

North Yorkshire County Council**Executive****17 March 2015****York, North Yorkshire & East Riding Local Enterprise Partnership
(YNYER LEP) – Local Growth Fund****Report of the Corporate Director – Business and Environmental Services****1.0 Purpose of Report**

- 1.1 To seek approval from the Executive for the Corporate Director – Strategic Resources to accept the grant funding from the Local Growth Deal of £122.2m.
- 1.2 To set out the YNYER LEP Assurance Framework that will be used to properly administer the grant funding in line with Government requirements and meets the County Councils Accountable Body requirements and responsibilities.

2.0 Background

- 2.1 The York, North Yorkshire & East Riding Local Enterprise Partnership (the LEP) was required to produce a Strategic Economic Plan and submit a bid into the Government's Local Growth Fund. The bid was submitted in March 2014.
- 2.2 In July 2014, the LEP secured an allocation from Government for £110.4m funding for 2015-2021. Within this is £34.6m for 2015-16.
- 2.3 In Autumn 2014, the LEP was invited to re-open negotiations with Government around additional funding, primarily for projects submitted within the original bid which did not receive a funding allocation. On 30 January 2015 the LEP was awarded an additional £12.1m. This takes the LEP Local Growth Fund allocation to £122.5m.
- 2.4 This allocation is known as the 'Growth Deal'. The basic premise of the Growth Deal is that Government provides the LEP with funding for a package of projects, in return for delivery of economic growth outputs such as increased numbers of housing and jobs. The projects are detailed below.

Investment by Project	Funding Profile			
Project or Programme Name	2015/16	2016/17	Future Years	Total
	£m	£m	£m	£m
Business Growth				
Business Growth Hub	0.3	0.0	0.0	0.3
National Agri-Food Innovation Campus	0.3	2.0	6.0	8.3
York Bio-Hub	1.0	1.0	3.0	5.0
Skills Capital				
Harrogate College	4.0	0.0	0.0	4.0
Askham Bryan College - Agricultural Skills	1.0	0.0	0.0	1.0
Askham Bryan College -Engineering Centre	0.6	0.0	0	0.6
Strategic Sites				
Housing growth at Middle Deepdale, Scarborough.	2.3	0.0	0.0	2.3
A6136 releasing growth at Catterick Garrison.	1.2	0.0	0.0	1.2
Housing and employment at North Northallerton.	1.0	5.0	0.0	6.0
Housing and Employment Growth at Olympia Park, Selby - LGF	2.4	3.0	2.6	8.0
Housing and Employment Growth at Olympia Park, Selby - HCA Loan	3.5	0.0	0.0	3.5
Malton Agri-Food Park	0.0	0.8	1.3	2.1
Transport				
Newlands Bridge Drax-M62	1.5	0.0	0.0	1.5
North Yorkshire Road Maintenance Scheme ¹	0.0	5.0	19.0	24.0
East Riding Road Maintenance Scheme ¹	0.0	6.0	10.7	16.7
A1079 Improvements	0.0	0.0	8.0	8.0
A1/A59 Junction Improvements	0.0	0.0	0.8	0.0

Pre-allocated transport funding				
1. Bedale Bypass (£18.4m) ¹				
2. York-Harrogate Rail Improvements (£9.6m) ¹	15.5	0.0	12.5	28.0
Environmental				
Flood alleviation in Skipton	0.0	1.2	0.0	1.2
Total Growth Deal	34.6	24.0	63.9	122.5
HCA Loan	3.5	0.0	0.0	3.5
¹ – Projects funded directly from DfT	15.5	11.0	42.2	68.7
Total included in the Section 31 Grant	15.6	13.0	21.7	50.3

2.5 Authority to accept the grant for the Local Growth Deal rests with the BES Executive Members following consultation with the Corporate Directors for BES and Strategic Resources. That key decision was taken on 27 February 2015. However, this report is being brought to the Executive given the scale of the funding involved (£122.2m).

2.6 As such the decision requested in this report is to implement the key decision taken by the BES Executive Members as detailed in **paragraph 2.5**.

3.0 Current Position

3.1 The Growth Deal award has implications for the Authority. The County Council provides the secretariat for the Local Enterprise Partnership and holds multiple responsibilities with regard to the Growth Deal, including:

- Accountable Body for the LEP
- Transport scheme promoter/project sponsor and delivery body
- A key partner in other Growth Deal projects being delivered by other partners

3.2 In Autumn 2014, the Government published (non-statutory) draft guidance (“the draft guidance”) for the development of an Assurance Framework to underpin the governance arrangements between the LEP, the accountable body and the project sponsor. On 9 December the Department for Business Innovation & Skills (BIS) wrote to LEP chairs informing them that they had finalised a national LEP assurance framework that LEPs should follow within their frameworks. They asked that LEPs work with their accountable bodies to finalise their frameworks in time for the first payment of LGF monies in April 2015. BIS do not intend to sign off the frameworks but expect accountable bodies to write to the DCLG accounting officer to inform them that the framework has been completed and that it is in line with the national assurance framework.

- 3.3 The LEP has been working with NYCC Finance and Legal Services to develop an Assurance Framework which protects NYCC as Accountable Body, whilst supporting delivery of the LEP Growth Deal in line with the Government guidance.

A copy of the Assurance Framework is enclosed as **Appendix 1** to this report

4.0 Growth Deal Governance Proposal

- 4.1 Whilst the formal offer letter has not yet been received from Government, Growth Deal projects are due to start delivery from April 2015, so it is necessary to secure approval to the proposed governance arrangements to ensure the appropriate structures can be established within the short timescale available.
- 4.2 The Assurance Framework sets out the roles and responsibilities of the main parties and the process by which decisions on projects and programmes are made.
- 4.3 The Council is the accountable body for the Growth Deal funding on behalf of the Government. This means that it is ultimately responsible for the proper use and administration of the funding. The Council has already undertaken this role for other funding streams received by the LEP. In particular these have been £9.6m Growing Places funding and £4m Regional Growth Funding.
- 4.4 The Governance proposals and Assurance Framework (see **Appendix 1**) were reviewed by the LEP Board in November 2014. Whilst in general agreement, the LEP Board wanted to consider any comments from the County Council before finalising the document. The following paragraphs highlight the key parts of the Assurance Framework.

Part 1 - LEP Governance and Decision Making

- 4.5 In accordance with the role intended for LEPs by Government, the Assurance Framework sets out that the York, North Yorkshire and East Riding LEP Board will be responsible for overall strategic decision-making and ensuring full delivery of the Growth Deal, taking on-going reports from its three thematic Programme Boards, who will agree funding for individual projects. The types of Growth Deal decisions that the LEP Board will make include determining strategic direction, overall prioritisation of projects. The Programme Boards will co-ordinate and ensure delivery within its thematic programme and provide approval for funding projects. The proposed LEP governance structure is set out in Part 1 of the Assurance Framework.
- 4.6 The framework confirms that the Council will be represented on the LEP Board, and on the programme boards.

Part 2 - Strong supportive Local Authority partnership working across the LEP

- 4.7 The LEP Assurance Framework sets out an intention to build upon the strong existing Local Authority Partnership working arrangements in York, North

Yorkshire and East Riding, and lists the following groups with which the LEP will work:

- LGYNY Leaders Group
- LGYNY Chief Executives Group
- The YNYER Directors of Development Group
- The Infrastructure Board and emerging Joint Committee
- The NY Local Transport Body
- YNYER Strategic Housing Board

Part 3 – Transparent Decision Making

- 4.8 The guidance makes it clear that the LEP should put in place clear arrangements for transparent decision making. To address this, the LEP Assurance Framework has proposed that agendas and papers for LEP Board meetings be published at least five clear days before the meeting, and sets out the publication guidelines for its Programme Boards. The Framework also covers transparency issues such as Conflict of Interest, Gifts & Hospitality and Local Audit and Scrutiny. It is worth noting that an independent audit of the YNYER LEP will be undertaken on an annual basis from 2015, by Veritau, who provide the North Yorkshire County Council independent audit services.

Part 4 – Accountable Decision Making

- 4.9 Local growth fund resources will be paid via section 31 grant determination by the Government to the Council as the accountable body.
- 4.10 The Council, as accountable body, will be accountable for the proper use and administration of the funding.
- 4.11 On instruction from the LEP, and being satisfied that decisions are in accordance with the Assurance Framework, the Council (as accountable body) will contract directly with project sponsor to release the funds.
- 4.12 Government is explicit that they expect that all funding paid pursuant to the Growth Deal will fulfil the following requirements:
- (1) It will be used to support the Growth Deal agreed between the Government and the LEP and will be used to secure the outcomes set out in the Growth Deal.
 - (2) It will be deployed solely in accordance with decisions made through a local assurance framework agreed between the LEP and the Council as the accountable body. This framework must be consistent with the standards set out in the national assurance framework. In the case of specific schemes which are still subject to business case sign off by DfT, the DfT business case sign-off process may mean that the local assurance framework process is not required in full. This will be agreed on a scheme by scheme basis.
 - (3) That we will track progress against agreed core metrics and outcomes, in line with the national monitoring and evaluation framework.

- 4.13 As set out in the Growth Deal, the Council as the accountable body and the LEP will have the flexibility to manage the implementation of the Growth Deal in order to deliver the outcomes agreed. It is recognised that scheme spending profiles are not static and therefore the level of spending on any particular scheme in any particular year is for the LEP to manage. If the LEP wishes to make significant changes to projects that have been agreed as part of the Growth Deal, they should first discuss this with their LEP's Cities and Local Growth Unit relationship manager who will be able to advise on next steps.
- 4.14 The Council, as the accountable body for the LEP, is responsible for ensuring that expenditure is spent in accordance with all applicable legal requirements. This includes, for example, state aid and public procurement law. Any development decisions for specific proposals must go through the normal planning process and be guided by local plans, taking into account all material considerations. The Council will, of course, be subject to their normal internal and external audit controls. Members will note that within the Assurance Framework, the decision making process includes legal and financial checks by the County Council.
- 4.15 In some instances, the Council will be both the project sponsor and accountable body, in which case there will be clear separation between the Council project sponsor function and the Council accountable body function. Furthermore, all decisions on release of funding to the Council as a project sponsor will still be subject to the LEP's approval process applicable to all sponsors, as set out in the Assurance Framework.
- 4.16 Importantly, for all projects whereby the Council is Project Sponsor and therefore carries the financial risk, an independent decision will be sought from the Executive to accept the Grant funding.

Part 5 – Ensuring Value for Money – Prioritisation, appraisal and business case development

- 4.17 The Assurance Framework sets out a process by which projects are identified, appraised and prioritised. This follows strict HM Treasury Green Book requirements. All projects will require both full legal (including State Aid) and financial due diligence which will be undertaken by the County Council to ensure there are no technical/legal reasons why funding cannot be awarded. The LEP Programme Boards sign off the final decision on funding but cannot overturn any technical/legal concerns that the County Council may have raised.
- 4.18 The funding associated with the following project is still subject to business case scrutiny. The funding for this project is included in the Section 31 grant payment. However, this part of the payment will not be released until Government has agreed the business case. The project concerned is: Harrogate College.

Additional roles for the County Council

- 4.19 It is important that there is separation between the Council's accountable body role and its other roles within the Growth Deal – namely that of a project sponsor, project partner, highways authority or commissioned deliverer of a LEP project.
- 4.20 Through its existing processes, the Council will continue to identify, manage and promote its own projects. The part of the Authority that leads on this activity will be separate from the part that performs the accountable body role for the entire Growth Deal programme. This will ensure all project promoters are treated equally by the accountable body and to avoid the potential for conflicts of interest.

5.0 Financial Implications and Risks

- 5.1 As accountable body, the Council becomes ultimately responsible for the proper use of the growth deal funding. Should the funding not be used for the purposes intended, it could be subject to clawback by Government. However, the financial risk that may arise from this is mitigated by the following factors:
- As part of the assurance framework, the Council will require the LEP to undertake relevant checks on all allocations of funding to ensure that they are compliant with any restrictions, and awarded in line with the process described in the assurance framework.
 - Financial responsibility for delivery of the scheme will rest with the project sponsor. The LEP will ensure that the sponsor has plans in place to deal with any cost increases, such that the project can be completed and deliver the planned economic benefits.
 - The Council legal and financial teams will undertake legal and financial checks including state aid as detailed in **paragraph 4.17** above.
- 5.2 Whilst there will be some additional burdens on Council staff in undertaking the accountable body role, this has been minimised by placing reliance on the checks already undertaken by the LEP and does not create any additional staffing resource.
- 5.3 There is also both a financial and reputational risk should schemes not be delivered in time and funding be reclaimed by Government. Whilst the risk primarily falls on the LEP, North Yorkshire County Council as Accountable Body, Board Member and key stakeholder within the partnership shares this risk. To mitigate this, the Assurance Framework has robust procedures in place to appraise deliverability at the appraisal stage and project manage the investment throughout delivery. The LEP Programme Boards will be responsible for managing delivery of the investments. The County Council are members of the Infrastructure Programme Board.
- 5.4 As set out in the Growth Deal, 2015-16 project starts have an allocation of £15.6m in 2015/16, and also come with a tail of future years' funding where investment is needed over more than one year (£22.6m). The tail funding is made up of the following projects;

National Agri food Innovation Campus York	£8m
York bio hub	£4m
Housing growth at North Northallerton	£5m
Housing growth at Olympia Park	£5.6m
Total	£22.6

5.5 This means that Government is committed to continuing to fund these projects in future years. If projects are not taken forward, for whatever reason, the LEP will not automatically be entitled to receive the associated tail funding. Whether or not the LEP is awarded the tail funding, for projects not taken forward, is subject to discussions with the Government.

5.6 The Government has sent a letter confirming the arrangements for the payment of the 2015/16 allocation, and its commitment to the related tail funding. At the time of writing the report we are still awaiting the grant offer letter, including terms and conditions, from the Government.

6.0 Equalities Implications

6.1 Consideration has been given to the potential for any equality impacts arising from the recommendation. It is the view of officers that the recommendation does not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010.

7.0 Legal Implications

7.1 Legal and Democratic Services have been consulted and have advised that there are no legal implications in connection with the recommendation(s).

8.0 Next Steps

8.1 Following the endorsement of the Assurance Framework, and receipt of the formal offer letter, the Corporate Director – Strategic Resources will accept the offer letter and the appropriate structures will be put in place to allow the delivery of growth deal projects to commence in April 2015.

8.2 Should the offer letter include any significant risk or burden not identified in this report, a further paper will be taken to the Executive Members for BES for approval.

9.0 Recommendation

9.1 The Executive is recommended to:

- i) Give approval for the Corporate Director, Strategic Resources to accept the £122.2m grant funding offer and agree terms and conditions associated with the grant.

DAVID BOWE
Corporate Director - Business and Environmental Services

Author of Report: James Farrar

Background Documents to this Report: - None

**York, North Yorkshire and East Riding Local
Enterprise Partnership**



ASSURANCE FRAMEWORK

Final Draft version

13th February 2015

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Introduction

1. Purpose

- 1.1. To provide a framework for strong and transparent governance in the delivery of all Government funding flowing through The York, North Yorkshire and East Riding Local Enterprise Partnership.

The purpose of this LEP assurance framework is to support the developing confidence in delegating funding from central budgets and programmes via a single pot mechanism. It has to be viewed in the context of the Accountability Systems Statements for both Local Government and the Local Growth Fund which provide assurance to the Departmental Accounting Officer and to Parliament, for how Local Growth Funds and wider funding routed through Local Government are allocated, and that there are robust local systems in place which ensure resources are spent with regularity, propriety, and value for money.

- 1.2. The Local Enterprise Partnership for York, North Yorkshire and East Riding shall be known as “The York, North Yorkshire and East Riding Local Enterprise Partnership” (YNYER LEP). YNYER LEP governance (set out in more detail in **Part 1**) consists of:-

- A LEP Board (YNYER LEP Board)
- Three Programme Boards
 - Business Growth
 - Skills and Employability, and
 - Infrastructure
- Local Transport Body (LTB)
- Local Housing Board (LHB)

- 1.3. This Framework, although led by NYCC the LEPs Accountable Body, operates in collaboration with all the Local Authorities within the LEP area. All the Local Authorities have a role within either the main LEP Board and/or the Programme Boards. This relationship is set out in more detail in **Part 2**.

- 1.4. This document establishes an Assurance Framework which the YNYER LEP will follow in relation to decision making within the Local Growth Fund (LGF) programme and other Government funding routed through the LEP (Detailed in **Part 3** (Transparency), **Part 4** (Accountability) and **Part 5** (Ensuring value for money)). This Framework also sets out the relationship to other Bodies such as the Local Transport Body and the Local Housing Board.

2. Geography

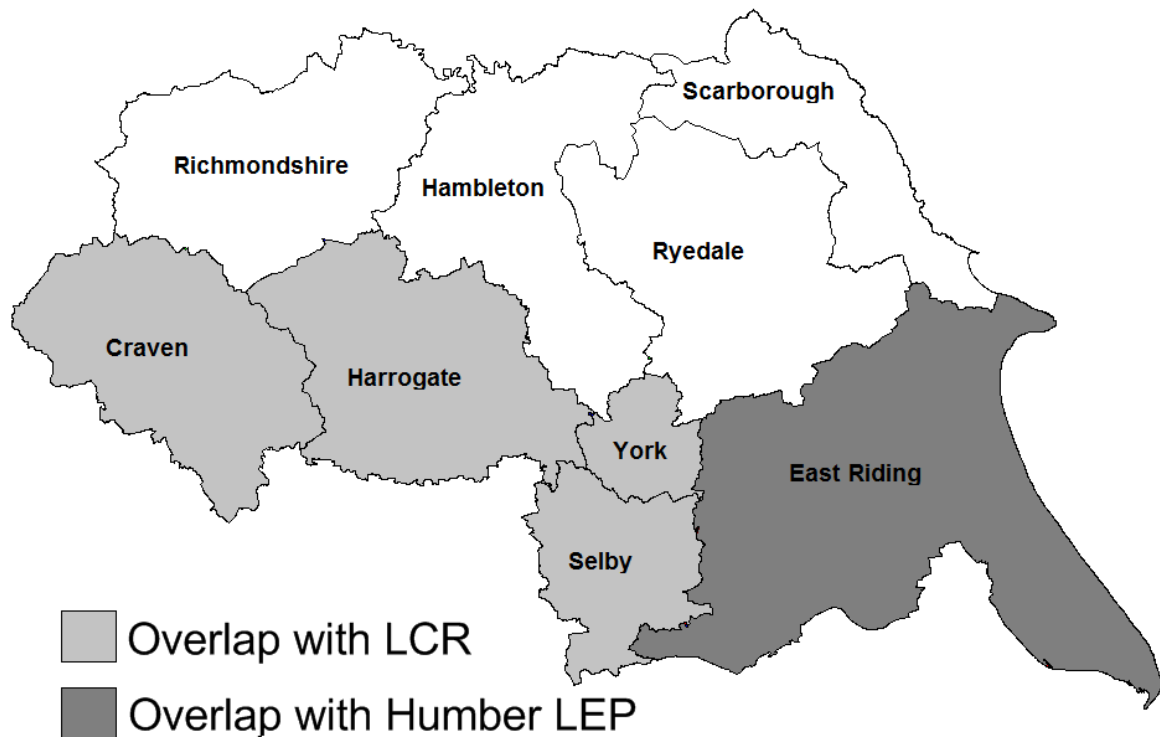
- 2.1. The YNYER LEP operates across the local authority boundaries of the County of North Yorkshire, City of York Council and the East Riding of Yorkshire Borough Council area.

- 2.2. York consists of the City of York Council, East Riding consists of East Riding of Yorkshire Council and North Yorkshire County consists of North Yorkshire County Council (the County Council), Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council, Selby District Council, the North York Moors National Park Authority and the Yorkshire Dales

National Park Authority, It is geographically the largest sub area in Yorkshire and the Humber.

- 2.3. The YNYER LEP area overlaps two other Local Enterprise Partnership boundaries. The local authorities of Craven District, Harrogate Borough, Selby District and City of York are also within the Leeds City Region area, the local authority of East Riding is also within the Humber area (See Figure 1).

Figure 1 – Map showing LEP boundaries and overlap with Leeds City Region and Humber LEP areas.



3. Strategic Objectives

- 3.1. The primary role of the LEP is to provide strategic leadership to maximise the economic growth and job creation across York, North Yorkshire & East Riding. The YNYER LEP and Partners agreed priorities in its [Strategic Economic Plan \(SEP\)](#) published in March 2014.
- 3.2. The SEP has identified five strategic priorities;
1. **Successful, profitable SMEs**
 2. **A Global leader in food, agritech and biorenewables**
 3. **Inspired people**
 4. **Successful, distinctive places**
 5. **A well connected economy**
- 3.3. The SEP also set out the YNER LEPs clear ambitions:-
- **Create 20,000 new jobs and grow the economy by £3 billion**
 - **Connect every student to business**
 - **Double house building; and**

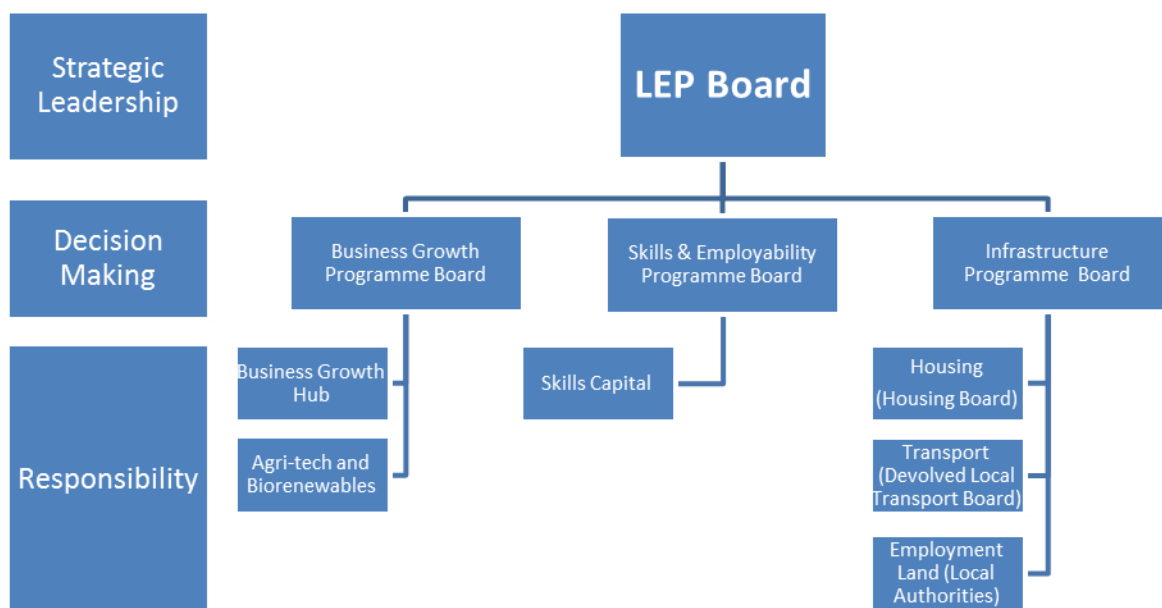
- **Connect the east and west of our region and ease congestion around York and Harrogate.**
- 3.4. The YNYER LEP, through its Board and Programme Boards, has the specific purpose of prioritising investment, programme ownership and managing performance.
- 3.5. In this context, the objectives of YNYER LEP will be to:
- Identify a prioritised list of investments within the available budget;
 - Ensure value for money is achieved;
 - Make decisions on individual scheme approvals, investments, release of funding and scrutiny of individual scheme business cases;
 - Monitor progress of scheme delivery and spend;
 - Actively manage the devolved LGF budget and programme and respond to any changes in circumstances.
- 3.6. Each of these activities will be carried out for LGF projects as well as for other YNYER LEP funding streams, such as Growing Places Fund. The appraisal of all schemes will be grounded in the principles of the [Treasury Green Book](#) and the relevant Departmental guidance on the application of the Green Book to specific investment streams e.g. housing, skills and transport.
- 3.7. In ensuring the delivery of ambitions set out in the Strategic Economic Plan (SEP), The YNYER LEP will have additional roles which will include:-
- Acting as a decision making body for other funding streams within the context of delivering the objectives set out in the SEP;
 - Acting as a forum for the expression of views on other major infrastructure, transport and major planning matters where these have local growth implications, for example responses to Government consultations.

Part one: Governance and Decision Making

1. LEP Governance Structures

- 1.1. The role of the LEP and its governance structures will be to set the vision and outcomes (set out in the Strategic Economic Plan) that will guide the allocation of resources at a project level, and to monitor and ensure results achieve intended outcomes.

Figure 2: LEP Governance



2. LEP Board Membership and Role

- 2.1. The **YNER LEP Board** will provide overall leadership and guide key decisions and are responsible for ensuring overall delivery of the Growth Deal and other funding programmes rooted through the LEP, including the balance between themes/programmes and strategic review. The LEP Board however delegates all decisions on individual projects to the relevant Programme Board.

- 2.2. Full YNYER LEP Board membership is as follows:-
Board Membership as at January 2015

York, North Yorkshire and East Riding Local Enterprise Board			
Name	Organisation	Representing	Votes
Barry Dodd CBE (Chariman)	GSM Group	Private Sector	1
David Kerfoot MBE (Vice-Chair)	Kerfoot Group	Private Sector	1
Colin Mellors	Higher Education	Private Sector	1
Robert Miller	Bluebird Engineering Solutions	Private Sector	1
Peter Emery	Drax Power	Private Sector	1
Ruth Smith	PM Management Consultants	Private Sector	1
Nigel Pulling	Yorkshire Agricultural Society	Private Sector	1
Jane, Lady Jane Gibson	Visit York	Private Sector	1
Vacancy		Private Sector	1
Cllr John Weighell	Leader, North Yorkshire County Council	Local Authority (NYCC)	1
Cllr Daffyd Williams	Leader, City of York Council	Local Authority (CYC)	1
Cllr Stephen Parnaby	Leader, East Riding Of Yorkshire Council	Local Authority (ERYC)	1
Cllr Mark Robson	Leader Hambleton District Council	Local Authority – Hambleton, Richmondshire and Craven District Councils	1
Cllr Tom Fox	Leader Scarborough Borough Council	Local Authority – Scarborough and Ryedale Borough/District Councils	1
Cllr Richard Cooper	Leader, Harrogate Borough Council	Local Authority – Harrogate and Selby Borough/District Council	1

3. LEP Programme Boards

- 3.1. The **YNYER LEP Programme Boards** will prioritise and approve individual investment at a programme level and will ensure delivery in accordance with the Strategic Economic Plan. Each Programme Board will be chaired by a full YNYER LEP Board Member.

- 3.2. Each of the YNYER LEP Programme Boards will be responsible for the following Strategic Priorities, they will report directly to the LEP Board on performance against the objectives set out in the SEP and the direction given by the LEP Board :-

Programme Board	Strategic Economic Plan Priority Responsibilities
Business Growth Programme Board	1. Successful, profitable SMEs 2. A Global leader in food, agri-tech and bio-renewables
Skills & Employability Programme Board	3. Inspired people
Infrastructure Programme Board	4. Successful, distinctive places 5. A well connected economy

- 3.3. The **YNYER LEP Business Growth Programme Board** consists of the same Membership as the full YNYER LEP Board.

- 3.4. The **YNYER LEP Skills and Employability Programme Board** has the following membership:-

Skills & Employability Programme Board (as of January 2015)

York, North Yorkshire and East Riding Local Enterprise Partnership Skills and Employability Programme Board			
Name	Organisation	Representing	Votes
Robert Miller (Chairman)	Bluebird Engineering Solutions & Main LEP Board Member	LEP Board	1
Allan Stewart	Selby College	FE Colleges	1
Sue Vasey	Your Consortium	Volcom sector	1
Jon Stonehouse	City of York Council	Local Authority	1
Paul Bell	East Riding of Yorkshire Council	Local Authority	1
Jill Hodges	North Yorkshire County Council	Local Authority	1
Sue Gradwell	NYBEP	Business Education	1
Paul Murphy	Higher York	HE Sector	1
Margaret Hicks-Clarke	Press Association	Private sector	1
Matt Parsons	York Potash	Private sector	1
Emma Smailes	Federation of Small Businesses	Private Sector	1
Trevor Burton	Millthorpe School	Schools	1
Jo Corney	DWP	Central Government	1

- 3.5. The **YNYER LEP Infrastructure Programme Board** has the following membership:-
Infrastructure Programme Board (as of January 2015)

York, North Yorkshire and East Riding Local Enterprise Partnership Infrastructure Programme Board

Name	Organisation	Votes
Barry Dodd	LEP	1
Peter Wilkinson	Hambleton District Council	1
Alan Skidmore	Harrogate Borough Council	1
John Blackie	Richmondshire District Council	1
Linda Cowling	Ryedale District Council	1
Derek Bastiman	Scarborough Borough Council	1
Mark Crane	Selby District Council	1
Chris Metcalfe	North Yorkshire County Council	1
	City of York Council	1
Jane Evison	East Riding of Yorkshire Council	1
	Craven District Council	1
Andrew Scott	North York Moors & Yorkshire Dales National Park Authority	1

- 3.6. The Infrastructure Programme Board will provide the strategic leadership, approval and performance management of the Infrastructure Programme (SEP Priorities 4 and 5), but will seek advice and guidance on strategic transport investment from the Local Transport Body (LTB) and Housing from the Local Housing Board (LHB).

Local Delivery Structure	Role	Governance Status
Devolved Local Transport Body	Transport	Formal governance structure in place. Assurance Framework approved by the Department for Transport
Housing Board	Housing	Formal governance structure in place and established history of working and delivering with HCA, including a £63m affordable housing programme

4. Terms of Reference of the LEP Board and Programme Boards

- 4.1. The Constitution or terms of reference for the main LEP Board is set out in Annex A. This includes details regarding the appointment of chairs and decision making. The Programme Boards will operate on similar terms but the following will apply:-
- 4.1.1. **Decision Making** - The quorum for Programme Board Meetings shall be a majority of Programme Board Members. Programme Boards cannot delegate decision making to sub Boards or Panels;
- 4.1.2. **Chair of Programme Boards** - All Programme Boards will be chaired by a full YNYER LEP Board member. The LTB and LHB have their own governance which is appropriate for the roles required within this Assurance Framework;
- 4.1.3. **Observers and Government Departments/Agencies** – Observers will be invited to attend Board meetings when appropriate. On occasion, it is likely that a range of Government agencies will have an interest in decisions made by the main LEP Board

and/or Programme Boards. Observers and Government officials will be able to comment but will not have voting rights;

- 4.1.4. **Membership review** - The Programme Boards will review membership on an annual basis to ensure it is still fit for purpose.

Part Two: Local Authority Partnership Working across the LEP

1.1 The LEP Assurance Framework builds upon the strong existing Local Authority Partnership working arrangements in York, North Yorkshire and East Riding, and lists the following groups with which the LEP will work:

- LGYNY Leaders Group
- LGYNY Chief Executives Group
- The YNYER Directors of Development Group
- The Infrastructure Board and emerging Joint Committee
- The NY Local Transport Body
- YNYER Strategic Housing Board

1.2 All the Local Authorities form an integral part of the Enterprise Partnership in terms of facilitating joint decision making, collaboration on the development of growth ambitions and priorities, alignment of strategic plans and resources and ensuring delivery.

1.3 This is demonstrated through the LEP Secretariat which comprises of a team from a variety of the Local Authorities.

Part Three: Transparent Decision Making

1. Transparency and Local Engagement

- 1.1. The YNYER LEP will ensure a high level of transparency and the involvement of the public and stakeholders by:
- publishing the Assurance Framework on the County Council and YNYER LEP websites;
 - publishing Agendas, meeting papers, minutes and other associated reports on the YNYER LEP website www.businessinspiredgrowth.com at least five working days before a meeting;
 - publishing Local Growth Funding project plans on the YNYERLEP website;
 - publishing funding decision letters with funding levels and conditions,
 - regular programme updates on delivery, and spend against budget on the YNYER LEP website; and
 - adhering to the Code of Recommended Practice for Local Authorities on Data Transparency.
- 1.2. Agendas, reports and other documents related to meetings of the YNYER LEP will be available to the public unless otherwise indicated as being not for publication where they contain exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 as amended.
- 1.3. Comments on meeting papers or business cases can be submitted via email or post. This communication will be dealt with in the first instance by the LEP Secretariat (The LEP Secretariat is defined in Part 4).
- 1.4. The YNYER LEP is not subject to the Freedom of Information Act 2000 or Environmental Information Regulations 2004. However, NYCC as accountable body is subject to the requirements of this legislation and any enquiries pursuant will be dealt with under existing NYCC procedures.

2. Conflicts of interest

- 2.1. Members of the Boards will at all-time act in the interests of the whole of the YNYER LEP geographical area.
- 2.2. All of the Boards voting and advisory non-voting members will be subject to the Code of Best Practice contained in **Appendix 1 of Annex A**. This is based on the County Council Constitution and Code of Best Practice adopted by the YNYER LEP. The Code of Best Practice is to ensure the highest standards of propriety in decision-making and includes specific guidance to members where conflicts of interest arise. Members of the Boards will also be bound by the Code of Conduct of their own organisation.
- 2.3. Registers of interests for elected Members on the Boards are maintained by individual local authorities and are publicly available through the appropriate council website. Other decision making members of the Boards will be required to complete a register of interests that will be open to public inspection on request from the YNYER LEP Secretariat. All

members, both voting and advisory, will be expected to declare any personal interests in relation to specific items of business at meetings of the Boards.

3. Gifts and Hospitality

- 3.1. Members of the Boards will be subject to the Code of Best Practice contained in **Appendix 1 of Annex A** which includes specific guidance on the registration of any gift or hospitality received.

4. Local Audit and Scrutiny

- 4.1. An independent audit of the YNYER LEP will be undertaken on an annual basis from 2015.
- 4.2. The YNYER LEP will use the same organisation that provides an independent internal audit service for North Yorkshire County Council. The company currently undertaking independent audit for the County Council is Veritau North Yorkshire Limited. The Registered Office for Veritau North Yorkshire Limited is Douris House, Roecliffe Business Centre, Roecliffe YO51 9NE. Company number 7931990. All local audit of funding allocated by the LEP will be equivalent to those audits in place for local authority spend.
- 4.3. Veritau provides internal audit, counter fraud and information governance services and other related assurance services to the public sector.
- 4.4. The YNYER LEP accepts that there will be a requirement for audit at national level and will comply with Government requirements.
- 4.5. In circumstances in which the accountable body is unable or unwilling to comply with a LEP decision, the accountable body will provide reasons as to why they are unable to comply with the decision of the LEP. If a decision cannot be reached then within 14 days a meeting will be held between an (officer of NYCC to be stated and level) and the Chairman of the relevant LEP board to attempt to reach resolution. Should resolution not be reached then within 7 days a meeting will be held between the Chairman of the LEP Board and the designated officer of NYCC to attempt to resolve the dispute.
- 4.6. In addition to the audit process set out above the LEP will be subject to scrutiny arrangements through the NYCC's Transport and Economy Overview and Scrutiny Committee.

Part Four: Accountable Decision Making

1. Status and Role of Accountable Body

- 1.1. As the YNYER LEP is a partnership and not a legally constituted body, North Yorkshire County Council (NYCC) will act as the Accountable Body with ultimate responsibility for the LEP. This Assurance Framework underpins the working of the LEP and defines the responsibilities partners have to one another.
- 1.2. As the Accountable Body NYCC will hold the Local Growth Funding and other Government funding routed through the LEP and make payments to delivery bodies. This funding can only be used in accordance with decisions made by the YNER LEP Board and its Programme Boards as set out in this Assurance Framework and these funds will be paid into the County Fund, the County Council's general bank account. All expenditure associated with the grant scheme will be recorded on a unique cost centre code within the NYCC financial ledger. The interest accrued on these funds will be transferred periodically to the cost centre and made available to fund future schemes. The interest will be calculated at the average rate NYCC receives on its investments. Financial monitoring information will be provided by the County Council to the YNYER LEP as required and all financial transactions will be made in compliance with NYCC financial policies.
- 1.3. For each investment North Yorkshire County Council, as Accountable Body, will be required to enter into a formal agreement with the project sponsors before funding is released. The agreement will set out the respective responsibilities delivery milestones and outputs, including audit and reporting requirements, and sanctions if the scheme promoter fails to deliver to the agreed scope and timescale. The audit function will detect misuse of funds and the legal agreement will provide the mechanism to recover funds if necessary.
- 1.4. The County Council will assume the following responsibilities:
 - ensure the decisions and activities of the LEP conform with legal requirements;
 - ensure (through Section 151 Officer) that funds are used appropriately;
 - ensure that the LEP Assurance Framework is being adhered to;
 - maintain the official record of LEP proceedings and hold all LEP documentation; and
 - the decisions of the LEP in approving schemes, including if a legal challenge arises.

Funding will not be contracted or released if a decision of the LEP:

- places undue financial or legal risk on NYCC given its role as accountable body

As the LEP is not a separate legal entity it will observe the following corporate governance processes detailed in the NYCC Constitution and available on the NYCC website:

- Financial Procedure Rules
- Contract Procedure Rule
- Procurement Rules
- Property Procedure Rules
- Grant Application and Acceptance Procedures
- Publication of Transactions in Line With Transparency Code

2. Support and Administrative Arrangements

- 2.1. Professional advice and administrative support will be provided by the YNERLEP Secretariat. YNYER LEP business will be managed by the LEP secretariat who will provide reports to the relevant Programme Boards.
- 2.2. Local authorities' across York, North Yorkshire and East Riding will provide additional support in pursuit of the vision, priorities and ambitions set out in the Strategic Economic Plan.

3. Complaints and whistleblowing

- 3.1. In the first instance complaints (including allegations that the YNYER LEP is acting in breach of the law, failing to adhere to its Assurance Framework or failing to safeguard public funds) from stakeholders, members of the public and internal whistleblowers will be dealt with by the YNYER LEP Secretariat.
- 3.2. Complaints will be dealt with via the procedure outlined in the County Council Corporate Complaints Policy available on the County Council website.
- 3.3. Complaints from internal whistleblowers will be dealt with in accordance with the County Council whistleblowing policy.

Part Five: Prioritisation, Appraisal, Business Case Development, and Risk Management

1.0. Background

- 1.1. A call was issued by the YNYER LEP for Round 1 Local Growth Deal expression of interest bids. After initial assessment by the LEP Secretariat of key project factors such as deliverability, value for money and outputs generation, a project ranking prioritisation process was undertaken (see Annex B :Prioritisation process). These were then agreed by the Programme Boards i.e. Business Growth, Infrastructure and Skills and Employability, within the LEP boundary, and signed off by the full LEP Board.
- 1.2. A bid document ([Local Growth Deal Implementation Plan](#)) was then produced that demonstrated how the ambition and objectives laid out in the LEP's Strategic Economic Plan were to be achieved. This was submitted to Government on 31st March 2014 with subsequent approval in principle for 13 of the LEP's 15 priority projects totalling £110m, subject to due diligence.
- 1.3. The following narrative is designed to provide assurance to Government on how the identified projects brought forward under the Growth Deal Plan will be governed and managed through their lifecycle. It should be read in conjunction with the LGF Process Workflow Chart attached at Annex C.
- 1.4. **The process set out in this section and in Annex C will be followed in any subsequent calls for proposals in any future rounds or other funding routed through the LEP.**

2.0. Stage 1 – Full Business Case Submitted

- 2.1. The project sponsor will submit their full detailed Business Case pro-forma to a predefined time deadline. (The Business Case pro-forma template has been compiled in line with the principles of the HMT Green Book namely asking the project sponsor to outline the Strategic, Economic, Financial, Commercial and Management case for public sector intervention –see attached at Annex D)
- 2.1. Once received, the LEP Secretariat will undertake a “gateway check” to ensure all sections of the Business Case pro-forma have been completed. They will also ensure all separate supporting documentation evidence outlined within the pro-forma (eg. studies, analysis, benchmarking etc) is attached. If any information is missing, the LEP Secretariat will contact the project sponsor for further information. Whilst working in accordance with Green Book, the evidence base for each Business Case is expected to be proportionate to the value and complexity of the project proposal.
- 2.2. Once all the preliminary checks have been completed successfully, the LEP Secretariat will log the pro-forma and allocate a project reference number. The project sponsor will be notified in writing of the successful receipt of the pro-forma along project reference number with next steps outlined.

- 2.3. The project Business Case will be assigned to a named lead officer (known as the Project Appraisal Officer). This officer will be independent from the project and will not have been involved in the development of the business case. The Project Appraisal Officer will be responsible for ensuring the effective passage through the appraisal and due diligence process.

3.0. Stage 2 – Appraisal

- 3.1. The Project Appraisal Officer will distribute the Business Case Pro-forma to a predetermined appraisal panel with the appropriate skills to ensure a comprehensive assessment and overall opinion is formed on the project in question. Panel membership may vary dependent upon the skills set required.
- 3.2. The responsibilities within the appraisal process will align as follows;
- The LEP Secretariat will provide a general overview of the project using the five case HMT Green Book methodology assessing:
 - strategic fit against the LEP Strategic Economic Plan
 - value for money
 - state aid and procurement compliance (general opinion)
 - track record, experience and capacity of the delivery body to manage the project.
 - The Accountable Body (North Yorkshire County Council under which the YNYER LEP operates) will provide an overview of the project from a financial and legal perspective assessing:
 - financial viability of the project sponsor to deliver (where required)
 - company director checks (where applicable)
 - compliance with UK and EU law and regulations (eg. procurement/state aid)
 - land/building legal charges (where applicable)
 - External Agencies/Consultants will provide specialist assessment against projects which require a skills-set not contained within the LEP Secretariat or NYCC. We foresee, therefore, particular interaction with;
 - The Skills Funding Agency on skills capital proposals
 - The Homes and Communities Agency on housing proposals
 - Jacobs consultancy on all transport infrastructure proposals.
 - External consultants to scrutinise and provide independent opinion on the strength of evidence presented regarding economic impact assessments and market demand analysis or analyse value for money in specialist sector fields.
- 3.3. Upon distribution of the Business Case pro-forma by the Project Appraisal Officer to the appropriate appraisal panel members, a formal panel meeting date will be set 4 weeks from that date in which to allow panel members to assess the project from their various viewpoints.
- 3.4. The appointed project Appraisal Panel will meet to opine their views so that a collective opinion can be formed by the LEP Secretariat on the project encompassing potential risks and issues.

3.5. LEP Secretariat project managers will not be directly involved in the appraisal of any project that they are responsible for in accordance with separation of functions principles. However, they will be required to attend the appraisal panel meeting to provide an overview of the project and take forward the risks/issues/concerns or otherwise of the panel in progressing the project.

3.6. The Project Appraisal Officer will note the strengths, weaknesses, risks and issues of the project provided by the Panel and score the project (marks out of 10) under each of the five [HMT Green Book](#) business case principles as defined; strategic, economic, financial, commercial, management. Proforma attached as Annex E. The scores and risk rating of each section will be then aggregated to form an overall view of the project. Obviously, any showstopper risks identified in any of the categories will immediately halt the project from a development viewpoint.

3.7. Application of the Green Book ‘5-cases’ appraisal model will assess compliance of the business case with reference to appropriate technical guidance on appraisal, finance, risk and project management. Where departmental or industry-standard guidance is relevant, this will be referenced as the appropriate benchmark. Scheme promoters will have been advised to take cognisance of such guidance during preparation of business cases (see below). Appraisal of the business cases will provide assurance on the deliverability, affordability and value-for-money arising from the proposed scheme. In all cases, a proportionate approach to business case appraisal will be applied to avoid unnecessary costs and delays in programme delivery.

Investment sector	Appraisal Guidance
Business Growth	HMT Green Book, BIS
Skills & employability	HMT Green Book, DfES
Infrastructure - Housing	HMT Green Book, HCA
Infrastructure - Transport	HMT Green Book, DfT WebTAG

3.8. Once the overall assessment of the project has been completed and agreed, a decision will be taken by the Appraisal Panel to either;

- (i) recommend the project proceeds direct to Board approval stage,
- (ii) recommend the project proceeds to Board approval stage but with further development conditions attached to be addressed first,
- (iii) defer the project until further development work has been completed with a resubmission to the appraisal panel for future consideration,
- (iv) reject the project due to major issues arising.

All Appraisal Panel decisions will be recorded on the appraisal proforma and will be reported to the relevant Programme Board.

3.9. The LEP Secretariat will write to the Project Sponsor outlining the decision of the Appraisal Panel detailing any actions required and next steps.

4.0. Stage 3 – Board Decision

- 4.1. Three Programme Boards (Business Growth, Infrastructure and Skills) are constituted within the YNYER LEP area to make the required project investment decision pertinent to the type of project brought forward (as set out in Part 1 of this Assurance Framework).
- 4.2. The LEP Secretariat will submit any Appraisal Panel approved project papers to the next scheduled Programme Board meeting where appropriate. This will include a brief outline of the project, the appraisal scoring summary sheets and overall risk register.
- 4.3. The Project Sponsor may be requested to attend the Programme Board to provide an overview of the project and what it will deliver whilst the LEP Secretariat Project Manager will also attend to report back on the appraisal conclusions and summarise the key risks and issues. Both will be expected to answer any questions that Board Members may have before making the investment decision.
- 4.4. Once the Board are satisfied that all questions raised have been satisfactorily answered, the Chair will call for approval recommendation or otherwise. The decisions that can be reached by the Board are;
 - (i) approve the project and proceed to legal agreement,
 - (ii) approve the project and proceed to legal agreement but with specific conditions to be incorporated into the agreement,
 - (iii) approve the project in principle but defer moving to legal agreement until outstanding appraisal/development work is completed,
 - (iv) reject the project due to major issues arising.All decisions will be minuted as part of the Programme Board procedures, a copy of which will be stored in the relevant Project file.
- 4.5. Upon approval by the Board, the LEP Secretariat Project Manager will then progress a funding agreement with the Project Sponsor to capture the delivery of the outputs/outcomes required and key project milestones. Once finalised, the agreement will be sealed with original copies held by the Accountable Body, NYCC, and the Project Sponsor. Draft funding agreement is attached as Annex F.

5.0. Stage 4 – Project Monitoring

- 5.1. The LEP Secretariat views proactive, robust project monitoring as key to ensuring projects are delivered to timescale and the required outputs/outcomes are achieved. We see it crucial in identifying risks and issues at an early stage in delivery so that solutions can be developed to minimise delivery impact.
- 5.2. Whilst we see project monitoring by the assigned LEP Secretariat Project Manager as an on-going process, there will also be a formal monthly meeting held with the Project Sponsor to record delivery progress, review against contractual milestones and to review and update the risk register and issues log. Minutes will be taken and any actions will be recorded with ownership assigned. (The assigned LEP Secretariat Project Manager may also wish to sample evidence copy invoices where a claim for grant payment has been presented – see Stage 5).

- 5.3. LEP Secretariat Project Managers will also compile a monthly Project Highlight Report (attached at Annex G) that will capture key project information such as progress and flagging risks and issues in an easy overview format for management review and decision-making. The formal project risk register will also be attached (Annex H).
- 5.4. The overall LEP Secretariat Lead Officer for the Growth Deal programme (or other funding programmes managed through the LEP) will receive and review all the performance monitoring reports and risk register and issues log on a monthly basis.
- 5.5. There will be a quarterly Board meeting where progress on the projects is presented and which will allow Board Members to oversee the performance of individual projects and the programme as a whole. The individual Project Highlight Reports/Programme Highlight Report will be presented with LEP Secretariat Project Managers in attendance for scrutiny purposes. Project sponsors may be asked to attend by the Board where under performance exists on the projects they manage so that they can explain what actions they are putting in place to remedy the position. The funding agreements will set out performance arrangements and will also indicate any consequences such as financial claw back or reallocation of funding.

6.0. Stage 5 – Claim Payments

- 6.1. Where the legal agreement has been determined to be a grant and not a loan, financial claims for payment will be submitted by the project sponsor at agreed intervals. (Copy claim form attached at Annex I). This will need to be completed, principally, to provide a project progress report and detailing eligible expenditure claimed and a financial forecast for future claim.
- 6.2. The LEP Secretariat Project Manager will check the claim for accuracy, eligibility of payment and progress against contractual milestones. This will be done in conjunction with any supplementary information provided as evidence eg. Quantity Surveyor reports (on build projects). If the LEP Secretariat Project Manager is not satisfied with the information provided or expenditure claimed they will notify the Project Sponsor of the issues and aim to resolve. A further revised claim may then need to be submitted.
- 6.3. If the LEP Secretariat Project Manager is satisfied with the accuracy of the claim presented, they will then certify the payment is ok and pass to the appropriate person with delegated authority to approve for payment.
- 6.4. Once authorised, the claim will be forwarded for payment to the Accountable Body.

7.0. Stage 6 – Evaluation

- 7.1. The LEP Secretariat recognises the importance of a formal evaluation to provide learning and best practice for future project development. This will be undertaken using the principles laid out in HMT Magenta Book and relevant departmental technical guidance relating to Monitoring and Evaluation including DCLG, BIS and DfT thematic guidance on programme/project monitoring.

- 7.2. A separate Evaluation Plan accompanies this Assurance Framework as part of the suite of LEP Governance documents.

Annex A: LEP Board Constitution (agreed 2012 to be reviewed 2015)

CONSTITUTION

1. Name and Status

- 1.1 This is the constitution of the Local Enterprise Partnership known as the York, North Yorkshire & East Riding Enterprise Partnership, a voluntary unincorporated association.

2. Definitions

Accountable Body	means North Yorkshire County Council
Area	means the Local Authority areas of York City, North Yorkshire and the East Riding of Yorkshire
Assistant Director	means the Assistant Director – Economic and Partnership Unit of the Accountable Body, who shall also (by reason of his or her appointment as the Assistant Director) be the Chief Operating Officer of the YNYEREP
Board	means the Board of the York North Yorkshire and East Riding Enterprise Partnership
Board Member	means any member of the Board
Chair	means the Chairman for the time being of the Board who shall be a Private Sector Member
Local Authority Member	means a member of the Board appointed by a Local Authority in the Area
Local Authority	means a county, district or unitary authority in the Area
Majority Vote	means a simple majority of those voting subject to the condition that a majority of those voting are Private Sector Members
Private Sector Member	means a member of the Board who is not a Local Authority representative
Section 151 Officer	means the Chief Finance Officer of the Accountable Body
Sub-Committee	means a sub-group appointed by Majority Vote of the Board consisting of any number of Board Members.
Task & Finish Group	means an ad hoc group appointed by Majority Vote of the Board consisting of at least one Board Member and such other persons as the Board may determine
Transparency Code	means The Code of Recommended Practice for Local Authorities on Data Transparency issued by the Department for Communities and Local Government in September 2011 (or as it may be amended or replaced)
Vice-Chair	means the Vice-Chairman for the time being of the Board who shall be a Private Sector Member
YNYEREP	means the York North Yorkshire and East Riding Local Enterprise Partnership

3. Mission and Role of the YNYEREP

- 3.1 The mission of the YNYEREP is to help the businesses in the Area to grow.
- 3.2 To achieve this ambition the YNYEREP will deliver a series of actions against its strategic economic priorities, namely:
- York as an economic driver
 - Grow a sustainable rural economy
 - Coastal regeneration

- Strengthen links between rural economies and neighbouring Urban centres

3.3 The key roles of the YNYEREP will be:

- For members of local authorities and private enterprise to inspire and facilitate business growth
- To lobby Government on issues of economic importance
- To provide local economic leadership and accountability
- To demonstrate added value and efficiency

3.4 The YNYEREP will have a decision making role, which is likely to evolve over time according to the development of the role of the Board.

4. Membership of the Board and Related Matters

4.1 Membership of the Board will comprise:

- A minimum of nine Private Sector Members; and
- Six Local Authority Members.

4.2 The Local Authority Members will be the respective Leaders of the following Councils:

- North Yorkshire
- York
- East Riding
- Scarborough
- A representative for Ryedale, Hambleton & Richmondshire)
- A representative for Craven, Harrogate & Selby

4.3 Private Sector Members shall be appointed having regard to the geography of the Area, key business sectors and different sizes of business operation.

4.4 Private Sector Members shall each (excepting the Chair) be appointed for a term not exceeding 12 months. They may subsequently be re-appointed.

4.5 Private Sector Members shall each be appointed by the Chair of the Board with the agreement of the Leader of the Accountable Body. Each such appointment shall be reported to, and take effect from the day of, the following Board Meeting.

4.6 The Chair shall be appointed for a term not exceeding three years. S/he may subsequently be re-appointed. When a Board Member ceases to be the Chair, his or her appointment as a Board Member shall lapse.

4.7 The Chair shall be appointed by Majority Vote of the Board.

4.8 The Vice-Chair shall be appointed for a term not exceeding 12 months. S/he may subsequently be re-appointed.

4.9 The Vice-Chair shall be appointed by Majority Vote of the Board.

5. Functions and Remit

5.1 Board Members have responsibility for ensuring that the YNYEREP complies with any statutory or administrative requirements for the use of public funds. Other responsibilities of Board Members include;

- 5.1.1 Establishing the overall strategic direction of the YNYEREP within the policy and resources agreed with Government;
- 5.1.2 Overseeing the delivery of planned results by monitoring performance against agreed strategic objectives and targets;
- 5.1.3 Ensuring the Board operates sound environmental policies and practices;
- 5.1.4 Ensuring that high standards of corporate governance are observed at all times;
- 5.1.5 Ensuring that, in reaching decisions, the Board has taken into account any guidance issued by Government;
- 5.1.6 Ensuring that the Board operates within the limits of its authority and in accordance with any conditions relating to the use of public funds.
- 5.1.7 Appointing Task & Finish Groups as required, determining clear terms of reference
- 5.1.8 Approval of Annual Business Plan.

6. Meetings

Chair

- 6.1 The Chair shall preside at Meetings of the Board. If the Chair is absent, the Vice-Chair shall preside. If both are absent, the Board Members present shall as the first item of business choose one of their number to preside.

Quorum

- 6.2 The quorum for Board Meetings shall be seven or more Board Members.

Decisions

- 6.3 Decisions shall be taken on the basis of consensus where possible and otherwise by Majority Vote taken by a show of hands. In the event of a tied vote the presiding Board Member shall exercise a casting vote. No decisions shall be taken by the Board except at a duly-constituted Meeting.

Substitutes and Observers

- 6.4 Board Members shall not appoint substitutes in their absence from Meetings. Observers may attend only with the Chair's prior approval.

Other matters

- 6.5 This Constitution includes a Code of Best Practice at **Appendix 1** to which Board Members shall adhere so to ensure the highest standards of propriety in decision-making.

- 6.6 Ancillary arrangements relating to the convening and conduct of Board Meetings are set out in **Appendix 2** to this Constitution.

Appointment and Conduct of Sub-Committees

- 6.7 Any matters for decision of the Board (including the appointments of the Chair and Vice-Chair) may be delegated for decision to a Sub-Committee by a Majority Vote of the Board.

- 6.8 The proceedings of Sub-Committees shall be those as for Meetings of the Board as set out in this Constitution (save that a Majority Vote of a Sub-Committee may be achieved without compliance with the condition relating to a voting majority of Private Sector Members but may be achieved by a simple majority of those voting).

7. Openness of Information

- 7.1 Agendas, reports and other documents related to Meetings of the Board will be available to the public (on the website of the YNYEREP) unless indicated as not being for publication.

- 7.2 The YNYEREP shall comply with the Transparency Code.

8. Financial Management

- 8.1 The management of any financial affairs of the Board shall be conducted in accordance with the Financial, Contract and Property Procedure Rules and with the Grant Application and Acceptance Procedures of the Accountable Body.

- 8.2 The Board shall not enter into contracts.

9. Financial Responsibilities

- 9.1 Delegated authority for incurring any expenditure that may be incurred by the Board is as follows:

- 9.1.1 The Assistant Director has authority for all expenditure and income associated with the day to day running of the YNYEREP including the provision of operational management and support that is funded either from the Accountable Body, partner contributions or external eligible grant. Expenditure and income under this category falls under the authority of the Accountable Body.

- 9.2 The Board may recommend allocations of eligible grant or loans to third parties as part of meeting the objectives of the YNYEREP. Selection criteria will be adopted by the Accountable Body following a recommendation by the Board. Decisions to award grants or loans relating to the YNYEREP objectives shall be taken by the Accountable Body upon receiving any recommendation by the Board. The terms and conditions upon which such grants or loans are to be made by the Accountable Body will require the prior approval of the Section 151 (finance) Officer and the Accountable Body's Monitoring (Legal) Officer.

10. Business Plan and Reporting

- 10.1 An annual business plan will be produced by the Assistant Director, in conjunction with the Chair, to be presented to the Board for agreement by March each year. This will set out the following:

- Vision, objectives, activities, measurable outcomes
- Annual budget including authorised officers and members ability to incur expenditure associated with agreed activities.

- 10.2 The Board will receive a performance and finance monitoring report at each of its core meetings (Quarterly) throughout the course of each year. These reports will present progress against objectives, the current and forecast financial position and information on decisions taken by the Assistant Director and by the Board as set out in this Constitution and on decisions by the Accountable Body as they relate to the objectives of the YNYEREP.

- 10.3 Additional reports will be presented to the Board as required in relation to recommendations to be made to the Accountable Body for the allocation of grant funds. Process and decision making for these activities are subject to specifically agreed selection processes tailored to the particular funds and activities in question.

APPENDIX 1 - CODE OF BEST PRACTICE FOR BOARD MEMBERS

Introduction

1. This document sets out a Code of Best Practice for Board Members of the YNYEREP. It is written in the context of the current legal position of the YNYEREP and is in keeping with the current level of resource management and funding decisions likely to be required of the Board. Should the legal status or funding arrangements change significantly it will be necessary to amend this code accordingly.
2. The current legal position of the YNYEREP is that it is a voluntary association with no statutory power or responsibilities. Public funds are however being placed at the disposal of the YNYEREP, at the direction of the Accountable Body.
3. The processes and procedures by which the YNYEREP conducts its business, therefore, need to be sound in order to safeguard both the public interest and the individual reputations of Board members.

Public Service Values

4. The Board of the YNYEREP will at all times:
 - a. Observe the highest standards of propriety, impartiality, integrity and objectivity in relation to stewardship of any public funds and management of YNYEREP affairs;
 - b. In accordance with Government policy on openness, comply fully with the principles of the Citizen's Charter and the Code of Practice on Access to Government Information;
 - c. Be accountable to Government and users of services for the YNYEREP's activities, its stewardship of public funds and the extent to which key performance targets and objectives have been met; and
 - d. Maximise value for money through ensuring that services are delivered in the most efficient and economical way and within available resources.

Role of the Chair

5. Communications between the Board and Government will normally be through the Chair except where the Board has agreed that an individual Board Member should act on their behalf. Nevertheless, an individual Board Member has the right of access to Ministers on any matter that they believe raises important issues relating to their duties as a Member of the Board. In such cases the agreement of the rest of the Board would normally be sought.
6. The main point of contact between the YNYEREP and Government departments (BIS, DCLG & DTI) on day to day matters will normally be the Assistant Director or another member of staff employed by the Accountable Body.
7. The Chair will ensure that all Board members, when taking up their seat, are fully briefed on the terms of their appointment, and on their duties, rights and responsibilities. They will be given a copy of a YNYEREP Induction Pack containing the necessary information.
8. The Chair has particular responsibility for providing effective strategic leadership on matters such as:
 - a. formulating the Board's strategy for achieving its key objectives;
 - b. representing the views of the Board to the general public;
 - c. ensuring the Board, in reaching decisions, takes proper account of Government guidance
 - d. encouraging high standards of propriety, promoting efficient and effective use of staff and other resources throughout the organisation; and
 - e. providing an assessment of performance of individual Board members, on an annual basis, when they are being considered for re-appointment to the Board.
9. The Chair will ensure the Board meets at regular intervals throughout the year and that minutes of meetings accurately record decisions taken and, where appropriate, the views of individual Board Members.

Responsibilities of Individual Board Members

10. Individual Board members have wider responsibilities as Members of the Board. These include the duty to comply at all times with this Code of Best Practice and with rules relating to the use of public funds; and to act in good faith and in the best interests of the LEP.
11. Board Members will adhere to the Seven Principles of Public Life (Nolan Principles): Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership.
12. The Board adopts for its own purposes the Members' Code of Conduct for the time being of the Accountable Body to which all Members shall adhere. The Register of Interests shall be maintained by the Assistant Director.
13. Board Members will not use information gained in the course of their public service for personal gain or for political purposes; nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations.
14. Board Members will not make public information which is confidential except as they are legally permitted to do so

APPENDIX 2 – MANAGEMENT OF BOARD MEETINGS

1. Time and Place

Meetings of the Board shall be held at such time and place as the Board may from time to time determine, provided that the Chair may call a meeting of the Board at any time. The proposed frequency of Board meetings is 6 weekly.

Video-conferencing facilities may be used to facilitate attendance at Board Meetings with the consent of the Chair.

2. Notice of Meetings

Notice in writing of each meeting of the Board, specifying the date, time and place, shall be sent to every Member of the Board at least five working days before a meeting, except where the Chair agrees that, on the grounds of urgency or expediency, a meeting should be convened on shorter notice. Board meeting papers shall be sent out on the same timescale.

3. Agenda

Any Board Member may require an item of business to be placed on the agenda of a Board Meeting subject to giving the Chair and the Assistant Director not less than 14 days' notice prior to the following Board Meeting.

4. Minutes

All meetings shall be minuted and a copy kept on file. A copy shall also be sent to Board Members where practicable prior to the next meeting and, if approved or amended as true and accurate record, shall be signed by the person presiding. If amendments are agreed, the revised minutes shall be sent to each Board Member.

5. Communication

In order to facilitate communication between Board Members and between meetings it is proposed that personal contact details are issued to all Board Members.

6. Task and Finish Groups

The Board may establish Task & Finish Groups to take forward specific objective(s) and to draw up a detailed action plan. The Chair of each group will not necessarily be a member of the Board although at least one Private Sector Member will be expected to participate in each Task & Finish Group. Unless otherwise specified, these groups will make recommendations to the Board: they cannot make decisions on behalf of the Board.

ANNEX B: Initial Growth Deal Assessment, Scoring and Prioritisation

Please note that this sets out how the initial Growth Deal Expressions of Interest were assessed scored and prioritised. This basis of this process will be repeated for any future Growth Deal submissions and other Government funding routed through the LEP although adjustments maybe required depending of the type of and nature of funding e.g. weighting given to specific priorities, also the out sourced assessments will be re-procured.

1. Project Assessments.

A series of appraisals (set out in the table below) were carried out for each project. The LEP secretariat assessed these appraisals and provided an initial score out of 10 for each of the following categories:-

- Deliverability
- Economic Impact
- Value for Money
- Strategic Importance

(i) Deliverability

All proposals assessed on deliverability by the LEP Secretariat with assistance from local partners. This was carried out prior to the submission at the end of March with proposals being moved to future years if deliverability was unlikely in 2015/16.

Each project is assessed out of 10 (from unlikely to very likely) against the criteria of:

- Start on site 2015 / 2016
- Stated compliance with State Aid legislation
- Planning permission status
- Identification and confirmation of match funding
- Identification of credible sponsor
- Implementation timetable
- Identification of appropriate risks.

(ii) Economic Impact

The varying nature of the investments required a slightly different economic impact assessment to be undertaken for the different strands of the Strategic Economic Plan.

- The business growth projects have been assessed internally by the LEP secretariat,
- The infrastructure (site specific) projects have been assessed externally by Focus Consultancy,
- The Skills Capital projects were scored by the Skills Capital Panel as part of the Skills and Employability Board; and the
- Strategic transport proposals assessed externally by Jacobs.

To provide a comparison, each project has been assessed out of 10 (from very low impact to very high impact) against the level of its contribution to the following overall SEP outcomes:-

- 20,000 Jobs
- £3 billion growth
- Doubling of housing building
- Students connected to business

(iii) Value for Money

Benefit Cost Ratio (BCR) – is the standard calculation to assess value for money. This compares the level of investment against the benefits accrued through the project.

Following the submission in March, Focus Consultants have provided a BCR for non strategic transport projects and Jacobs Consulting for strategic transport projects.

These BCR appraisals, complemented the original value for money assessments which considered the different strands of activity prior to submission of the bid. These were;

- Business Growth Plan projects were assessed by the LEP secretariat using £ per output values,
- Infrastructure (site specific) projects were assessed by Focus using a similar technique to the business growth projects,
- Skills Capital projects have been scored by the Skills Capital Panel; and
- Strategic transport projects have been given a Benefit Cost Ratio as part of the Jacobs external appraisal.

All these appraisal and calculations have been assessed by the LEP secretariat to provide a rating for the value for money out of 10 (from very low to very high) see table below.

(iv) Strategic Importance

All projects have been appraised against their strategic fit to the Strategic Economic Plan. Any proposal scoring low within this criteria were withdrawn prior to the 31st March submission.

Although it is clear that all projects included within the Plan do meet the strategic fit of the SEP, the LEP secretariat have provided a rating out of 10 on the degree to which it contributes to the five Strategy priorities.

2. Project Scoring Methodology

The table below summarises the scoring methodology for Deliverability, Economic Impact, Value for Money and Strategic Importance.

Table 1: Summary of scoring methodology

Deliverability		
LEP assessment	1 to 3	major outstanding issues
	4 to 6	more outstanding issues
	6 to 7	some outstanding issues
	8 to 9	little risk
	10	no risk to delivery
Economic Impact		
contribution to the 4 SEP outcomes of growth/jobs/homes/skills	1 to 3	no significant contribution
	4 to 6	low impact
	6 to 7	some contribution
	8 to 9	high level of contribution
	10	very significant contribution
Value for Money		
BCRs (Undertaken by Focus) All non strategic transport projects	1	less than 10
	2	10-19
	3	20 - 29
	4	30 - 39
	5	40 - 49
	6	50 - 59
	7	60 - 69
	8	70 - 79
	9	80 - 89
	10	90+
BCRs (Undertaken by Jacobs) All strategic transport projects	1 to 3	Negative
	4 to 6	Low
	6 to 7	Medium
	8 to 9	High
	10	Very high
Strategic Importance		
Fit and importance in delivering SEP priorities	1 to 3	small contribution to 1 priority
	4 to 6	large contribution to 1 priority
	6 to 7	Contribution to 2 priorities
	8 to 9	Contribution to 3 priorities
	10	Contribution to 4 or 5 priorities

3. Prioritisation

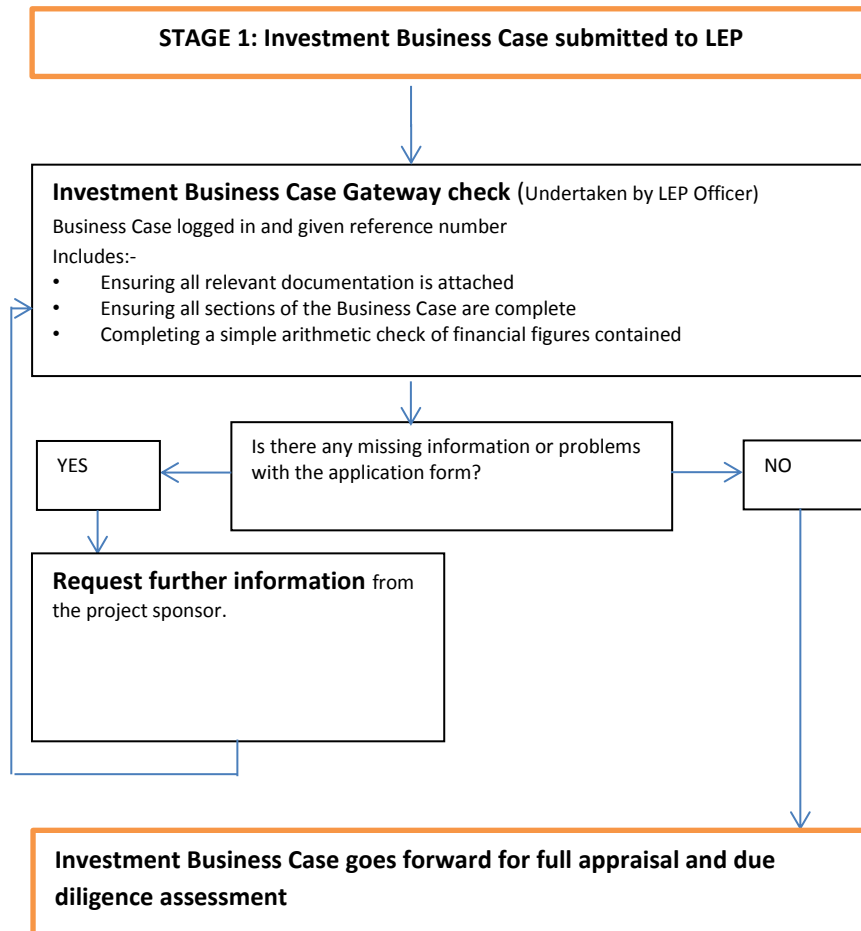
The scores provided for each project enabled a prioritisation and ranking of all the Growth Deal proposals.

This scored list of ranked projects was then considered by the Programme Boards and ratified by a Prioritisation Panel. The Prioritisation Panel was set up specifically for Round 1 of the Growth Deal and was made up of representatives of the LEP Board, each Programme Board, the Local Transport Board and the Local Housing Board.

Annex c: Process flowchart

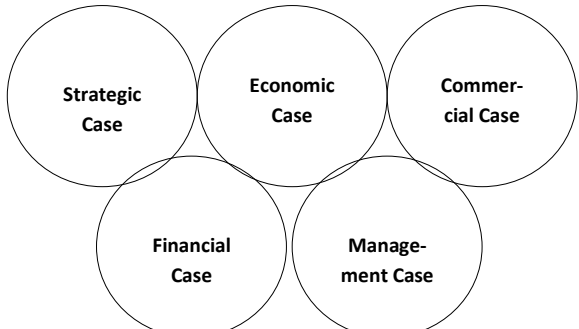
York, North Yorkshire & East Riding Local Enterprise Partnership

LOCAL GROWTH FUND

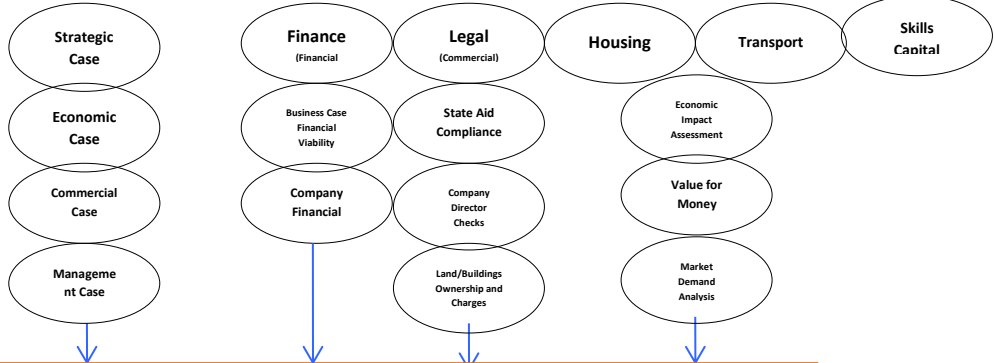


STAGE 2: Full Investment Business Case Appraisal

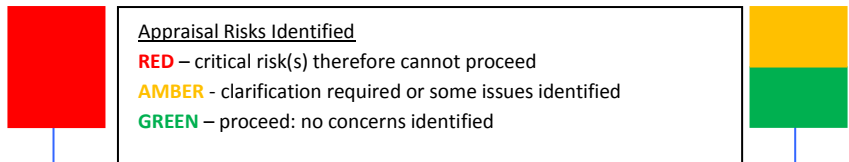
Business Case Appraisal In Line With HMT Green Book Principles



LEP Appraisal and Due Diligence Assessment NYCC Appraisal and Due Diligence Assessment External Consultants (Appointed if required)



Appraisal Panel Meeting (LEP/NYCC/External) to discuss the overall Business Case and issues/risks identified



Notify project sponsor in writing and report to relevant Programme Board and LEP

Continue with appraisal process

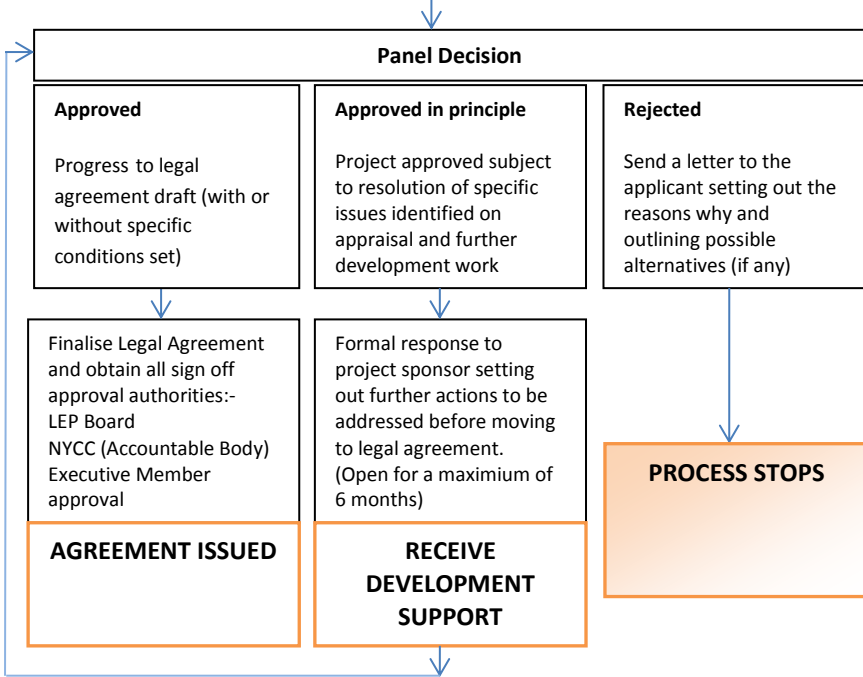
PROCESS STOPS

Assessment report and scores completed with overall Programme Board Approval (with/without conditions)

STAGE 3: Programme Board Decision

Board Meeting

- Project overview presented by Project Sponsor
- Delivery and appraisal assessment of project presented by LEP project manager



STAGE 4: Project Monitoring

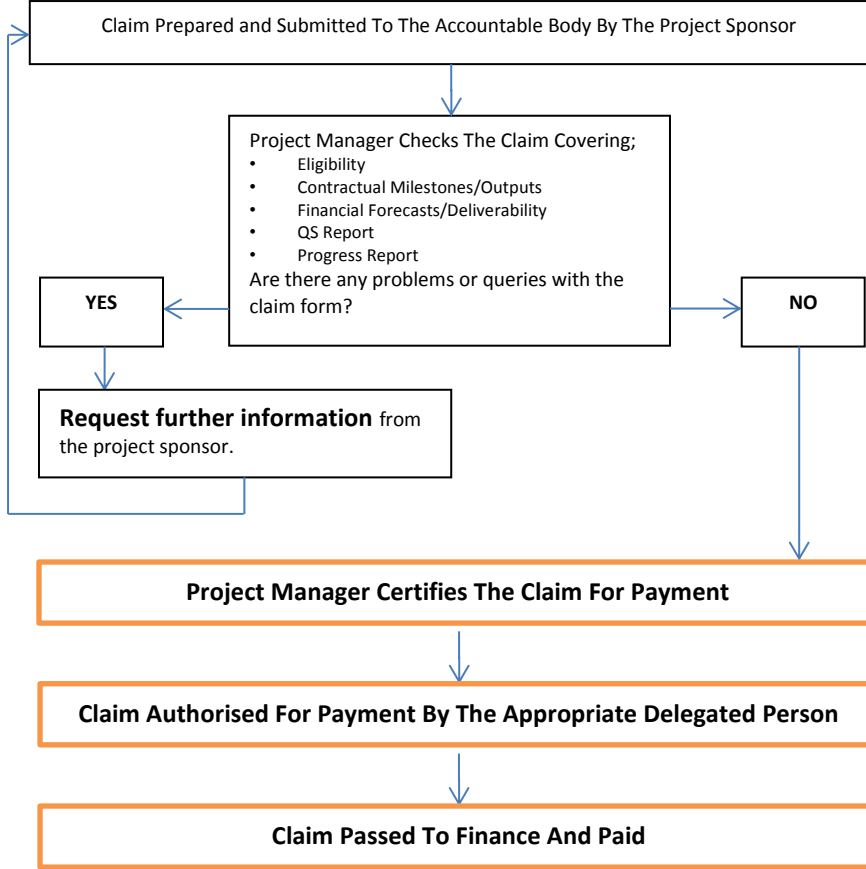
Quarterly Meeting With The Project Sponsor

Project Manager Discusses Progress In Line With Contractual Obligations:

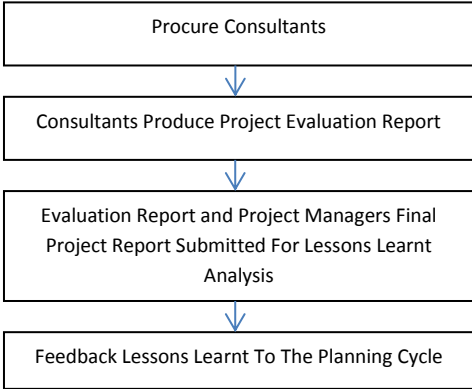
- Deliverability (Timeframes)
- Milestones/Outputs
- Finances

Update Project Risk Register

STAGE 5: Claim Payments



STAGE 6: Project Evaluation



Annex D: Full Business Case Proforma

See [attached file](#)

And proforma [templates](#)

Annex E: Appraisal Report Form

Local Growth Fund Project Appraisal Report



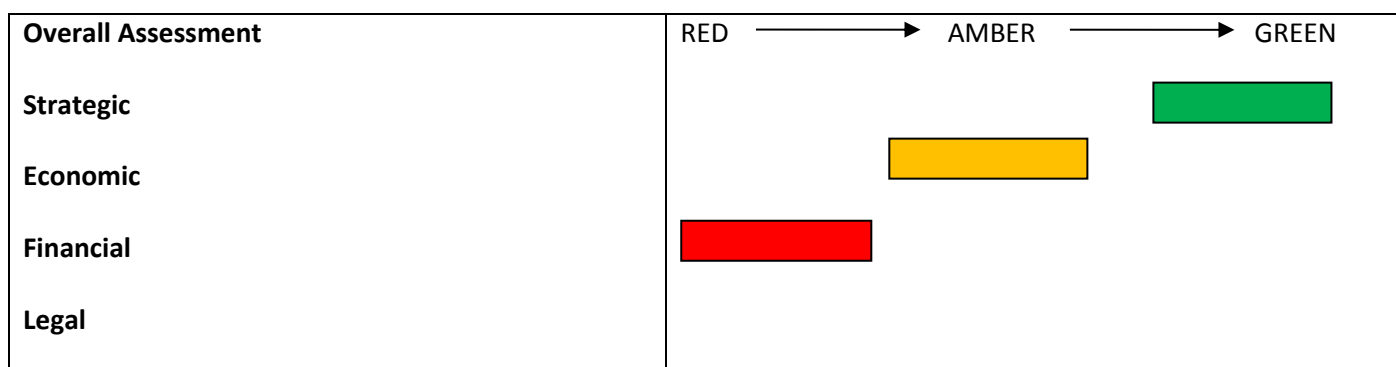
Date:

Project Name: Project Reference Number: Project Sponsor: Project Location:	Overall Recommendation: <div style="background-color: red; color: white; padding: 5px; text-align: center;">Reject/Defer</div>
---	--

Project Summary/Description:

Investment Sought:	Total Project Funding:	Leverage Ratio:
Repayment Terms (if loan): Annuity or Maturity? Payment profile :		

List Outputs:-	Comments:
-----------------------	------------------



Management	
Overall Risk Assessment	

Recommended Pre Conditions:

- [To note, if any]

Strategic Fit (Assessment of the extent to which it will support the delivery of LEP objectives)

Overall Assessment

Strengths:	•
Weaknesses:	•
Issues:	•

Economic Impact and Value for Money

Overall Assessment

Strengths:	•
Weaknesses:	•
Issues:	•

Financial Viability

Overall Assessment

Strengths:	•
Weaknesses:	•
Issues:	•
Applicants' Financial Standing	•

Legal and State Aid Compliance

Overall Assessment 

Strengths:	•
Weaknesses:	•
Issues:	•

Organisational Delivery Capacity

Overall Assessment 

Strengths:	•
Weaknesses:	•
Issues:	•

Project Risk

Overall Assessment 

Strengths:	•
Weaknesses:	•
Issues:	•

Appraisal Completed By: [Sign/Print Name]

Date:

Annex F: Draft funding agreement

DATED

[2015]

- (1) NORTH YORKSHIRE COUNTY COUNCIL

- (2) [INSERT NAME OF GRANT RECIPIENT]

FUNDING AGREEMENT - GRANT

[INSERT PROJECT TITLE]

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SCHEDULE 1 PROJECT SPECIFIC CONDITIONS

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SCHEDULE 3 PROJECT OUTPUTS

SCHEDULE 4 THE APPLICATION

SCHEDULE 5 THE PLAN

SCHEDULE 6 PROJECT PROGRAMME

ANNEX 1 STATE AID ASSESSMENT

THIS AGREEMENT IS MADE

[2015]

BETWEEN

NORTH YORKSHIRE COUNTY COUNCIL of County Hall, Northallerton, North Yorkshire DL7 8AD (the "**Council**");
and
[**INSERT NAME OF GRANT RECIPIENT**] of [**INSERT REGISTERED ADDRESS OF GRANT RECIPIENT**] with
registered company number [**INSERT REGISTERED COMPANY NUMBER OF GRANT RECIPIENT**] (the "**Grant
Recipient**").

BACKGROUND

The Council is the accountable authority for the York, North Yorkshire and East Riding Local Enterprise Partnership (the "**LEP**") which promotes business and employment growth in the region.

The LEP manages the growth deal fund for the region which brings together public and private funding for the priority areas identified in the LEP's strategic economic plan (the "**Local Growth Fund**").

The Council as the accountable authority for the Local Growth Fund has offered a grant from the Local Growth Fund to the Grant Recipient (as applicant of the Application (as defined below)) for [**INSERT OVERVIEW OF PROJECT**] and the Grant Recipient has agreed to accept the grant on the terms and conditions of this Agreement.

IT IS AGREED THAT:

DEFINITIONS

[**DRAFTING NOTE: INSERT ALL PROJECT SPECIFIC DEFINITIONS**]

In this Agreement the following words and phrases shall have the following meanings:

"Agreed Milestone Completion Date"	means the date specified as such in the Project Specific Conditions and being the date by which the Milestones shall be achieved;
"Agreed Project Completion Date"	means the date specified as such in the Project Specific Conditions and being the date that all of the Project Activities shall be finished and complete;
"Agreement"	means this Agreement including its Schedules and Annexes;
"Application"	means the application for grant funding from the Local Growth Fund (and any annexes thereto) for the Project that was submitted by the Grant Recipient to the LEP and is provided at Schedule 4 (The Application);
"Change"	means in relation to the Project as defined in the Application any of the following changes (in accordance with Clause 0 (Changes to the Project)): a change in the Ownership, Control and Nature of Business of the Grant Recipient; a change in the nature or purpose of the Project; any change to the Eligible Expenditure; any change to the Expenditure Profile; any change to any of the Key Milestone Dates; any change to any of the Project Outputs; and any material change to the Project Programme (that is, more

	than merely trivial and inconsequential in its consequences);
"Code"	has the meaning give to it in Clause 2.40 (Freedom of Information) of this Agreement;
"Committed"	means in relation to any Match Funding, either: <ul style="list-style-type: none"> (a) funding (which shall constitute all or any part of the Match Funding requirement contained in this Agreement) which has been committed to the Grant Recipient in writing pursuant to which a third party makes available an amount to the Grant Recipient and which shall not be subject to any conditions precedent or conditions subsequent which are (in the opinion of the Council acting reasonably) unacceptable; or funding which shall constitute all or any part of the Match Funding requirement contained in this Agreement which shall be provided from the Grant Recipient's own resources the availability of which shall be evidenced to the Council;
"Completion"	means completion of the Project Activities to the satisfaction of the Council;
"Confidential Information"	means all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the owner of the Confidential Information, including all intellectual property rights, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked " confidential ") or which ought reasonably be considered to be confidential;
"Consents"	means any approval, authorisation, consent, exemption, licence, permit, permission or registration by of or from any governmental or other authority or any person including but not limited to consents required from the Grant Recipient's landlord (if any), any adjoining owner or any mortgagee of the Site or from the local planning authority in relation to the Project or any part thereof or otherwise required to enable the same to be lawfully carried out and maintained;
"Council's Claim Officer"	means the person named in Clause 0 (Grant Claim Procedure) or such other alternative officer notified by the Council to the Grant Recipient from time to time;
"Council's Representative"	means the representative appointed by the Council for the purposes of this Agreement and whose details are provided at paragraph 2 of the Project Specific Conditions;
"Data Protection Legislation"	means the Data Protection Act 1998 (as amended), the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the

	Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner and as any may be amended from time to time;
"Eligible Expenditure"	means expenditure in relation to the Project that complies in all respects with the State Aid Rules and as set out in Schedule 2 (Project Eligible Expenditure and Expenditure Profile);
"Environmental Information Regulations"	means the Environmental Information Regulations 2004 (SI No 2004/3391) together with any guidance and/or codes of practice issued by the "Information Commissioner" (as referred to therein) or relevant government department in relation to these regulations;
"EU Procurement Requirements"	includes, but is not limited to: <ul style="list-style-type: none"> (a) Directives 2004/18/EC, 2004/17/EC and 2007/66/EC as implemented by the Public Contracts Regulations 2006 (SI No 5/2006) (as amended) and the Utilities Contracts Regulations 2006 (SI No 6/2006) (as amended); Directives 2014/23/EU, 2014/24/EU and 2014/25/EU and any subsequent domestic regulations giving effect to Directives 2014/23/EU, 2014/24/EU and 2014/25/EU; and the EU Commission Interpretative Communication (2006/C 179/02) and the principles of transparency, non-discrimination, equality of treatment, proportionality and mutual recognition in the TFEU, and as any may be amended from time to time;
"European Commission"	means the Commission of the European Communities;
"Event of Default"	means the occurrence of any of the following: <ul style="list-style-type: none"> (a) the Grant Recipient fails to comply with the terms and conditions of this Agreement; (b) the Project Activities are not commenced by the date which falls three (3) months after the date of this Agreement; (c) the Eligible Expenditure is not claimed in line with the Expenditure Profile; (d) Completion of the Project Activities has not been achieved by the Agreed Project Completion Date; (e) a Change is made to the Project without the prior written approval of the Council, as required by Clause 0 (Changes to the Project); (f) the European Commission or a European Court requires any Grant paid to the Grant Recipient to be recovered by reason of a breach of the State Aid Rules;

- (g) the Grant Recipient fails to comply with the provisions of all State Aid Rules that apply to the Project and the Grant;
- (h) any report or certificate made by the Grant Recipient's auditor or reporting accountant is unsatisfactory (where, for example, the report or certificate refers to a fundamental uncertainty or disagreement, or contains a material qualification, or states that the auditor or accountant is unable to form an opinion about any item, or reports that any amount is not correctly stated in the accounts or records examined);
- (i) the Grant Recipient owes any sum to the Council under an agreement for the financial support of any other project or activities;
- (j) an encumbrancer takes possession or a receiver or administrative receiver or manager or sequestrator is appointed of the whole or any part of the undertaking assets rights or revenues of the Grant Recipient or a distress or other process is levied or enforced upon any of the assets rights or revenues of the Grant Recipient and any such action is not lifted or discharged within ten (10) Working Days;
- (k) a petition is presented (other than a petition which, in the opinion of the Council, is frivolous or vexatious and which is withdrawn or stayed within ten (10) Working Days) to, or any order is made by, any competent court for the appointment of an administrator in relation to the Grant Recipient;
- (l) the Grant Recipient is, or is adjudicated or found 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 Grant Recipient under any law regulation or procedure relating to reconstruction or adjustment of debts; or
- (m) any petition is presented by any person (other than a petition which, in the opinion of the Council, is frivolous or vexatious and which is withdrawn or stayed within ten (10) Working Days) or any order is made by any competent court or any resolution is passed by the Grant Recipient for its winding-up or dissolution or for the appointment of a liquidator of the Grant Recipient;

"Expenditure Profile"

means the information provided by the Grant Recipient detailing the spend forecast for the carrying out of the Project Activities and defrayal of expenditure and which is provided at Schedule

"FOIA"	2 (Project Eligible Expenditure and Expenditure Profile); means the Freedom of Information Act 2000;
"Grant"	means the grant payable in relation to the Project pursuant to this Agreement and as set out in Clause 1.7 (Amount of Grant payable) the Project Specific Conditions;
"Grant Claim"	means a claim for the Grant (in part or in full) under the terms of this Agreement;
"Grant Recipient Personnel"	means all employees, agents, consultants and contractors of the Grant Recipient and/or of any sub-contractor;
"Grant Recipient's Representative"	means the representative appointed by the Grant Recipient for the purposes of this Agreement and whose details are provided at paragraph 2 of the Project Specific Conditions;
"Information"	has the meaning given in the FOIA;
"Information Commissioner"	has the meaning given in the FOIA;
"Instalment Period"	has the meaning given in the Project Specific Conditions;
"Key Milestone Dates"	means the dates for the Milestones to achieve the Project which are contained in the Project Specific Conditions;
"Law"	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body;
"LEP"	means the York, North Yorkshire and East Riding Local Enterprise Partnership;
"Local Growth Fund"	has the meaning given to it in recital B of this Agreement;
"Losses"	means all damages, losses, liabilities, costs, expenses (including legal and other professional charges and expenses which have been incurred) and charges whether arising under statute, contract or at common law, or in connection with judgments, proceedings, internal costs or demands;
"Match Funding"	means the private and/or public sector contribution to the Project to meet the balance of Eligible Expenditure not supported by the Grant and as set out in the Project Specific Conditions;
"Material Breach"	means a breach of this Agreement (including an anticipatory breach) which is not minimal or trivial in its consequences including but not limited to the occurrence of any of the following: <ul style="list-style-type: none"> (a) any information given or representation made by the Grant Recipient in the Application or in any correspondence, report or other document submitted to the Council and/or the LEP relating to the Project or under this Agreement is found to be incorrect or incomplete to an extent which the Council considers to be material; any fraud has been committed by the Grant Recipient and/or its employees in connection with the Project; a breach of the warranties by the Grant Recipient contained in and given pursuant to this Agreement;

	the Grant Recipient fails to materially comply with the terms and conditions of this Agreement; or
	the activities carried out by the Grant Recipient are distinct or different from the description set out in the Application having regard also to the intended function of the Project Activities and the end beneficiaries of the Project;
"Outputs"	means the outputs and results for the Project identified and detailed in Schedule 3 (Project Outputs) to this Agreement;
"Not Eligible"	means expenditure on the Project that is not Eligible Expenditure;
"Ownership, Control and Nature of Business"	shall be construed in accordance with section 840 of the Income and Corporation Taxes Act 1988 and section 1162 of the Companies Act 2006 and for the avoidance of doubt shall include an evaluation of dominant influence and shadow directorships in the Grant Recipient from time to time;
"Parties"	means the Council and the Grant Recipient and "Party" shall be construed accordingly;
"Plan"	means the plan of the Site attached at Schedule 5 (The Plan);
"Project"	means the project at [INSERT OVERVIEW OF PROJECT] as fully described in the Application;
"Project Activities"	means all activities and works to be carried out in implementing the Project;
"Project Programme"	means the programme agreed between the Parties setting out the stages and timescales of the Project Activities to be carried out for the Project and a copy of which is provided at Schedule 6 (Project Programme) to this Agreement;
"Project Specific Conditions"	means those conditions which are specific to the Project and are set out in Schedule 1 (Project Specific Conditions) to this Agreement;
"Public Sector Financial Assistance"	includes all funding received or receivable by the Grant Recipient from public sector bodies including for this purpose funding from the European Commission, government bodies (whether national or local) or bodies in receipt of lottery funds from the National Lottery Distribution Fund pursuant to the National Lotteries Acts 1993 and 1998;
"Request for Information"	means any request for Information or an apparent request under the FOIA or the Environmental Information Regulations (as appropriate);
"Site"	means the land shown for the purpose of identification only edged in red on the Plan including any part thereof and also includes any estate or interest therein;
"Start Date"	means [INSERT DATE] being the date [the Application was submitted by the Grant Recipient] [OR] [of this Agreement];
"State Aid Rules"	means the law embodied in Articles 107 to 109 of Section 2, Title VII, of the Common Rules on Competition, Taxation and Approximation of the TFEU;
"TFEU"	means the Consolidated Versions of the Treaty on European

Union and the Treaty on the Functioning of the European Union (2008/C 115/01);

"VAT"

means any value added tax as provided for in the Value Added Tax Act 1994 or any other tax of similar nature; and

"Working Day"

means any day from Monday to Friday (inclusive) which is not a statutory bank holiday in England.

INTERPRETATION

1.1

In this Agreement:

reference to any statute or legislation shall include any statutory extension or modification, amendment or re-enactment of such statutes and include all instruments, orders, bye-laws and regulations for the time being made, issued or given thereunder or deriving validity therefrom, and all other legislation of the European Union that is directly applicable to the United Kingdom;

reference to any clause, sub-clause, paragraph, sub-paragraph or schedule without further designation shall be construed as a reference to the clause, sub-clause, paragraph, sub-paragraph or schedule to this Agreement so numbered;

reference to "this Agreement" includes any variations made from time to time pursuant to the terms of this Agreement;

reference to "including" shall be construed so as not to limit the generality of any words or expressions in connection with which it is used;

reference to "determined" or "determine" means, unless the contrary is indicated a determination made at the discretion of the person making it;

where the consent approval or agreement of the Council is required pursuant to the terms of this Agreement, it shall not be construed as having been given unless provided in writing;

words importing one gender shall include both genders and the singular shall include the plural and vice versa; and the headings in this Agreement shall not affect its interpretation.

1.2

In the event of a conflict between the following elements comprising this Agreement the priority shall prevail in the following descending order:

the conditions set out in the Project Specific Conditions at Schedule 1 of this Agreement;

the conditions set out in the main body of this Agreement;

the Application.

GRANT

1.3

In consideration of the Parties' respective obligations contained in this Agreement the Council offers the Grant and the Grant Recipient accepts the Grant on the terms and conditions of this Agreement.

1.4

The Grant Recipient acknowledges and agrees that the Grant shall only be paid in respect of Eligible Expenditure and in accordance with the Project Programme. The Grant Recipient shall inform the Council immediately of any difficulty or reason why the Grant may not be applied in accordance with the Project Programme.

1.5 Eligible Expenditure excludes payments made by the Grant Recipient that are Not Eligible.

1.6 Subject to entering into this Agreement, the Grant may be used towards Eligible Expenditure that has been defrayed on or after the Start Date. For the avoidance of doubt the Grant and the provisions of this Agreement shall apply to Eligible Expenditure beginning on the Start Date.

1.7 **Amount of Grant payable**

The total amount of Grant payable shall be **[INSERT VALUE OF GRANT]** and shall be payable in accordance with Clause 1.9 (Conditions precedent to the payment of Grant) and Clause 2 (Grant Claims Procedure) of this Agreement.

1.8 **Match Funding Arrangements**

The payment of the Grant is conditional upon the receipt by the Grant Recipient of the Match Funding or the Match Funding being Committed.

The Grant Recipient shall notify the Council in writing immediately of any failure by the Grant Recipient or a third party (as applicable) to make a contribution due under the Match Funding or any circumstance that affects or might affect the payment or availability of Match Funding.

1.9 **Conditions precedent to the payment of the Grant**

The Council shall not make the first payment of Grant and/or any subsequent payment of Grant unless all of the following preconditions have been complied with:

the relevant Grant Claim is submitted to the Council in accordance with the procedure at Clause 2 (Grant Claim Procedure) of this Agreement;

the expenditure is Eligible Expenditure;

the Grant Recipient has satisfied the Council that the Grant Recipient has sufficient Match Funding Committed at the date of this Agreement to achieve Completion of the Project by the Agreed Project Completion Date;

the Grant Recipient has satisfied the Council that the Grant Recipient has all funding needed to pay for expenditure in relation to the Project which is Not Eligible;

that Eligible Expenditure has been defrayed (that is that Eligible Expenditure has been incurred and that payment has been made by the Grant Recipient) in respect of any Eligible Expenditure to which an Grant Claim relates,

provided always that the payment of a Grant Claim shall not operate as a waiver of any of the obligations in this Clause 1.9 or exclude the right of the Council to exercise any of its rights under this Agreement.

2. **GRANT CLAIMS PROCEDURE**

The Grant Recipient shall make all Grant Claims in arrears, for each Instalment Period. Each Grant Claim is to be submitted within [ten (10) Working Days] of the end of the Instalment Period for which the Grant Claim is made.

The first Grant Claim made at the end of the first Instalment Period shall relate to all Eligible Expenditure incurred and paid by the Grant Recipient from the Start Date.

Each Grant Claim is to be submitted by email to the Council's Claims Officer **[INSERT OFFICER'S NAME]** at **[INSERT OFFICER'S EMAIL ADDRESS]** (or such other alternative officer notified by the Council to the Grant Recipient from time to time). Each Grant Claim shall include accounting documents of verifiable value in such format and detail as may be acceptable to the Council relating to the amount claimed in such Grant Claim.

The Grant Recipient acknowledges that Grant Claims will be processed and paid by the Council following the end of each Instalment Period.

The Council will normally meet a Grant Claim within **[thirty (30) Working Days]** of the relevant Instalment Period, but this is subject to the Grant Recipient satisfactorily meeting any request from the Council for further particulars about the Eligible Expenditure specified in the Grant Claim or any other details provided for in the Grant Claim. The time for payment of the Grant Claim shall not be of the essence. The Council shall have no liability to the Grant Recipient for any Losses caused by a delay in the payment of a Grant Claim howsoever arising save in respect of Losses arising from delays in payments caused by the Council and that are unrelated in their entirety to any of the Grant Recipient's obligations under this Agreement.

The Grant Recipient must notify the Council promptly if at any time it becomes aware that it is unable to make a Grant Claim in accordance with the Expenditure Profile.

A progress report in respect of the Project must be submitted by the Grant Recipient with each Grant Claim, and at such other times as the Council may notify to the Grant Recipient.

By submitting a Grant Claim the Grant Recipient warrants to the Council that there is no Event of Default or Material Breach subsisting by reference to the facts and circumstances existing on the date of each Grant Claim.

ACCEPTANCE OF GRANT TERMS

2.1 The Grant Recipient accepts and agrees to all of the terms of this Agreement having made full and proper enquiry before giving the warranties contained in this Agreement.

2.2 The Grant Recipient acknowledges and agrees that the Grant has been offered to it to carry out:

2.2.1 the Project Activities specified within the Application and in accordance with the timescales set out in the Project Programme; and

2.2.2 achieve the Milestones and Project Outputs within the time limits set out in this Agreement; and

2.3 The Grant Recipient agrees with the Council that:

it shall not carry out any Project Activities upon the Site without having obtained all necessary Consents for such activities and in particular shall not carry out any works constituting development for which planning permission is required under the Town and Country Planning Act 1990 without having obtained detailed planning consent for such works, and shall if requested by the Council produce to it such documents or copy documents as the Council may require to demonstrate satisfaction of its obligations under this Clause 2.3 (Acceptance of Grant Terms); and

it shall at all times throughout the Project comply with all Consents including the relevant planning consent.

GRANT RECIPIENT WARRANTIES

- 2.4 The Grant Recipient warrants to the Council that the information provided by the Grant Recipient in the Application is accurate in all respects in relation to the Project having made proper and full enquiry in relation to the same. The Grant Recipient acknowledges that the Council and the LEP has relied upon and based their decision to offer and pay the Grant to the Grant Recipient on the representations made by the Grant Recipient in the Application and in all documents and information provided by the Grant Recipient in relation to the Project as part of the appraisal process.
- 2.5 The Grant Recipient further warrants, represents and undertakes for the duration of the term of this Agreement that:
- 2.5.1 it has and will continue to hold all necessary (if any) regulatory approvals from the regulatory bodies necessary to perform the Grant Recipient's obligations under this Agreement;
 - 2.5.2 as at the Start Date all statements and representations provided by the Grant Recipient in relation to the Project are to the best of its knowledge information and belief true and accurate and that it will advise the Council and the LEP immediately of any fact matter or circumstance of which it may become aware which would render any such statement and/or representation to be false or misleading;
 - 2.5.3 it shall at all times comply with the Law in carrying out its obligations under this Agreement;
 - 2.5.4 it has the power and authority to execute deliver and perform its obligations under this Agreement and no limit on its powers will be exceeded as a result of the acceptance of the Grant or any of the terms of this Agreement; and
 - 2.5.5 there has been no adverse change in the Grant Recipient's business, assets or financial condition since the submission of the Application to the LEP and that the Application is true in all respects of the Project on the date of this Agreement.

CHANGES TO THE PROJECT

- 2.6 All Changes must be approved by the Council and the LEP prior to the relevant Change being deemed to be effective. The Grant Recipient shall request the Change in writing to the Council's Representative and all requests shall include an explanation of the effect of the Change on:
- the Grant;
 - the Eligible Expenditure;
 - the Expenditure Profile;
 - the Milestones; and
 - the Project Outputs.
- 2.7 The Council and the LEP shall either agree to the Change request or reject the Change request within [thirty (30) days] of the date of the Change request.

2.8 Until such time as a Change is made in accordance with this Clause 0 (Changes to the Project), the Parties shall, unless otherwise agreed in writing, continue to perform this Agreement in compliance with its terms before such Change.

STATE AID

2.9 The Grant Recipient has undertaken its own independent assessment of the compatibility of the Project with the State Aid Rules and confirms to the Council that the Project is structured so it is compliant with the State Aid Rules as further set out at paragraph 4 of Schedule 1 (Project Specific Conditions) and Annex 1 (State Aid Assessment) to this Agreement. The Grant Recipient acknowledges that the Council has taken into account the Grant Recipient's representations on compliance with the State Aid Rules in deciding to offer the Grant to the Grant Recipient for the Project.

2.10 The Grant Recipient warrants that the Grant and any public investment in the Project does not constitute unlawful State aid as defined in the State Aid Rules and, without prejudice to the general nature of this, the Grant Recipient further warrants that:

the Grant Recipient's use of the Grant (including any flow down of the Grant) will at all times be in accordance with the State Aid Rules;

the Grant Recipient will openly procure and/or benchmark (as appropriate) all contractors and operators that will be involved in the delivery of the Project and shall comply with all applicable EU Procurement Requirements at all times in relation to the Project to the extent required by Law;

the Grant Recipient shall procure and maintain the necessary expertise and resources to deliver the Project in accordance with the State Aid Rules for the full term of the Project;

the Grant Recipient shall retain all documentation in relation to the Grant for a minimum of ten (10) years after the final Grant claim is paid. Such documentation may be held in either paper records or electronic form;

in the event that the Grant or part of it is determined by the European Commission to amount to or contain State aid that is incompatible with the common market (a "**negative decision**") and the European Commission further decides that the United Kingdom shall take all necessary measures to recover the Grant (in full or in part) from the Grant Recipient (a "**recovery decision**"), the Grant Recipient shall, to the extent the recovery decision requires repayment of all or part of the Grant received by the Grant Recipient, immediately repay such proportion of the Grant to the Council plus interest in accordance with the recovery decision and without set-off or deduction;

in the event of any proposed variation to this Agreement including its Schedules the Grant Recipient shall submit all information required by the Council for the purposes of ensuring the Grant complies with the State aid rules in force on the date of the proposed variation and the Grant Recipient will repeat and reconfirm the warranties, representations and undertakings set out in this Agreement and any additional confirmation required by the Council in any variation documentation. No variation to this Agreement including its Schedules shall be agreed by the Council if the variation would result in the Grant failing to comply with the State aid Rules.

2.11 The Grant Recipient acknowledges and agrees that it is responsible for ensuring that its use of the Grant and all aspects of the Project are in accordance with the State Aid Rules. The Grant Recipient hereby indemnifies the Council (its employees, agents and representatives) on demand from and against all Losses, whether direct or indirect, in respect of a breach of the State Aid Rules and/or which arise out of or in consequence of a breach of any part of this Agreement.

- 2.12 The Grant Recipient acknowledges that the Council may be obliged to assist government departments and bodies with the provision of information to the European Commission in respect of this Agreement and the Grant. The Grant Recipient shall fully co-operate with the Council in the provision of such information.

BEST VALUE AND PROCUREMENT

- 2.13 The Grant Recipient shall ensure that best value for money is obtained in the procurement of all works, goods and services that form part of the Eligible Expenditure for the Project.
- 2.14 The Grant Recipient shall comply with all applicable EU Procurement Requirements at all times in relation to the Project to the extent required by Law.

REPORTS, MONITORING, RECORDS AND NOTIFICATION

2.15 Submission of reports

The Grant Recipient shall send to the Council at quarterly intervals (or at such other intervals as notified by the Council to the Grant Recipient in writing) a report on progress made towards the achievement of the Milestones, Project Outputs and financial statements for Eligible Expenditure on the Project.

The Grant Recipient shall provide such additional information in such format as the Council may require at any time. This includes information about the progress of the Project Activities, the achievement of the Milestones and Project Outputs and any other information required to enable the Council to meet its reporting obligations and other obligations under the State Aid Rules.

The Grant Recipient warrants the accuracy of the reports and information it gives pursuant to this Clause 0 (Reports, Monitoring, Records and Notification) and further warrants that it has diligently made full and proper enquiry of the subject matter pertaining to the reports and information given.

2.16 Notification by the Grant Recipient

The Grant Recipient shall notify the Council in writing:

as soon as practicable thereafter, firstly in the event of any Change in the information on costs (whether actual or estimated) of carrying out the Project Activities contained in the Application and secondly of any event which materially affects the continued accuracy of such information;

as soon as practicable thereafter, in the event of the receipt of any other Public Sector Financial Assistance, other funding or guarantees by the Grant Recipient in relation to the Project, or an offer of the same, in respect of any aspect of the Project or the Project Activities (or any part of it or them);

as soon as practicable thereafter, of any event which might adversely affect the carrying out and/or Completion of the Project Activities or any part of them;

as soon as practicable thereafter, of any event which might adversely affect the delivery of the Project by the Agreed Project Completion Date; and

immediately on the occurrence of an Event of Default.

2.17 Records

The Grant Recipient shall provide the Council with such information and documentation as the Council may require in connection with the Project from the date of this Agreement to the date on which the Grant Recipient has fulfilled all its obligations under this Agreement.

The Grant Recipient shall keep a record of all Eligible Expenditure, all quotes, tenders and procurement practices, and all financial contributions made towards the Project.

The Grant Recipient shall provide to the Council such information as may be requested by the Council or the LEP as to the benefits derived from the provision of the Grant for the Project.

2.18 Retention of documents

The Grant Recipient shall ensure that all original documents in its possession relating to the Project and its implementation and financing are retained for a minimum period of twelve (12) years from Completion.

The Grant Recipient shall make available all original documents or verified true copies of the original documents relating to the Project and its implementation and financing (including all procurement documentation) if and when required to do so by the Council and the LEP and their respective auditors and any statutory predecessors.

2.19 Conflicts of interest and financial irregularities

The Grant Recipient and all officers, employees and other persons engaged or consulted by the Grant Recipient in connection with the Project shall not be in a position where there is a conflict of interest. The Grant Recipient is required to have formal procedures obliging all such persons to declare any actual or potential personal or financial interest in any matter concerning the Project, and to be excluded from any discussion or decision-making relating to the matter concerned.

If the Grant Recipient has any grounds for suspecting any financial impropriety in the use of any amount paid under this Agreement, it must notify the Council immediately, explain what steps are being taken to investigate the suspicion, and keep the Council informed about the progress of the investigation. For these purposes "financial impropriety" includes fraud or other impropriety; mismanagement; and use of the Grant for improper purposes.

The Council and the LEP shall be entitled to interview employees of the Grant Recipient if fraud or other financial irregularity is suspected by the Council or the LEP on the part of the Grant Recipient, its employees or agents in connection with the Project.

ACCOUNTING RECORDS AND SUPPORTING EVIDENCE

2.20 The Grant Recipient shall maintain full and accurate accounts and documentary evidence for the Project on an open book basis and the Grant Recipient shall permit the Council and the LEP and persons authorised by the Council and the LEP to inspect audit and take copies of all reports books accounting records and vouchers which the Council and the LEP properly considers relevant to the Project.

2.21 The Grant Recipient shall maintain either a separate accounting system or an adequate accounting code for all transactions relating to the Project without prejudice to national accounting rules.

2.22 The Grant Recipient shall provide the Council and the LEP with such other information as the Council and the LEP may require in connection with the Project and the Project Activities.

RIGHTS RESERVED FOR BREACH OF THIS AGREEMENT, TERMINATION AND INDEMNITIES

2.23 Rights reserved for the Council for breach of this Agreement

Where the Council determines that an Event of Default or a Material Breach has or may have occurred, the Council may by written notice to the Grant Recipient take any one or more of the following actions:

suspend the payment of Grant for such period as the Council shall determine; and/or

reduce the value of the Grant in which case the payment of the Grant shall thereafter be made in accordance with the reduction as notified to the Grant Recipient;

cease to make payments of the Grant to the Grant Recipient under this Agreement and (in addition) require the Grant Recipient to repay to the Council the whole or any part of the amount of the Grant previously paid to the Grant Recipient; and/or

terminate this Agreement.

2.24 Opportunity for the Grant Recipient to remedy an Event of Default

If the Council gives written notice to the Grant Recipient pursuant to clause 0 (above) to suspend payment of the Grant such notice shall specify the relevant Event of Default and give the Grant Recipient an opportunity to rectify the relevant Event of Default within such period as the Council shall determine to be reasonable and as shall be set out in such written notice (or such extended period as the Council shall thereafter determine).

The Council shall not by reason of the occurrence of an Event of Default which is, in the opinion of the Council, capable of remedy, exercise its rights under either Clause 0 or Clause 0 (above) unless the Grant Recipient has failed to rectify the default pursuant to Clause 0 within such period referred to in Clause 0 to the satisfaction of the Council.

2.25 Continued rights of actions or remedies of the Council

The exercise by the Council of its rights under Clause 2.23 (Rights reserved for the Council in relation to an Event of Default) (above) 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 the terms of this Agreement.

2.26 Cessation of entitlement to the Grant

If the Council exercises its right under Clause 0 (Rights reserved for the Council in relation to an Event of Default) (above) the Council shall give written notice to the Grant Recipient that the Council is ceasing to make payment of the Grant and from the date of such notice the Council shall cease to be under any obligation to pay any amount of the Grant to the Grant Recipient and shall have no ongoing or continuing obligations in respect of the Project under this Agreement.

2.27 Liability to meet demand for repayment of Grant and Covenant to Pay

Where the Council requires the Grant Recipient to repay any amount of the Grant, the Grant Recipient shall repay the amount concerned within fifteen (15) Working Days of receiving the demand for repayment. The liability to meet such a demand shall be enforceable as a contractual debt.

Where the Council makes a determination to recover any amount of the Grant, it may recover the amount concerned by withholding or deducting the amount from any sum due from the Council to the Grant Recipient under this Agreement or under any other agreement with the Council.

The Council may require interest to be paid on any amount repayable by the Grant Recipient in accordance with the rates published in the Official Journal of the European Union from time to time. The amount of interest payable by the Grant Recipient will be determined by the Council or as directed in any recovery notice.

2.28 Exclusion and Limitation of Liability

Neither Party shall be liable to the other Party (so far as permitted by law) for indirect special or consequential loss or damage of any nature in connection with this Agreement which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.

Each Party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement.

The Council shall under no circumstances whatever be liable to the Grant Recipient whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any Losses arising under or in connection with this Agreement.

Any clause limiting the Grant Recipient's liability does not apply in relation to any recovery order in respect of the Grant for breach of the State Aid Rules.

2.29 Termination of this Agreement

The Parties acknowledge and agree that this Agreement shall terminate in accordance with its terms.

Any termination of this Agreement for any reason shall not affect any accrued rights or liabilities of either Party, nor the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination including without limitation clauses on warranty, indemnity, limitation of liability and confidentiality or any right or entitlement of either Party to claim damages arising from such termination (subject to and in accordance with the provisions of this Agreement).

The Grant Recipient acknowledges and agrees that the Council and the LEP shall have no ongoing or continuing obligations in relation to the Project upon the termination of this Agreement.

2.30 Indemnities

The Grant Recipient shall indemnify and keep indemnified the Council against all liabilities, damages, expenses, Losses and costs incurred or suffered by the Council arising out of or attributable to the acts or omissions of the Grant Recipient or any of its employees, agents or sub-contractors in connection with this Agreement.

CONFIDENTIALITY

2.31 Except to the extent set out in this Clause 0 (Confidentiality) or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:

treat the other Party's Confidential Information as confidential and safeguard it accordingly; and

not disclose the other Party's Confidential Information to any other person without that Party's prior written consent.

2.32 Clause 2.31 (above) shall not apply to the extent that:

such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, "Code of Practice on Access to Government Information" or the Environmental Information Regulations pursuant to Clause 0 (Freedom of Information) of this Agreement;

such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

such information was obtained from a third party without obligation of confidentiality;

such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or

it is independently developed without access to the other Party's Confidential Information.

2.33 The Grant Recipient may only disclose the Council's and/or the LEP's Confidential Information to the Grant Recipient Personnel who are directly involved in the Project and who need to know the information, and shall ensure that such Grant Recipient Personnel are aware of and shall comply with these obligations as to confidentiality.

2.34 The Grant Recipient shall not, and shall procure that the Grant Recipient Personnel do not, use any of the Council's and/or the LEP's Confidential Information received otherwise than for the purposes of this Agreement.

2.35 Nothing in this Agreement shall prevent the Council and/or the LEP from disclosing the Grant Recipient's Confidential Information:

to any consultant, contractor or other person engaged by the Council or the LEP in respect of the Project;

to enable the Council and the LEP to meet their reporting obligations and other obligations under the State Aid Rules for the purpose of any audit pursuant to Clause 0 (Accounting Records and Supporting Evidence) of this Agreement; or

for the purpose of the examination and certification of the Council's accounts.

2.36 The Council shall use all reasonable endeavours to ensure that any person to whom the Grant Recipient's Confidential Information is disclosed pursuant to Clause 2.35 (above) is made aware of the Council's obligations of confidentiality.

FREEDOM OF INFORMATION

2.37 The Grant Recipient acknowledges that the Council is subject to the requirements of the "Code of Practice on Access to Government Information", FOIA and the Environmental Information Regulations and the Grant Recipient agrees to assist and cooperate with the Council to enable it to comply with its Information disclosure obligations.

2.38 Where the Grant Recipient receives a Request for Information in relation to the Council, the Grant Recipient shall and shall procure that any relevant sub-contractors shall:

immediately and in any event within two (2) Working Days of receiving a Request for Information pass the Request for Information to the Council;

provide the Council with a copy of all Information in its possession or power in the form that the Council requires within three (3) Working Days (or such other period as the Council may specify) of the Request for Information; and

provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations (as applicable).

2.39 The Grant Recipient acknowledges and agrees that the Council shall be responsible for determining (notwithstanding any other provision in this Agreement or any other agreement) whether any Information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.

2.40 The Grant Recipient acknowledges and agrees that (notwithstanding the provisions of this Clause 0 (Freedom of Information)) the Council may acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of FOIA (the "Code") be obliged under the FOIA or the Environmental Information Regulations to disclose information concerning the Grant Recipient or the Project Activities:

in certain circumstances without consulting the Grant Recipient; or

following consultation with the Grant Recipient and having taken its views into account,

provided always that where Clause 0 applies the Council shall in accordance with any recommendations of the Code take reasonable steps to give the Grant Recipient advanced notice, or failing that draw the disclosure to the Grant Recipient's attention after any such disclosure.

ASSIGNMENT OR CHARGING OF THIS AGREEMENT

2.41 The Grant Recipient shall not, without the prior written consent of the Council, assign its rights under this Agreement or charge the benefit of this Agreement or novate the rights and liabilities of this Agreement to a third party.

2.42 If the Grant Recipient wishes to assign, charge or novate its rights and liabilities under this Agreement, it shall give as much notice as possible of its proposals to the Council and shall provide a full account of relevant circumstances and such further particulars as the Council shall request concerning the party to which this Agreement is proposed to be assigned, novated or charged.

2.43 The Council shall determine as to whether or not to give consent to an assignment or novation or charging of this Agreement or as to any conditions to be imposed.

2.44 If the Council consents to an assignment, charge or novation, then the Council may notify the Grant Recipient that the documentation giving effect to the assignment, charge or novation is to be approved by the Council and copies of all completed documents shall be supplied to the Council upon completion of the same.

DATA PROTECTION

- 2.45 The Parties shall comply at all times with Data Protection Legislation and shall not perform any of their obligations under this Agreement in such a way as to cause the other Party to breach any of its applicable obligations under Data Protection Legislation.

NOTICES

- 2.46 Any notice demand or communication to be given or served under this Agreement shall be in writing.
- 2.47 Any notice demand or communication to be given or served under this Agreement shall be given or served:
- in the case of notice to be served upon the Council, by personal delivery or by sending it by pre-paid recorded postal delivery to the address specified in this Agreement for the attention of the Council's Representative or to such other address as may from time to time be notified by the Council; and
- in the case of notice to be served upon the Grant Recipient, by personal delivery or by sending it by pre-paid recorded postal delivery to the address specified in this Agreement for the attention of the Grant Recipient's Representative or such other address as may from time to time be notified by the Grant Recipient to the Council.
- 2.48 Any such notice shall (where sent by post) be deemed to have been served and received on the second Working Day following the day of posting and where delivered personally be deemed to have been given when delivery is made.

VALUE ADDED TAX

- 2.49 The payment of the Grant by the Council under this Agreement is believed to be outside the scope of VAT but in the event any VAT shall become chargeable all payments shall be deemed to be inclusive of all VAT and the Council shall not be obliged to pay any additional amount by way of VAT.
- 2.50 All sums or other consideration payable to the Grant Recipient or provided by the Grant Recipient to the Council at any time shall be deemed to be exclusive of all VAT payable and where any such sums become payable or due or other consideration is provided the Grant Recipient shall at the same time or as the case may be on demand by the Council in addition to such sums or other consideration pay to the Council all the VAT so payable upon the receipt of a valid VAT invoice.

GOOD FAITH AND COOPERATION

- 2.51 The Grant Recipient covenants with the Council that:
- it shall at all times act with the utmost good faith towards the Council and the LEP (as applicable) and shall at all times co-operate fully with the Council and the LEP (as applicable) in relation to this Agreement;
- it shall comply with all the Council's and the LEP's (as applicable) reasonable requirements in relation to the Project from time to time; and
- it shall not do anything which would put the Council or the LEP in breach of any of its obligations in relation to the Grant and the Local Growth Fund programme.

PUBLICITY

- 2.52 The Grant Recipient hereby gives consent to the Council and the LEP to publicise in the press or any other medium the Grant and the details of the Project using any information gathered from the Application or the monitoring of the Project Activities.
- 2.53 The Grant Recipient shall obtain the prior written consent of the Council and the LEP to any publicity activity in the press or any other medium in relation to the Grant and the Local Growth Fund.

INSURANCE

- 2.54 The Grant Recipient covenants with the Council that it shall ensure that it maintains at all times adequate insurance cover with an insurer of good repute to cover all claims and liabilities under this Agreement or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with the Project.
- 2.55 The Grant Recipient shall take out and maintain or procure that any works contractor shall take out and maintain a policy of "all risks" insurance to cover the full reinstatement or replacement cost of any works forming part of the Project Activities and shall procure that the Council's interest is noted on any such insurance policy.

VARIATIONS

- 2.56 The Parties may vary this Agreement at any time subject to the written consent of the Parties subject to all variations only taking effect if made by Deed and expressed to be supplementary to this Agreement.
- 2.57 The Council reserves its right to amend this Agreement with prospective effect upon notification to the Grant Recipient if any directions guidance or other communication is given or made to the Council by any government body or agency or equivalent entity requiring such amendment.

CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

With the exception of the rights afforded to the LEP under the terms of this Agreement a person who is not party to this Agreement shall not have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce its terms.

JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of England and each Party submits to the exclusive jurisdiction of the English Courts.

MISCELLANEOUS

- 2.58 Nothing in this Agreement shall constitute a partnership or joint venture between the Parties or constitute the Grant Recipient as the agent of the Council or the LEP for any purpose whatsoever and the Grant Recipient shall ensure that any sub-contractor is made aware of this.
- 2.59 A certificate by the Council as to any sum payable under this Agreement to the Grant Recipient shall be (save in the case of manifest error) conclusive evidence of the matter to which it relates and shall contain reasonable details of the basis of determination.

- 2.60 If at any time any of the provisions of this Agreement become illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality validity nor enforceability of the remaining provisions of this Agreement shall be in any way affected or impaired as a result.

- 2.61 No failure or delay on the part of either Party in exercising any right or power and no course of dealing between the Parties to this Agreement (and the LEP where applicable) shall operate as a waiver nor shall any single or partial exercise of any right power or remedy of that Party prevent any other exercise of it or the exercise of any other right power or remedy of that Party. The rights and remedies available to the Parties under this Agreement are cumulative and are in addition to and not in substitution for any other rights or remedies which the Parties would otherwise have however arising.

- 2.62 Nothing contained in or done under this Agreement and no consents given by the Council and/or the LEP shall prejudice the Council's and/or the LEP's rights powers or duties and/or obligations in the exercise of its functions or under any statutes, bye-laws, instruments orders or regulations.

- 2.63 Nothing in this Agreement nor any other document shall impose any obligation or liability on the Council and/or the LEP with respect to any actions of or obligations or liabilities assumed or incurred by the Grant Recipient or its agents contractors or employees whether under contract statute or otherwise.

- 2.64 Any approval by the Council and/or the LEP or any person on behalf of the Council and/or the LEP pursuant to this Agreement of any matter submitted by the Grant Recipient for approval shall not be deemed to be an acknowledgment by the Council and/or the LEP (as applicable) of the correctness or suitability of the contents of the subject of the approval or consent.

- 2.65 The fact that the Council and/or the LEP or any representatives of the Council and/or the LEP have supplied or received any documents or information or attended any meeting shall not in itself imply approval of any matters raised in any such document, information or meeting or relieve the Grant Recipient of any obligation or liability in respect of the Project Activities or otherwise.

- 2.66 Nothing in this Agreement shall affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication to come into force or continue in force upon termination or expiry of this Agreement.

- 2.67 This Agreement contains all the terms which the Parties have agreed in relation to the subject matter of this Agreement and supersedes any prior written or oral agreements representations or understandings between the Council and/or the LEP and the Grant Recipient.

This Agreement has been entered into as a Deed on the date stated at the beginning of it.

EXECUTED AS A DEED by affixing)
 THE COMMON SEAL of the)
NORTH YORKSHIRE COUNTY COUNCIL)

in the presence of :)

)

Authorised Signatory:

Print Name:

EXECUTED AS A DEED by the)

[INSERT NAME OF GRANT RECIPIENT] by :)

)

[EXECUTION BLOCK TO BE CONFIRMED]

Schedule 1
Project Specific Conditions

[DRAFTING NOTE: All project specific conditions to be inserted into Schedule 1.]

Amount of Grant

The amount of Grant payable under this Agreement shall not exceed the maximum sum of £**[INSERT VALUE]** (**[INSERT VALUE]** pounds and **[INSERT VALUE]** pence).

Council's Representative and Grant Recipient's Representative

The Council and the Grant Recipient have each appointed the following representative to act as the principal contact for this Agreement:

Council's Representative	Grant Recipient's Representative
[INSERT]	[INSERT]
[INSERT]	[INSERT]
[INSERT]	[INSERT]
[INSERT]	[INSERT]

All correspondence including any notices served pursuant to Clause 0 (Notices) of this Agreement should be made to the Council's Representative and the Grant Recipient's Representative (as appropriate).

Instalment Periods

The instalment period for payment of the Grant shall be **[quarterly][monthly]** ending on **[INSERT QUARTERLY/MONTHLY DATES]** (the "Instalment Period"). The first Instalment Period shall end on **[INSERT END DATE OF FIRST INSTALMENT PERIOD]**.

State Aid

The Grant Recipient has undertaken an evaluation of the Project and concluded that the Grant for the Project Activities **[will][will not]** constitute State Aid (within the meaning set out in Article 107(1) of the TFEU and the relevant case law), but is compatible with the State Aid Rules where **[INSERT OVERVIEW OF STATE AID EXEMPTION/DEROGATION BEING RELIED UPON]**. A copy of the Grant Recipient's State aid assessment for the Project is attached at Annex 1 (State Aid Assessment) to this Agreement.

Key Milestone Dates

The Key Milestone Dates for the successful implementation of the Project are as set out in the table below:

Milestone Table

[DRAFTING NOTE: All specific Milestones for the Project to be inserted below. Refer to Schedule 3 for Project Outputs.]

	Milestone	Date
1	Start Date	[INSERT]
3	Agreed Project Completion Date	[INSERT]
4	Agreed Milestone Completion Date	[INSERT]
5	The date of the submission of the first Grant claim	[INSERT]
6	The date of the submission of the final Grant claim	[INSERT]
7	[INSERT]	[INSERT]

Match Funding

Without prejudice to Clause 1.8 (Match Funding Arrangements) of this Agreement, the Grant Recipient agrees that at the date of this Agreement it has approved and available to it Match Funding of £[INSERT VALUE] ([INSERT VALUE] pounds and [INSERT VALUE] pence) for the Project to be allocated as follows:

Funding Contributions	[2015]	[2016]	[2017]	Total
Grant	£ []	£ []	£ []	£ []
Private Sector Match Funding [INSERT DETAIL]	£ []	£ []	£ []	£ []
Public Sector Match Funding [INSERT DETAIL]	£ []	£ []	£ []	£ []
<u>Total</u>	£ []	£ []	£ []	£ []

The Grant Recipient shall provide evidence to the Council and the LEP to confirm the Match Funding is fully Committed prior to submitting the first Grant Claim.

The Grant Recipient acknowledges and accepts that if it fails to provide evidence to the satisfaction of the Council and the LEP in accordance with paragraph 0 of these Project Specific Conditions (above) such failure shall be treated as an Event of Default pursuant to Clause 0 (Rights Reserved for Breach of this Agreement, Termination and Indemnities).

Additional provisions relating to the Grant

Without prejudice to Clause 1.9 (Conditions Precedent to the Payment of Grant) of this Agreement the Council may withhold payment of a Grant Claim if the Grant Recipient fails to comply with the following condition[s] by the specified time:

[INSERT ANY SPECIFIC PRECONDITIONS THAT APPLY TO THE PROJECT].

Schedule 2
Project Eligible Expenditure and Expenditure Profile

[INSERT PROJECT ELIGIBLE EXPENDITURE AND EXPENDITURE PROFILE]

Schedule 3
Project Outputs

[DRAFTING NOTE: Project specific outputs and dates to be inserted into table below.]

	Output	Achievement Date
1	[INSERT]	[INSERT]
2	[INSERT]	[INSERT]
3	[INSERT]	[INSERT]
4	[INSERT]	[INSERT]
5	[INSERT]	[INSERT]
6	[INSERT]	[INSERT]

Schedule 4
The Application

[INSERT GRANT RECIPIENT'S APPLICATION]

Schedule 5
The Plan

[INSERT THE PLAN]

Schedule 6
Project Programme

[INSERT AGREED PROJECT PROGRAMME]

Annex 1
State Aid Assessment

[INSERT GRANT RECIPIENT'S STATE AID ASSESSMENT]

hereto affixed in the presence of :

Annex G: Monthly project highlight form

Local Growth Fund



Project Highlight Report

PROJECT INFORMATION

Project:	
Period covered:	
Project Manager:	
Completed by:	
Date completed:	

OVERALL STATUS SUMMARY

Criterion	RAG status ¹
Overall PROJECT assessment status Comments including any Infrastructure Board decisions required:	

Criterion	Status Comments	RAG Status ¹
Timescale		
Budget		
Outcomes		
Benefits		

KEY RISKS AND ISSUES

Risk/Issue	Mitigation

HIGH LEVEL MILESTONES

Milestone	Baseline Date	Revised Date	RAG Status

PROJECT UPDATE

Key activities since last highlight report period:
Slippage (give reasons):
Key activities for next highlight report period:

RAG Status¹

	Green	Amber	Red
Overall	- No problems or issues	Problems or issues for Infrastructure Board awareness	Problems or issues requiring Infrastructure Board action
Timescale	Plan is on target	There is likely to be a delay in the plan of up to 30 days	There is likely to be a delay of more than 30 days
Budget	Cost is on target	There is likely to be a cost overrun to the agreed	There is likely to be a cost overrun to the agreed budget by over 10%
Outcomes	Anticipated outcomes are still in line with agreed business case	There are likely to be minor changes in outcomes to the original business case budget by up to 10%	There will be a significant change in the outcomes delivered by the project
Benefits	Benefits are on target	There is likely to be a reduction in benefits of up to 10%	There is likely to be a reduction in benefits of over 10%

Annex H: Risk Register

Project Name:



Risk Register

	HEADLINE RISK	RISK DESCRIPTION	INHERENT RISK RATING	HEADLINE RISK MITIGATION	IS RISK OF CORE BUSINESS, IMPROVING OR STABLE?	RESIDUAL RISK RATING	RISK OWNER
1			12 Likelihood (3) Impact (4)		↓	4 L (2) I (2)	
2			12 Likelihood (3) Impact (4)		↓	8 L (2) I (4)	
3			9 Likelihood (3) Impact (3)		↔	6 L (3) I (2)	
4			12 Likelihood (3) Impact (4)		↓	9 L (3) I (3)	
5			12 Likelihood (4) Impact (3)		↓	6 L (3) I (2)	
6			12 L (4) I (3)		↓	9 L (3) I (3)	
7			12 Likelihood (3) Impact (4)		↓	8 L (2) I (4)	
8			12 Likelihood (3) Impact (4)		↓	8 L (2) I (4)	
9			9 Likelihood (3) Impact (3)		↔	6 L (3) I (2)	
10			12 Likelihood (3) Impact (4)		↓	9 L (3) I (3)	
11			12 Likelihood (4) Impact (3)		↓	6 L (3) I (2)	
12			12 L (4) I (3)		↓	9 L (3) I (3)	

Annex I: Claim form

Local Growth Fund

Grant Claim and Monitoring Form



1. Project Details

a. NYCC Project Reference Number:

b. Project Name:

2. Claim Period/Type Please tick appropriate boxes

Year:	2015/16 <input type="checkbox"/>	Quarter 1 (April - June)	<input type="checkbox"/>
	2016/17 <input type="checkbox"/>	2 (July - September)	<input type="checkbox"/>
	2017/18 <input type="checkbox"/>	3 (October - December)	<input type="checkbox"/>
	2018/19 <input type="checkbox"/>	4 (January - March)	<input type="checkbox"/>
Interim	<input type="checkbox"/>	Final	<input type="checkbox"/>
		Monthly	<input type="checkbox"/>

(please tick ✓)

3. Project Sponsor Details

a. Project Sponsor:

b. Address:

Post code:

c. Contact Name:

d. Telephone: E-mail:

Tick if changed since last claim (✓)

e. If your bank details have changed since your last claim enter your details below

Bank/Building Soc: Acc.Name:

Acc.No.: Sort Code:

Applicants please continue overleaf.

Date Received:

Checked by:

Name:

Date:

Information entered on database:

Name:

Date:

4. Project Progress Report:

All sections must be completed as follows:

a) General Progress:

b) Highlight any successes and/or difficulties in delivering the project:

c) What publicity has been undertaken for the project - you must enclose evidence:

d) Record the milestones achieved this claim period (as per the legal agreement):

Milestone	Date achieved

6. Forecast Eligible Expenditure

Forecast Eligible Expenditure

Year	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total (£)
2015/16	£0	£0	£0	£0	£0
2016/17	£0	£0	£0	£0	£0
2017/18	£0	£0	£0	£0	£0
2018/19	£0	£0	£0	£0	£0
2019/20	£0	£0	£0	£0	£0
Total	£0	£0	£0	£0	£0

7. Outputs

Actual Outputs Claimed To Date (evidence to be provided in the progress report)

Output	2015/16	2016/17	2017/18	2018/19	Total (£)
Output1	0	0	0	0	0
Output2	0	0	0	0	0
Output3	0	0	0	0	0
Output4	0	0	0	0	0
Output5	0	0	0	0	0
Output6	0	0	0	0	0
Output7	0	0	0	0	0
Total	0	0	0	0	0

Forecast Outputs

Output	2015/16	2016/17	2017/18	2018/19	Total (£)
Output1	0	0	0	0	0
Output2	0	0	0	0	0
Output3	0	0	0	0	0
Output4	0	0	0	0	0
Output5	0	0	0	0	0
Output6	0	0	0	0	0
Output7	0	0	0	0	0
Total	0	0	0	0	0

8. Grant Claimed This Period

Total Defrayed Capital Payments (£)

9. Claimant Declaration

I certify that to the best of my knowledge that the expenditure declared is correct and is in accordance with the terms and conditions set out in the Local Growth Fund legal agreement and represents goods and services received and paid for. All outputs claimed, if applicable, have been achieved. No part of the expenditure or outputs claimed in this period have been claimed in any previous claims. **I agree to repay, on demand, any or all Local Growth Fund paid, if an investigation shows that eligible activity has not been carried out in accordance with the Local Growth Fund legal agreement issued to me.**

I understand that information provided with this claim may be disclosed if requested under the Freedom of Information Act 2000. I understand that NYCC are under a statutory duty under this Act to disclose this information if asked and if they consider the law requires them to do so.

Please tick:

VAT registered

Not VAT registered

Have all items over £2,500 been procured as per Appendix 2, A. 1. c), which was sent out with the original offer letter:

Please tick:

Yes

No

Signature:

Date:

Print Name:
(CAPITALS please)

Position in organisation:

Return your completed form to: Local Growth Fund Team, Economic Partnership Unit,
County Hall, Northallerton, North Yorkshire. DL7 8AH

