list-style-type: none"> <li>- Are the net benefits/outputs clear?</li> <li>- Is there an independent professional valuation of the land?</li> <li>- Is the basis of the additionality calculation clear and considered appropriate? (Are benchmarks used, what evidence is provided to support the identified outputs?)</li> <li>- Are there genuinely unquantifiable costs and benefits associated with a proposal? If so does the proposal clearly explain why quantification cannot reasonably be made?</li> <li>- Other there wider impacts e.g. environmental, sustainability, health and safety, competition, rural, business impact.</li> </ul>	Acceptable - clear, additional and net or Requires further work – and list why
Are the main barriers/constraints and dependencies clear? Are they accurately reflected in the risk assessment?	Y/N
Are the strategic risks clear?	Y/N List main ones
Are there any dependencies on this project and what impacts could they have on the project?	Y/N List main impacts
Are there any lessons learned from previous experience in this area (across the SSLEP area and wider) and if so how are these being applied? What best practice is being applied?	Y/N Briefly note the lessons learnt that have been applied.
Has consultation taken place that supports the proposal?	Y/N summary
Are there clear stakeholders that are supporting the project?	Y/N summary

**Strategic Case Assessment Summary**

**High: Strong strategic fit / supports SEP/Key Strategies and accelerates job creation, business investment**

<p><i>and site development.</i></p> <ul style="list-style-type: none"> <li>- Schemes that are specifically mentioned in the SEP as strategically important and/or</li> <li>- Genuinely transformational outputs at a scale to make significant impact sectorally / spatially.</li> </ul> <p><b>Medium:</b> <u>Good strategic fit</u>. Project supports growth but lead to medium scale improvements/outputs.</p> <p><b>Low:</b> May have strong elements but overall case is weak e.g. <u>unclear strategic fit</u>, projects with strategic fit but leads to small scale improvements/outputs.</p>

<p><b>The Economic Case</b></p> <p><i>The economic case assesses the economic costs and benefits of the proposal to society as a whole, and spans the entire period covered by the proposal. Ensure that the benefits of the development have been calculated in accordance with Green Book and Departmental Guidance e.g. Land Value Uplift – DCLG Appraisal Guidance 2016, DfT WebTAG.</i></p>	
<p>Project Additionality / Cost Benefit Analysis</p> <ul style="list-style-type: none"> <li>- Is the additionality and supporting documentation convincing?</li> <li>- Do outputs represent value for money, base on previous projects and known benchmarks as applicable?</li> </ul>	<p>Check additionality calculation for sense and errors (For VfM guidance see summary box below)</p> <p>Does GVA calculation make sense in relation to persistency (years) allowed for</p>
<p><b>Options Analysis</b></p> <p><i>Options analysis starts from a list of all reasonable alternatives including a <u>do nothing option</u> (the so called counter factual) or if doing nothing is not possible a do minimum option.</i></p>	
<ul style="list-style-type: none"> <li>- Is it clear why the initial list of options has been reduced to the preferred option?</li> <li>- Are there any key variables which if changed would lead to a different preferred option to be selected (checking sensitivity)?</li> </ul>	<p>Y/N</p> <p>List any sensitivity issues</p>
<p>Is the rationale for choosing the preferred option clear? If the preferred option does not represent the best value for money of the options considered are the decisive factors that influenced the decision clear and justifiable?</p>	<p>Y/N and state why it was selected</p> <p>If not VFM list reasons why selected</p>
<p>Risk Management</p> <ul style="list-style-type: none"> <li>- Have all appropriate risks been considered?</li> <li>- Are the risk management arrangements credible, and are the risk management costs also built in?</li> <li>- Does the proposal identify the major risks that could</li> </ul>	<p>Y/N</p> <p>If N list deficiencies</p>

impact on the economic case and contain appropriate mitigation?	
<p>Optimism Bias  <i>Optimism bias decreases as the project firms up, risk management becomes more detailed and costs are firmed then</i></p>	
<ul style="list-style-type: none"> <li>- Does the proposal contain an allowance for Optimism Bias?</li> <li>- Is the level of optimism bias included sensible in relation to the stage reached in preparing the business case?</li> <li>- Has this been calculated?</li> </ul>	
<p>Distributional Impacts</p> <ul style="list-style-type: none"> <li>- What % of project impacts are outside the SSLEP area and how has this figure been arrived at?</li> <li>- Does the project have different impacts on different sections of society/are there any re-distributional impacts?</li> </ul>	<p>If none - say so                  If exists – does the % make sense</p>

#### Economic Case Assessment Summary

**High:** Strong case across the board. High additionality. Alternate options identified / considered and preferred option logically identified. Risk management robust. Optimism bias clearly accounted for. Distributional impacts clear/which impacts will fall outside area. Land value uplift calculated and identified.

General – BCR 10% above comparator data

Transport – BCR higher than 2

**Medium:** Good strategic fit. Project supports growth but lead to medium scale improvements.

General – BCR is within 10% of comparator data

Transport – BCR higher than 1.5 - 2

**Low:** Unclear strategic fit. Projects with strategic fit but lead to small scale improvements.

General – BCR is below 10% of comparator data

Transport – lower than 1.5

#### The Commercial Case

*The commercial case is concerned with issues of commercial feasibility and sets out to answer the question “can the proposed solution be effectively delivered through a workable commercial deal or deals?” Has Land value uplift been calculated and accounted for – who benefits from the uplift?*

Is the relationship with any private sector partners that will also deliver clear?	Y/N Summarise e.g. financial, profit sharing, contractual.
Does the procurement methodology make sense for the project and accord with procurement regulations? i.e. EU procurement thresholds	Y/N Summarise
Is the procurement timetable clear (for some less	Y/N

advanced projects this will give indicative time frames as opposed to precise dates)?	Summarise – explain whether detailed or headline
Are personnel / TUPE implications fully explained and addressed?	Y/N
Are any in house costs clear and proportionate?	Y/N
Who will own the assets after the project is completed?	Explain
Does the risk assessment adequately consider and address any procurement risks?	Y/N If no, explain

### Commercial Case Assessment Summary

**High:** Strong case across the board. Procurement methodology is appropriate / robust with a full timescale. Asset ownership and management clear. Risk management effective. In house costs considered proportionate.

**Medium:** Overall the commercial case is well constructed and convincing. However, specific elements are not strong /require improvement.

**Low:** May have strong elements but overall case weak e.g. procurement methodology and timescale not clear, not clear on asset or risk management or in house costs considered disproportionate.

### The Financial Case

The financial case is concerned with issues of affordability, financial viability/sustainability and sources of budget funding. It covers the lifespan of the scheme and all attributable costs.

Are all the lifetime costs identified? I.e. anything obvious missing, any blank lines or provisional sums.	Y/N  Check how estimated and identify e.g. estimate, based on previous project, QS estimate, scheduled of rates, quotes, tenders etc. Cross reference to optimism bias. Check ongoing financial viability.
Have all lifetime costs and issues of financial sustainability been fully considered	Y/N Check how estimated and identify them.
Has all the matched funding been secured or is there a funding gap?	Explain. Identify % of gap and cash amount
Is the strategy for securing the funding package reasonable and appropriate	Y/N Summarise
Does the level of cost proposed represent value for money based on known benchmarks? i.e. cost per square metre for new build	Y/N and why

Has Land Value Uplift been calculated – has it been accounted for in the development appraisal – who gets the benefit – should SSLEP/Public Sector partners participate in uplift?	Y/N Check figures properly calculated e.g. RICS Red Book Valuations. Summarise
Is the level of contingency appropriate?	Y/N Summarise level
Will the project sponsor be seeking to recover VAT as part of the LEP funding?	Y/N
Does the proposal contain provision for dealing with the financing of any time or cost overruns?	Y/N Summarise
Are there any particular cost elements that are particularly price sensitive and could impact on the project viability if there is a significant change? (Price sensitivity)	Y/N Explain
Contingent liabilities - Does the proposal explain and estimate any contingent liabilities that may result from the proposal? - Does the project sponsor adequately explain how these will be managed and any costs met?	Y/N for contingent liabilities If Y explain how being dealt with
Monitoring and Evaluation - is there financial provision for monitoring and evaluation	Y/N

#### Financial Case Assessment Summary

**High:** Strong case across the board. Costs basis strong (e.g. tenders / professionally estimated, full costs included including appropriate contingency), handling of liabilities clear, financial provision for monitoring and evaluation. Value for money against outputs clear. Lifetime costs assessed and financially viable.

**Medium:** Overall the case is well constructed and convincing. However, specific elements are not as strong /require improvement.

**Low:** May have strong elements but overall case weak e.g. procurement methodology and timescale not clear. Not clear on asset or risk management. In house costs considered disproportionate.

#### The Management Case

The management case is concerned with the deliverability of the proposal and is sometimes referred to as programme management or project management case. The management case must clearly set out management responsibilities, governance and reporting arrangements, if it does not then the business case is

<i>not yet complete. The Senior Responsible Owner should be identified.</i>	
Is there a delivery plan with clear & detailed milestones?	Y/N Summarise key dates
Are the proposed programme management arrangements and methodology sound and effective? (Complex projects should be using PRINCE2 methodology)	Y/N Explain
Are risk management arrangements acceptable given the scale of the project? - Is there an effective risk register with mitigating actions? - Are there any risks which could have a disproportionate impact on the project?	Y/N
Has the project been given full clearance to proceed by the sponsoring organisation? (Who/ what board or committee?)	Y/N
Evaluation - Are the evaluation proposals proportionate and acceptable? (Larger scale projects should be independently sourced) Do they accord with national LGF guidance issued by HMG?	Y/N

**Management Case Assessment Summary**

**High:** Strong case across the board. Delivery plan, management methodology and risk management robust and clear. Clear evidence that project can be delivered within proposed timescales. Evaluation appropriate and accords with national guidelines. Full approvals.

**Medium:** Overall the case is well constructed and convincing. However, specific elements are not as strong /require improvement.

**Low:** May have strong elements but overall case weak e.g. delivery plan lacks clear dates, risk management inadequate, project lacks internal approvals.

**Business Case Assessment Summary**

<b>Project Name</b>	
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<b>Reference</b>			
<b>Programme Management Team Assessment Summary</b>			
<p><b>High:</b> Strong case across the board. Delivery plan, management methodology and risk management robust and clear. Clear evidence that project can be delivered within proposed timescales. Evaluation appropriate and accords with national guidelines. Full approvals.</p> <p><b>Medium:</b> Overall the case is well constructed and convincing. However, specific elements are not as strong /require improvement.</p> <p><b>Low:</b> May have strong elements but overall case weak e.g. delivery plan lacks clear dates, risk management inadequate, project lacks internal approvals.</p>			
Strategic Case			
Economic			
Commercial			
Financial			
Management			
Recommendation			
Assessor		Date	
Verification		Date	

<b>To Be Completed After PAG: Record of Decision</b>	
Chair:	
Date of Meeting:	
Decision:	

<b>To Be Completed After SPMG: Record of Decision</b>	
Chair:	
Date of Meeting:	
Decision:	

<b>To Be Completed After Executive Board: Record of Decision</b>	
Chair:	
Date of Meeting:	
Decision:	

## Appendix C – Grant Funding Agreement

**DATED** \_\_\_\_\_ **2017**

AGREEMENT BETWEEN

STAFFORDSHIRE COUNTY COUNCIL

**&**

**TO BE INSERTED**

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IN RESPECT OF **[TO BE INSERTED]**

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John Tradewell  
Director of Democracy, Law & Transformation  
Staffordshire County Council  
Staffordshire Legal Services  
2 Staffordshire Place  
c/o Wedgwood Building  
Tipping Street  
Stafford  
ST16 2DH

(Ref: [fee earner initial/file code])

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THIS AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_ 2017

BETWEEN:

- (1) **STAFFORDSHIRE COUNTY COUNCIL** of Wedgwood Building, Tipping Street, Stafford, ST16 2DH (the “Council”)
  - and
  - (2) **XXXXXXXXXXXXXXXXXX** whose registered office is at XXXXXXXXXXXXXXXX (the “Grant Recipient”)
- each a “Party” and together, the “Parties”).

**BACKGROUND**

- (A) The Council is the Accountable Body for the Stoke on Trent & Staffordshire LEP in connection with funding under the Local Growth Fund.
- (B) The Council wishes to make a grant available to help fund the **(Insert Project Name)** at **(insert address)**
- (C) The Grant Recipient has agreed to implement (or procure the implementation of) the Works on the terms and conditions in this Agreement.

IT IS AGREED:

**1. DEFINITIONS AND INTERPRETATION**

1.1. In this Agreement the following words will have the following meanings:

<b>Accountable Body</b>	means the accountable local authority for the LEP as required by the LEP Assurance Framework.
<b>Audit</b>	means <b>an audit carried out by the Auditors in line with the Council’s internal audit programme or following an external request for audit</b>
<b>Auditors</b>	means the Council’s internal audit team or such other team of auditors appointed by the Council.
<b>Certificate of Practical Completion</b>	means the certificate(s) or statement(s) to be issued certifying that the Works have been completed in accordance with the Works Contract.
<b>Claim</b>	means a claim made by the Grant Recipient to the Council requesting payment of an instalment of the Grant in respect of Qualifying Expenditure in accordance with clause 7.
<b>Claim Form</b>	means a claim form in the form annexed to this Agreement at Schedule 5.
<b>Commencement Date</b>	means the date of this Agreement.

<p><b>Confidential Information</b></p>	<p>Confidential information means all confidential information (however recorded or preserved) disclosed by a Party or its Representatives (which means, in relation to a Party, its employees, officers, representatives and advisers) to the other Party and that Party's Representatives in connection with this Agreement and/or whether discovered, learnt or gleaned whether before or after the date of this Agreement, including but not limited to; the existence and terms of this Agreement, any information that would be regarded as confidential by a reasonable business person relating to the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the disclosing Party and the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing Party, any information developed by the Parties in the course of carrying out this agreement; and any information detailed in this Agreement and its Schedules.</p>
<p><b>Consents</b></p>	<p>means any necessary approval, authorisation, consent, exemption, licence, permit, permission or registration from any government or other authority, the local planning authority, landlords, funders, adjoining land owners or any other person in relation to the carrying out, use and future maintenance of the Works.</p>
<p><b>Contractor</b></p>	<p>means any contractor appointed by the Grant Recipient or appointed by any Developer on the Grant Recipient's behalf to carry out the Works in accordance with the Works Contract.</p>
<p><b>Developer</b></p>	<p>means any development partner used by the Grant Recipient for the carrying out of the Works.</p>
<p><b>Economic Partnership Manager</b></p>	<p>means [        ] or any other person notified in writing</p>

	by the Council to the Grant Recipient.
<b>Event of Default</b>	means the matters contained at clauses 6.3 and 18.
<b>Grant</b>	means a total sum not exceeding [£[ ] ( <b>amount to be written in full</b> )] to be paid in accordance with the terms of this Agreement.
<b>Grant Completion Date</b>	means the date on which the [Project is completed and the] Works are fully brought into public use.
<b>Grant Recipient</b>	means [ <b>name to be inserted</b> ].
<b>Growth Deal Logo</b>	means the logo set out in the guidance referred to at Schedule 4
<b>LEP</b>	means the Stoke-on-Trent & Staffordshire LEP.
<b>LEP Assurance Framework</b>	means the Stoke-on-Trent and Staffordshire Local Enterprise Partnership Assurance Framework which comprises a number of framework, policy and constitutional documents as set out at <a href="https://www.stokestaffslep.org.uk">https://www.stokestaffslep.org.uk</a> .
<b>Local Growth Deal</b>	means the government scheme under which funding is awarded to Local Enterprise Partnerships for projects that benefit the local area and economy
<b>Office Hours</b>	means the hours between 9.00am and 5.00pm on any Working Day.
<b>Outputs</b>	means the intended outputs of the Project as set out in [insert relevant authority e.g. the City Deal and Growth Deal Programme Board Business Case Approval Form of 24 August 2016]
<b>Practical Completion Date</b>	means the date when practical completion was achieved as certified by the Certificate of Practical Completion.
<b>Project</b>	means the project identified in the recital to this Agreement and specific details of which are at Schedule 1 which includes amongst other things the carrying out of the Works and which once completed is intended to deliver the Outputs.
<b>Professional Team</b>	means [ <b>to be inserted</b> ].

<b>Project Lead</b>	means <b>[insert details]</b> or any other person notified in writing by the Grant Recipient to the Council.
<b>Project Monitoring Officer</b>	means Simon Ablewhite or any other person notified in writing by the Council to the Grant Recipient to act as the key interface between the Project Lead and the LEP.
<b>Qualifying Expenditure</b>	means expenditure that has been properly incurred in respect of the Works
<b>Staff</b>	means all staff who are responsible for financial administration arrangements on behalf of the Grant Recipient.
<b>Works</b>	means the works required to deliver the Project as more particularly described in [Part 1] of Schedule 3 and any such other works associated with the Project that may be approved by the Council from time to time.
<b>Works Contract</b>	means the contract or contracts for the carrying out and completion of the Works to be entered into between the Grant Recipient and its Contractors or any Developer and its Contractors.
<b>Working Day</b>	means the hours between 9.00am and 5.00pm on any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday in England.

## 1.2. Interpretation

1.2.1. Clause and schedule headings shall not affect the interpretation of this Agreement.

1.2.2. The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules.

1.2.3. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

1.2.4. Words in the singular shall include the plural and vice versa.

1.2.5.A reference to one gender shall include a reference to the other genders.

1.2.6.A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement, taking account of any amendment, extension, or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.

1.2.7.A reference to writing or written includes faxes but not e-mail.

1.2.8.Documents in the agreed form are documents in the form agreed by the Parties to this Agreement and initialled by them or on their behalf for identification.

1.2.9.Where the words **include(s)**, **including**, or **in particular** are used in this Agreement, they are deemed to have the words "without limitation" following them.

1.2.10. Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

1.2.11. A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Agreement) at any time.

1.2.12. References to clauses and schedules are to the clauses and schedules of this Agreement.

1.2.13. Reference to a clause is a reference to the whole of that clause unless stated otherwise; and

1.2.14. In the event and to the extent only of any conflict between the clauses and the remainder of the Schedules, the clauses shall prevail over the remainder of the Schedules.

## **2. ENTIRE AGREEMENT**

This Agreement represents the whole agreement between the Parties in relation to the Grant and therefore supersedes all previous representations, understandings and agreements, whether oral or written, which have been made by either Party to the other (whether directly or indirectly).

## **3. COMMENCEMENT AND DURATION**

3.1. This Agreement shall commence on the Commencement Date provided it has been correctly executed by the Parties and shall continue until the Grant Completion Date unless terminated earlier in accordance with the terms of this Agreement.

3.2. Clause 3.1 does not affect any right conferred by any clause within this Agreement which is expressed to continue beyond the termination of this Agreement.

## **4. PROVISION OF GRANT AID**

The Council, as Accountable Body for the LEP, will make the Grant available to the Grant Recipient on the terms contained within this Agreement.

#### **5. PURPOSE AND USE OF GRANT**

The Grant Recipient shall use the Grant solely for the delivery of the Works set out at Schedule 1 and in accordance with the terms of this Agreement.

#### **6. VARIATION OF GRANT USE**

- 6.1. The Council's written agreement must be obtained for any intended variation in the use of the Grant.
- 6.2. The Grant Recipient shall not, without prior written consent of the Council depart in any material respect from the Outputs provided that the Council shall not unreasonably withhold or delay its agreement or consent in the event that (i) the proposed variation or departure has been notified to the Council in writing together with all reasonably required supporting evidence and (ii) it complies with the objectives of the funding source being invested by the Council on behalf of the LEP.
- 6.3. The Grant Recipient must notify in writing the Project Monitoring Officer of any intended or actual material changes to the Project, the Works or the Outputs
- 6.4. Any failure by the Grant Recipient to comply with this clause 6 shall constitute an Event of Default.

#### **7. GRANT PAYMENTS**

- 7.1. The Grant Recipient shall provide its (or if it is an organisation their organisational) bank account or equivalent building society account details to the Council in order for payment of the Grant to be made into that account by the Council using BACS.
- 7.2. Subject to clause 7.5 the Council shall pay the Grant to the Grant Recipient in the instalments set out in Part 2 of Schedule 3 (Grant Drawdown Schedule) (or in such other instalments as may be agreed from time to time between the Parties) within 28 days of a receipt of a Claim provided that:
  - 7.2.1. there is no subsisting Event of Default which has not been remedied in accordance with the Default Notice (as defined in clause 18.3); and
  - 7.2.2. the Claim was submitted in accordance with the terms of this Agreement.
- 7.3. A Claim shall:
  - 7.3.1. be submitted to the Council in the form and manner required by the Council,
  - 7.3.2. relate to an agreed activity or Output in relation to which the Grant Recipient has not been paid an instalment of the Grant pursuant to a previous Claim,

- 7.3.3. include to the satisfaction of the Council and its Auditors evidence that the expenditure to which the Claim relates is Qualifying Expenditure as further described in clause 7.4; and
  - 7.3.4. be submitted quarterly in arrears unless otherwise agreed by the Parties in accordance with clause 7.2.
- 7.4. When making a Claim the Grant Recipient shall provide to the Council:
- 7.4.1. a breakdown of Qualifying Expenditure for which the Grant instalment is being provided;
  - 7.4.2. supporting evidence of Qualifying Expenditure which shall include final papers, reports and invoices for substantive amounts of expenditure, lists generated by the Contractor's finance management system of invoices relating to Qualifying Expenditure for the Works or such other documentation as the Council may reasonably require which will provide evidence of the expenditure being Qualifying Expenditure;
  - 7.4.3. evidence of the valuation of the work completed at the time of the Claim which shall be verified by Staffordshire County Council s151 Officer (Andrew Burns, Director of Finance and Resources).
- 7.5. The Council reserves the right to visit the Works to confirm evidence of Qualifying Expenditure before making a payment under this Agreement.
- 7.6. Treatment of VAT**
- 7.6.1. All payments will be made exclusive of VAT.
  - 7.6.2. If any VAT is payable the Grant Recipient will supply the Council with a valid VAT invoice;
  - 7.6.3. If any VAT is payable by the Council the Council will pay the same within thirty (30) Working Days of a receiving a valid VAT invoice.
- 7.7. Where any part of the Grant is deemed under law to be repayable by the Grant Recipient to the Council at any time:
- 7.7.1. The Council will calculate the full amount repayable which may, where applicable, include interest on the principle sum and will notify the Grant Recipient in writing of the sum and what that sum includes; and
  - 7.7.2. The Grant Recipient shall repay the sums notified in clause 7.7.1 to the Council within thirty (30) Working Days of the date of the notice in clause 7.7.1; and

- 7.7.3. Any interest applicable to the sum as prescribed by the law(s) under which the sum has become repayable shall continue to be applicable and will be calculated on a compound basis until such time as repayment is made in full.

## **8. TIMESCALES**

- 8.1. The Grant Recipient must carry out the Project to the timescales specified in Schedule 1 of this Agreement.
- 8.2. The Grant Recipient must inform the Council immediately in writing as soon as it has any reason to believe that the Project may run for a longer period than agreed.

## **9. REVIEW OF GRANT FUNDING**

- 9.1. The Council will review the Grant Recipient's performance under this Agreement in accordance with clause 11. To this end, the Grant Recipient must complete and review all monitoring or other documents and provide such reports as reasonably required by the Council, to measure the Grant Recipient's performance and monitor compliance with this Agreement.
- 9.2. Where there is a failure by the Grant Recipient to comply with the review and monitoring requirements of this Agreement, the sanctions detailed in clause 18 will be available to the Council.
- 9.3. Subject to clause 6.1 above (Variation of Grant Use), the Grant Recipient shall notify the Council in writing as soon as practicable thereafter in the event of any material change in the information submitted on the cost of the Project, the Outputs or its delivery timescale.
- 9.4. Where the Grant Recipient intends to apply to a third party for other funding for the Project, it will notify the Council in advance of its intention to do so and, where such funding is obtained it will provide the Council with details of the amount and purpose of the funding.
- 9.5. Where the Grant Recipient intends to apply to a third party for other funding for any of the Project, it will notify the Council in writing in advance of its intention to do so and, where such funding is obtained it will provide the Council with details of the amount and purpose of the funding and of any subsequent changes to the level of that funding or the manner in which the funding is to be used.

## **10. RECORDS AND AUDIT ACCESS**

- 10.1. The Grant shall be clearly identified in the Grant Recipient's accounts.
- 10.2. If the Grant Recipient receives more than one grant from the Council, each grant must be individually identified in the Grant Recipient's accounts.

- 10.3. The Council retains the right to investigate the Grant Recipient's business where it believes that there is or has been financial irregularity, misuse or misappropriation of the Grant, including the right to access individuals, documents, information and other evidence held by the Grant Recipient.
- 10.4. The Grant Recipient shall keep and maintain until 6 years after the date of termination or expiry of this Agreement (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Agreement.
- 10.5. The Grant Recipient shall keep the records and accounts referred to this clause 10 in accordance with good accountancy practice.
- 10.6. The Grant Recipient shall afford the Council and/or the Auditor such access to such records and accounts as may be required from time to time.
- 10.7. The Council shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Grant Recipient or delay the Works save insofar as the Grant Recipient accepts and acknowledges that control over the conduct of Audits carried out by the Auditor is outside of the control of the Council.
- 10.8. Subject to the Parties' rights of confidentiality, the Grant Recipient shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:-
  - 10.8.1. all information requested by the Auditor within the scope of the Audit;
  - 10.8.2. reasonable access to sites controlled by the Grant Recipient; and
  - 10.8.3. access to the Staff.
- 10.9. The Grant Recipient must allow duly authorised Council officers to visit the Project or organisation and inspect the Project and the Grant Recipient's financial and other records, at any reasonable time, and provide additional related information as requested.
- 10.10. The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 10, unless the Audit reveals an Event of Default by the Grant Recipient in which case the Grant Recipient shall reimburse the Council for the Council's reasonable costs incurred in relation to the Audit.

## **11. MONITORING**

- 11.1. The Grant Recipient will submit Quarterly reports to the Project Monitoring Officer containing details of the anticipated expenditure profile of grant monies and an explanation regarding any variation in such profile since the previous report.
- 11.2. The Project Monitoring Officer will hold project review meetings with the Grant Recipient as required and at least every three (3) Months. The purpose of these meetings will be to:
  - 11.2.1. review progress of the Works in relation to the agreed Outputs,
  - 11.2.2. consider spend and review the effectiveness of financial management,
  - 11.2.3. develop effective forward activity and resource planning,
  - 11.2.4. identify any issues (or potential issues) to the effective completion of the Works and identify any actions to resolve,
  - 11.2.5. ensure effective joint working, and
  - 11.2.6. monitor compliance with Schedule 3.
- 11.3. Failure to comply with the monitoring requirements may result in payments of the Grant being suspended or the Grant Recipient may be required to repay all or part of the Grant.

## **12. PUBLICITY**

- 12.1. The Grant Recipient must acknowledge the LEP and Local Growth Deal in all of its publicity material by using the Growth Deal Logo, to ensure that beneficiaries are aware of the support the Project is receiving. When doing so the Growth Deal Logo will be used in accordance with the guidance detailed at Schedule 4.
- 12.2. The Grant Recipient will obtain the prior written consent of the Council (such consent not to be unreasonably withheld or delayed) to any press or any other publicity releases for the Project.
- 12.3. The Parties agree that the LEP may publicise its involvement in the Project and the Grant Recipient will provide such information as is necessary to enable it to do so.
- 12.4. The Grant Recipient will, if required by the Council, provide, procure and display such signs as are necessary to recognise the LEP's involvement in the Project. The signs shall be of such design and displayed in such locations as approved by the Council.
- 12.5. The Grant Recipient will ensure that adequate rights have been obtained from any relevant landowner for the erection and retention of any billboards, plaques and/or other signs ("the Billboards").

12.6. The Billboards shall be retained by the Grant Recipient for such period as is reasonably required by the Council following completion of the Works.

12.7. The Grant recipient shall, within 6 Months after completion of the Works put in place a commemorative plaque. Such plaque must:

12.7.1. be located in a secure location which is easily visible to the public;

12.7.2. be located in position approved by the Council;

12.7.3. be approved by the Council;

12.7.4. include the LEP's logo, mention the LEP's contribution and any funding stream from which the Grant was provided if required by the Council.

### **13. INSURANCE**

13.1. The Grant Recipient shall procure that there is effected and maintained by the Developer or Contractor carrying out the Works policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Grant Recipient under this Agreement including death or personal injury, or loss of or damage to property.

13.2. The Grant Recipient shall procure that there is effected and maintained by the Developer or Contractor carrying out the Works the following insurances for the period the Works are being carried out in relation to the carrying out and completion of the Works:-

13.2.1. public liability insurance adequate to cover all risks in the performance of this Agreement from time to time. Such public insurance policy will have a minimum limit of indemnity of £5,000,000.00 (five million pounds) for occurrences arising out of each and every event

13.2.2. employers' liability insurance with a minimum limit of indemnity of £10,000,000.00 (ten million pounds) for occurrences arising out of each and every event;

13.2.3. professional indemnity insurance with a minimum limit of indemnity of £5,000,000.00 (five million pounds) for each individual claim or such higher limit as the Council may reasonably require (and as required by law) from time to time.

13.3. Any excess or deductibles under such insurance (referred to in clause 13.1 and clause 13.2) shall be the sole and exclusive responsibility of the insured party.

13.4. The terms of any insurance or the amount of cover shall not relieve the Grant Recipient of any liabilities arising under the Agreement.

13.5. The Grant Recipient shall procure and produce to the Council, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

13.6. If, for whatever reason, the Grant Recipient fails to procure that the Developer or Contractor carrying out the Works gives effect to and maintains the insurances required by the Agreement then the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Grant Recipient.

#### **14. LIABILITIES AND INDEMNITIES**

The Grant Recipient will be liable and shall indemnify the Council against all loss, damage or liability incurred by or claims made against the Council in respect of any loss or damage or personal injury (including death) which arises from anything done or omitted to be done by the Grant Recipient in carrying out the Works, but only to the extent that such loss, damage or injury is caused by any neglect, default or the other wrongful act of the Grant Recipient, the Grant Recipient's servants or agents.

#### **15. Legislative Requirements**

15.1. The Grant Recipient is required to comply with all relevant legislation, exercising good practice and due diligence. Breaches of legislation may result in suspension and/or recovery of Grant where this is deemed appropriate by the Council.

##### **15.2. Discrimination**

15.2.1. The Grant Recipient must ensure that it complies with the Equality Act 2010 and does not unlawfully discriminate, directly or indirectly, and complies with employment legislation and has regard to the codes of practice of any bodies appointed by government to oversee equalities legislation, relevant government directorates and all other similar agencies in relation to equalities issues, and as they apply to specific jobs and roles.

15.2.2. The Council may from time to time conduct an independent equalities audit of any Grant Recipients, and request additional information in relation to the operation of their equal opportunities policies and procedures.

15.2.3. The Council may make recommendations based on any finding of non-compliance with these policies and undertake further audits to ensure these recommendations are implemented by the Grant Recipient.

15.2.4. In the event that the Grant Recipient is in breach of this clause 15.2, the Council may suspend the Grant until it is satisfied that such breach has been rectified or will not recur. Where the breach is not rectified the Council shall be entitled to withhold/withdraw or reduce the Grant or require repayment of any Grant monies paid.

15.2.5. The Grant Recipient shall ensure that equality of opportunity is built into all aspects of the Project including any publicity and marketing.

### **15.3. Bribery**

15.3.1. The Grant Recipient warrants that it shall (and will ensure its Staff shall) comply with the Bribery Act 2010 at all times and must notify the Council immediately if a breach of this Act is suspected or known

15.3.2. The Grant Recipient shall maintain in place throughout the duration of the Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the relevant requirements and will enforce them where appropriate

15.3.3. The Grant Recipient warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council and / or the LEP or that an agreement has been reached to that effect in connection with the execution of this Agreement

15.3.4. The Council may terminate this Agreement by written notice with immediate effect if the Grant Recipient or its Staff (whether or not acting with the Council's knowledge) breaches this Act.

### **15.4. Prevention of Fraud**

15.4.1. The Grant Recipient shall take all reasonable steps to prevent fraud by Staff (including its shareholders, members, directors) in connection with the receipt of the Grant from the Council.

15.4.2. The Grant Recipient shall notify the Council immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur with regards to the receipt of the Grant from the Council.

### **15.5. Environmental Issues and Sustainable Procurement**

In accordance with the Council's environmental policies, the Grant Recipient shall use reasonable endeavours to procure that in carrying out the Works the Contractors shall conserve energy and water, use recycled and environmentally friendly materials whenever possible or those from a sustainable source, minimise and reduce pollution to air, land or

water by using local resources and comply with the social ethical and environmental aims of the Council.

#### **15.6. Health and Safety**

15.6.1. The Grant Recipient shall procure that the Contractors shall comply with the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1992 (including the provision of a copy of its risk assessment(s) under these Regulations when requested by the Council), and all legislation relating to health and safety in relation to the carrying out of the Works. Further information regarding health and safety may be obtained from the Project Officer.

#### **15.7. Confidential Information**

15.7.1. The Grant Recipient should not disclose any Confidential Information and should use all reasonable endeavours to prevent employees and agents and any persons for whom they are responsible from making disclosure to any person of any Confidential Information provided that this provision shall not apply to:-

15.7.1.1. any disclosure of Confidential Information that is reasonably required by persons engaged in the performance of its obligations under this Agreement;

15.7.1.2. any Confidential Information which a Party can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this clause 15.7.1 or any disclosure of Confidential Information which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing Party

15.7.1.3. any disclosure for the purpose of the examination and certification of the Grant Recipient's accounts or any examination pursuant to the Audit Commission Act 1998 of the economy, efficiency and effectiveness with which the Council has used its resources;

15.7.1.4. disclosure to a Party's professional advisers;

15.7.1.5. disclosure to the Council's members;

15.7.1.6. any disclosure required or permitted by the Freedom of Information Act 2000 or in compliance with the FOIA Scheme or by any other applicable legislation governing access to information;

15.7.1.7. any disclosure made by a Party following the prior written consent of the Party owning the Confidential Information

15.7.1.8. any disclosure made following the Grant Completion Date.

15.7.2. Where disclosure is permitted under clause 15.7.1, the recipient of the information shall (if possible) be made subject to the same obligation of confidentiality as that contained in this Agreement.

#### **15.8. Data Protection**

15.8.1. The Parties shall throughout the duration of the Agreement (and for so long as they shall have personal data in their possession) comply with the provisions of the Data Protection Act 1998 (“**the DPA**”) and have in place appropriate technical, security and organisational procedures and measures to protect against accidental or unlawful disclosure and against accidental loss or destruction of, or damage to personal data received, obtained, being processed by or otherwise in the possession of the Parties pursuant to the Agreement.

15.8.2. Insofar as the Grant Recipient processes any personal data on behalf of the Council, the Grant Recipient shall process that personal data only on behalf of the Council and for the purposes of performing its obligations under this Agreement and in accordance with instructions contained in this Agreement or received from the Council from time to time; and shall otherwise modify, amend or alter the contents of that personal data or disclose or permit disclosure of any of that personal data to any third party unless specifically authorised in writing by the Council.

15.8.3. Each Party shall be responsible for its own actions, costs and claims in respect of their own breaches of the DPA. However, the Grant Recipient shall indemnify the Council against any actions, claims or losses incurred by the Council for breaches of the DPA by the Grant Recipient.

#### **15.9. Freedom of Information**

15.9.1. Each Party shall use reasonable endeavours to assist the other Party to comply with their obligations under the Freedom of Information Act 2000 (“**the FOIA**”), the Environmental Information Regulations 2004 any other applicable legislation governing access to information.

15.9.2. In the event that a Party receives a request for information under the FOIA or any other applicable legislation governing access to information (“the Receiving Party”):

15.9.2.1. and requires the other Party’s assistance in obtaining the information that is the subject of such request or otherwise, the other Party will respond to any such request for assistance from the Receiving Party within such reasonable timeframe requested by the Receiving Party (and in any case no later than ten (10) Working Days after receiving the Receiving Party’s request) in order for the Receiving Party to comply with its statutory obligation;

15.9.2.2. which relates to either the Agreement or the other Party, the Receiving Party shall immediately consult with the other Party with regard to the request as to whether or not the requested information and in particular whether any Confidential Information should be disclosed and take the other Party’s views into account when making a decision as to whether or not the requested information should be disclosed and give serious consideration to whether any statutory exemptions apply to the request for information.

15.9.3. If the Receiving Party determines that information (including Confidential Information) must be disclosed, it shall notify the other Party of such decision as soon as reasonably practicable.

#### **15.10. Procurement**

The Grant Recipient will ensure that in carrying out its obligations under this Agreement it complies with all applicable United Kingdom and European procurement legislation and any implementing measures and any other legislation in connection with the procurement of works, supplies or services including European Union directives.

### **16. CONTROL OF THE CONTRACT**

#### **16.1. Management**

16.1.1. The Council must be informed of any changes in the management of this Grant by the Grant Recipient which may affect the Grant Recipient performing its obligations under this Agreement.

16.1.2. The Project Monitoring Officer must be informed immediately in writing of any changes to any relevant bank account details into which the Grant is to be paid.

#### **16.2. Use of Information**

The Grant Recipient shall not make use of this Agreement or any information issued or provided by or on behalf of the Council in connection with this Agreement otherwise than for the purpose of this Agreement, except with the prior written consent of the Council such consent not to be unreasonably withheld.

#### **16.3. Assignment**

The Grant Recipient may not, without the prior written consent of the Council, assign, transfer, sub contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Grant, provided that the Council acknowledges that the Grant Recipient may pay the Grant or part of it to a Developer as part of procuring or carrying out the Works or to a Contractor carrying out the Works.

#### **16.4. Waivers**

16.4.1. The failure of either Party to insist upon strict performance of any provision of the Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Agreement.

16.4.2. No waiver shall be effective unless it is expressly stated to be a waiver and is communicated to the other Party in writing.

16.4.3. A waiver of any right or remedy arising from a breach of this Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Agreement.

#### **16.5. Severability**

16.5.1. If any provision of the Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if the Agreement had been executed with the invalid provision eliminated.

16.5.2. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Agreement, the Council and the Grant Recipient shall immediately commence good faith negotiations to remedy such invalidity.

### **17. DISPUTE RESOLUTION**

- 17.1. Any dispute which may arise between the Parties concerning this Agreement shall be determined in accordance with this clause 17.
- 17.2. For the purpose of this clause a dispute shall be deemed to have arisen when one Party serves on the other a notice in writing stating the nature of the dispute. Such notice shall be served upon the Economic Partnership Manager of the Council (or such other person as may, from time to time, be nominated by the Council) or [insert details] for the Grant Recipient
- 17.3. After service of the notice of dispute the Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to those persons identified in clause 17.2 above.
- 17.4. Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 17.5. If the dispute cannot be resolved by the Parties pursuant to clause 17.3 the Parties shall refer it to mediation pursuant to the procedure set out in clause 17.7 unless:
- 17.5.1. the Council considers that the dispute is not suitable for resolution by mediation; or
- 17.5.2. the Grant Recipient does not agree to mediation.
- 17.6. The obligations of the Parties under the Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Grant Recipient shall comply fully with the requirements of the Agreement at all times.
- 17.7. If the dispute is not resolved within fourteen (14) days of the meeting referred at clause 17.3, the Parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (“CEDR”) Model Mediation Procedure. The mediation proceedings and any documents prepared for such proceedings shall be without prejudice to the legal position of either Party and the Parties shall attend a mediation hearing within 3 months of the mediation procedure first being requested in writing. Unless otherwise agreed between the Parties, the mediator will be nominated by CEDR. The mediation procedure shall be non-binding and, unless agreed by both Parties, the mediator/facilitator will not be requested to give any views or report on the merits relating to the dispute. Each Party shall attend the mediation in good faith and bear its own costs of the mediation with the costs of the

mediator and any other joint costs being borne by the Parties equally. Unless otherwise agreed, the mediation proceedings will be held in a location to be determined by the mediator and conducted in English.

17.8. In the event that the mediation procedure has not satisfactorily resolved the dispute within four (4) months of it first being requested, either Party shall be entitled to commence legal proceedings in the relevant English court.

17.9. Nothing in this clause shall prevent either Party from commencing legal proceedings for the purpose of injunctive or similar emergency relief at any time.

## **18. Failure to comply with Grant Conditions**

18.1. An Event of Default occurs when:

18.1.1. the Grant Recipient commits a Material Breach of any of the conditions of this Agreement;

18.1.2. the Grant is not spent in accordance with this Agreement and or within the timescales set out in this Agreement;

18.1.3. Certificate of Practical Completion has not been issued by the end of Office Hours on the Practical Completion Date;

18.1.4. the Project does not meet any of the conditions of this Agreement and does not achieve the agreed targets or Outputs;

18.1.5. the Grant Recipient no longer has the financial resource to carry out and complete the Project;

18.1.6. the Project closes or ceases other than in accordance with the this Agreement or the Council's consent;

18.1.7. the Grant Recipients financial management or records are deemed inadequate;

18.2. Where an Event of Default has occurred and it has not been remedied within the period of time specified in the Default Notice (as defined in clause 18.3) the Council shall by written notice be entitled to take any one or more of the following steps:

18.2.1. a formal warning will be issued where the Project Lead has in breach of this Agreement failed to provide sufficient information on spend and/or achievement of delivery milestones are not keeping pace with agreed funding and delivery profiles.

18.2.2. suspension of funding for such period as the Council shall determine and the Council shall not be under any obligation to make payments of the Grant during the suspension;

- 18.2.3. cease to make all or any payments of the Grant to the Grant Recipient under this Agreement, and
  - 18.2.4. terminate the Agreement where the Works have not begun by the date specified in Schedule 2 (Works).
- 18.3. The Council shall prior to taking action under clause 18.2 issue the Grant Recipient with a written notice (“Default Notice”) specifying:-
- 18.3.1. the relevant Event of Default;
  - 18.3.2. whether it considers the Event of Default to be capable of remedy;
  - 18.3.3. the details of any corrective action required;
  - 18.3.4. the period of time determined to be reasonable by the Council within which the corrective action must be taken (or such extended period as the Council shall thereafter determine in its discretion); and
  - 18.3.5. where the Council determines the Event of Default not capable of remedy, the action the Council intend to take pursuant to clause 18.4.
- 18.4. Where the Event of Default is not capable of remedy; or the Grant Recipient has failed to comply with the Default Notice; or the Grant Recipient has repeated a breach of these conditions or committed a series of breaches which as a result of the repetition, or cumulatively, amount to a serious breach of these conditions the Council may:
- 18.4.1. exercise its rights under clause 18.2.2 (cease payments) and
  - 18.4.2. terminate the Grant
- 18.5. If the Council exercises its rights under clauses 18.2.2 (cease payments) and 18.2.3 (termination of the Grant), the Council shall give written notice to the Grant Recipient and from the date of such notice the Council shall cease to be under any obligation to pay the amount of Grant to the Grant Recipient under this Agreement.
- 18.6. The exercise by the Council of its rights under clause 18.2 shall be without prejudice to any other right of action or remedy of the Council in respect of any breach by the Grant Recipient of this Agreement.

## **19. PRE-CONDITIONS**

Where required, the Council will set out pre-conditions in the Grants Schedule. The Grant Recipient must comply with all pre-conditions contained within the Grants Schedule prior to making a Claim.

## **20. NOTICES**

20.1. Any notice given under this Agreement shall be in writing and signed by or on behalf of the Party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant Party to the correct address. In the case of the Council, the correct address set out at the head of this Agreement or such other address as shall be notified from time to time by one Party to the other Party for receipt of notices under clause 20.2. Any such notice shall be deemed to have been received:

20.1.1. if delivered personally, at the time of delivery;

20.1.2. in the case of first class or recorded delivery post, on the second Working Day after the date of posting; and

20.1.3. in the case of email, if the email is received during Office Hours then on that Working Day. If the email is received outside Office Hours then on the next Working Day PROVIDED that Notice shall also be sent by pre-paid post to the addressee.

20.2. The Parties may by written notice to the other change their address for service to take effect no earlier than 7 days from deemed receipt of such notice in accordance with clause 20.1.

## **21. ACQUISITIONS**

All acquisitions of property made by the Grant Recipient using Grant monies shall be subject to clawback rights under this Agreement.

## **22. GOVERNING LAW AND JURISDICTION**

22.1. The Agreement, and any dispute or claim arising out of or in connection with it, shall be governed by, and construed in accordance with, the law of England.

22.2. The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter.

**This Agreement** is signed by the Parties as follows:

Signed by.....

For and on behalf of **Staffordshire County Council** as

**Accountable Body for the LEP**

Name.....

Position.....

Signed by.....

For and on behalf of the Director for Economy, Infrastructure and Skills,  
Staffordshire County Council.

Name.....

Position.....

## **SCHEDULE 1 – THE PROJECT**

**[Details of the Project]**

## **Schedule 2 – Works**

### **1. Appointment of Contractor(s)**

- 1.1. The Grant Recipient will (and where applicable will procure that any Developer will):
- 1.1.1.ensure that all Contractors are reputable, of good financial standing and experienced;
  - 1.1.2.if requested by the Council, provide names and addresses for the Contractor(s) prior to engagement;
  - 1.1.3.not vary the identity of the Contractor(s) without the written consent of the Council, such consent not to be unreasonably withheld or delayed.
  - 1.1.4.use reasonable endeavours to ensure that the appointment of Contractors reflects the aims of the LEP and the Council including, but not limited to, the use of local labour.

### **2. Works Contract**

- 2.1. The Grant Recipient will:
- 2.1.1.ensure that the Works Contract is in a suitable form for the Works and is in accordance with good industry practices;
  - 2.1.2.if required by the Council, obtain the written approval of the Council to the Works Contract before it is entered into. Such approval shall not be unreasonably withheld or delayed.
  - 2.1.3.at the request of the Council provide certified copies of the Works Contract to the Council;
  - 2.1.4.not make any material changes to the Works Contract without the prior written consent of the Council;
  - 2.1.5.ensure that the obligations contained in clause 15 (Legislative Requirements) of this Agreement are incorporated in the Works Contract, supply chain agreement or sub-contract and that the employees, agents or representatives of its supply chain or sub-contractors comply with the same;
  - 2.1.6.enforce (and where applicable will procure that any Developer will enforce) the terms of the Works Contract at all times.

### **3. Works**

- 3.1. The Grant Recipient will (and where applicable will procure that any Developer will):
- 3.1.1.ensure that the Works commence by [x];
  - 3.1.2.ensure that the Works are carried out and completed in accordance with the terms of this Agreement
  - 3.1.3.ensure that no work is carried out in relation to the Works without all necessary Consents having been obtained. At the request of the Council the Grant Recipient will provide (and where applicable will procure that any Developer will provide) such evidence as is reasonably requested by the Council in this regard;
  - 3.1.4.ensure that the Works are carried out in compliance with all relevant Consents;
  - 3.1.5.ensure that no material alterations are made to the Works without the Council's prior written consent.

### **4. Claims**

- 4.1. The Grant Recipient will immediately notify the Council of any claim brought against it, any Developer or the Contractor or any member of the Professional Team arising out of or

relating to the Works including, but not limited to, any claim made against any supplier or Contractor of which the Grant Recipient receives notification.

## **5. Insurance**

- 5.1. The Grant Recipient will ensure that the Contractor and any sub-contractor (and where applicable any Developer, its Contractors and subcontractors) and each member of the Professional Team:
  - 5.1.1. maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred in relation to the Works including death or personal injury;
  - 5.1.2. maintain an insurance policy being an “all risks” insurance policy with sufficient limit of indemnity of any one occurrence or series of occurrences arising out of one event covering the usual risks covered by this type of policy in respect of the Works, their carrying out and all unfixed goods and materials in connection with the Works for, in every case, the full reinstatement or replacement costs thereof from time to time;
  - 5.1.3. if requested, will supply evidence of such insurance at no cost to the Council.
  - 5.1.4. makes an appropriate claim under such insurance if any of the Works or any materials or goods required to undertake the Works are destroyed or damaged;
  - 5.1.5. uses any proceeds received in respect of any relevant claim for the rebuilding, reinstatement or replacement of the Works; and
  - 5.1.6. does not do or permit anything to be done which may render any policy of insurance void or voidable.

## **6. Certificates**

- 6.1. The Grant Recipient will (and where applicable will procure that any Developer will):
  - 6.1.1. Ensure that the Contractor gives the Council 10 Working Days prior written notice of the date when it anticipates that Practical Completion will occur;
  - 6.1.2. Provide a copy of each Certificate of Practical Completion to the Council as soon as possible after issue.

## **7. Default of the Contractor**

- 7.1. If any one of the following occurs:
  - 7.1.1. an encumbrance takes possession or a receiver or administrative receiver or sequestrator is appointed of the whole or any part of the undertaking, assets, rights or revenues of the Contractor or Developer;
  - 7.1.2. any order is made by any competent court for the appointment of an administrator in relation to the Contractor or Developer;
  - 7.1.3. the Contractor or Developer is, or is adjudicated to be, insolvent or stops or suspends payment of its debts or is (or is deemed to be ) unable to or admits inability to pay its debts as they fall due or proposes or enters into any composition or other arrangement for the benefit of its creditors generally or proceedings are commenced in relation to the Contractor or Developer under any statutory requirement, regulation or procedure relating to the reconstruction or adjustment of debts;
  - 7.1.4. any order is made by any competent court or any resolution is passed by the Contractor or Developer for its winding-up or dissolution or for the appointment of a liquidator of the Contractor or Developer except for the purpose of amalgamation or reconstruction of a solvent company; and / or

7.1.5. the Contractor or Developer ceases or threatens to cease to carry on the whole or a substantial part of its business

the Grant Recipient shall immediately notify the Council and provide a plan to remediate or mitigate the impact of the same upon the Works and/or the Council. If such plan is approved by the Council (approval not to be unreasonably withheld or delayed) the Grant Recipient will implement the same.

**8. Professional Fees**

**9. Works Programme / Delivery Timetable**

9.1. [insert details]

### **SCHEDULE 3 – GRANT SCHEDULE**

**1. Grant Profile**

1.1. [insert details of grant to be provided]

**2. Grant Drawdown Schedule**

2.1. The Grant shall be paid to the Grant Recipient as follows:

2.2. [insert details of relevant milestones etc]

**SCHEDULE 4 - GROWTH FUND LOGO**