

Dated

2020

**(1) Leicester and Leicestershire Enterprise Partnership**

**(2) Leicester City Council**

**Accountable Body Agreement**

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**Date:**

**Parties**

- (1) **Leicester and Leicestershire Enterprise Partnership** incorporated and registered in England and Wales with company number 11932434 whose registered office is at 23 Halford Street, Leicester, United Kingdom, LE1 1JA (the **LEP**);
- (2) **Leicester City Council** whose principal place of business is City Hall, 115 Charles Street, Leicester, LE1 1FZ (the **Council**)

**Introduction**

- A The Leicester and Leicestershire Enterprise Partnership (LEP) was formed in May 2011 as an unincorporated association. The LEP is a strategic body led by a LEP Board made up of local government and business leaders as well as senior education and third sector representatives.
- B The LEP’s remit is to drive forward regeneration and growth of the local economy through its investments, influence and activities ensure positive outcomes for the local economy by:
  - a. Strategy: Developing an evidence-based Local Industrial Strategy (or any other such successor document that the Government requires LEP’s to develop and adopt from time to time) that identifies local strengths and challenges, future opportunities and the action needed to boost productivity, earning power and competitiveness across the area;
  - b. Allocation of funds: Identifying and developing investment opportunities; prioritising the award of local growth funding; and monitoring and evaluating the impacts of its activities to improve productivity across the local economy;
  - c. Co-ordination: Using their convening power, for example to co-ordinate responses to economic shocks; and bringing together partners from the private, public and third sectors; and
  - d. Advocacy: Collaborating with a wide-range of local partners to act as an informed and independent voice for their area
- C In April 2019 following the Strengthened Local Enterprise Partnerships policy document Leicester and Leicestershire Enterprise Partnership incorporated into a limited company.
- D As a limited company, the Council shall now act as the accountable body for the LEP in accordance with this Agreement and the relevant guidance. The role of Accountable Body is one of administration and management to implement the decisions and directions of the LEP and does not include the commercial or economic review of any decision or direction of the LEP.

**Agreed terms**

**1 Definitions**

- 1.1 **Accountable Body** means the Council;

- 1.2 **Agreement** means this agreement and any schedules or annexes to this;
- 1.3 **Articles of Association** means the LEP’s articles of association as adopted by the LEP from time to time;
- 1.4 **Authorised Representatives** means both the LEP Representative and the Council Representative;
- 1.5 **CIPFA** means the Chartered Institute of Public Finance and Accountancy;
- 1.6 **Council Representative** means Alison Greenhill;
- 1.7 **Dispute** means any dispute notified to the other party as a Dispute and resolved in accordance with clause 11 of this Agreement;
- 1.8 **Funding** means any funding applied for by, or granted to, the LEP (including to the Accountable Body on its behalf) for the purposes of furthering its objectives, including Growth Fund and central government monies, together with any repayments made by the recipients of grants or loans given by the LEP Board (or its unincorporated predecessor);
- 1.9 **Governance** has the meaning given in clause 3;
- 1.10 **Grant** means a grant authorised by the LEP Board to be paid out of the Funding;
- 1.11 **LEP Board** means the board of individuals appointed as directors of the LEP in accordance with the Articles of Association;
- 1.12 **LEP Representative** means the Chief Executive Officer of the LEP from time to time;
- 1.13 **Loan** means a loan authorised by the LEP Board to be paid out of the Funding;
- 1.14 **Local Assurance Framework** means the assurance framework agreed between the parties and published on the LEP’s website as updated from time to time;
- 1.15 **National Assurance Framework** means the Local Enterprise Partnership National Assurance Framework as published by the Department for Communities and Local Government in January 2019, as updated or replaced;
- 1.16 **S151 officer** means the officer appointed by the Council for the proper administration of its financial affairs under s151 of the Local Government Act 1972;
- 1.17 **Service Level Agreement** means the agreement for the provision of services by the Council to the LEP dated 8 January 2020;
- 1.18 **Support** means any Grant or Loan; and
- 1.19 **Termination Date** means the date on which this agreement terminates, expires or ends for any reason.

## 2 Commencement and Duration

- 2.1 This Agreement shall come in to force on that date of this Agreement and shall terminate when Leicester City Council ceases to be the Accountable Body for any reason.

### 3 Governance

- 3.1 The Parties agree to adhere to the overarching governance structure set out in this Agreement and in the Local Assurance Framework and National Assurance Framework and the Articles of Association.

### 4 Roles and Responsibilities

#### 4.1 LEP Responsibilities

##### 4.1.1 The LEP shall:

- (a) Bid for funding, including central government funding, appropriate to the aims of the LEP;
- (b) Evaluate and determine applications for Support in accordance with the Governance, including undertaking the appropriate due diligence;
- (c) Instruct the Council to make Support payments as authorised by the LEP Board;
- (d) Monitor the progress of scheme delivery and spend of Support given;
- (e) Use reasonable endeavours to ensure the on-time delivery of schemes and the repayment of Loans;
- (f) Monitor the income and expenditure of Funding; and
- (g) Have regard to CIPFA guidance on the role of s151 officers in accountable bodies working with LEPs.

#### 4.2 Council Responsibilities

##### 4.2.1 The Council shall act as the Accountable Body in accordance with this Agreement and as Accountable Body shall:

- (a) Establish and maintain a financial system to account for all Funding received and disbursed on behalf of the LEP;
- (b) Receive Funding on behalf of the LEP and be responsible for its proper administration;
- (c) Comply with all instructions of the LEP Board or the LEP Representative except where the instruction is:
  - (i) Contrary to the Local Assurance Frameworks;
  - (ii) Inconsistent with the principles of probity or sound financial practice;

- (iii) In breach of applicable funding terms;
  - (iv) Inconsistent with public law principles;
  - (v) Against the public interest;
  - (vi) Likely to bring the Council and/or LEP into disrepute; or
  - (vii) Illegal;
- (d) Ensure, through the Section 151 Officer, that Funding is used appropriately in accordance with the law, good financial management and any applicable grant conditions.
  - (e) Ensure the decisions and activities of the LEP conform with legal requirements, the Local Assurance Framework and the National Assurance Framework;
  - (f) Ensure that the Council's decisions and activities conform with legal requirements, the Local Assurance Framework and the National Assurance Framework;
  - (g) Issue offer letters and enter in to agreements for Support with recipients as authorised by the LEP Board, on behalf of the LEP;
  - (h) Not use the Funding for its own purposes without the consent of the LEP Board or LEP Representative;
  - (i) Make payments pursuant to eligible Grant claim submissions and correct authorisation processes;
  - (j) Ensure all required information on expenditure, activities, outputs and outcomes are properly recorded and reported to the LEP upon the LEP's request;
  - (k) Arrange insurance cover in respect of its liabilities under this Agreement and provide to the LEP on request evidence that insurance cover or appropriate self-insuring arrangements are in place; and
  - (l) Have regard to CIPFA guidance on the role of s151 officers in accountable bodies working with LEPs.

4.2.2 Where, under clause 4.2.1(d), 4.2.1(e) and 4.2.1(f) the Council believes the LEP is not acting in accordance with this Agreement, the Council shall notify the LEP of this and raise this as a Dispute to be resolved in accordance with clause 11.

4.2.3 In addition to acting as Accountable Body the Council shall:

- (a) Ensure that where it has a role as a project sponsor, project partner, highways authority or delivery body, there is a clear separation of such functions from its role as Accountable

Body and all decisions to release funding shall remain subject to the LEP Board or LEP Representative's approval;

- (b) Subject to payment by the LEP, shall provide the services under the Service Level Agreement in accordance with the terms of that agreement.

## 5 Local Assurance Framework

- 5.1 The Parties shall work together to regularly review and refine the Local assurance Framework to ensure it remains appropriate and compliant with applicable guidance and laws.

## 6 Liability

- 6.1 Subject to clause 6.2, the Council shall indemnify and keep indemnified the LEP against all liabilities, costs, expenses, damages and losses incurred by the LEP arising directly out of or in connection with:
  - 6.1.1 the Council's breach or negligent performance of non-performance of this Agreement;
  - 6.1.2 any claim made against the LEP arising out of or in connection with the provision of the Council responsibilities, to the extent that such claim arises wholly out of the breach, negligent performance of failure or delay in performance of this agreement by the Council; or
  - 6.1.3 the enforcement of this agreement.
- 6.2 The indemnity under clause 6.1 shall apply except insofar as the liabilities, costs expenses, damages and losses incurred by the LEP are directly caused (or directly arise) from:
  - 6.2.1 the negligence or breach of this agreement by the LEP; or
  - 6.2.2 instructions given by the LEPs or the LEP Representative.
- 6.3 The LEP shall indemnify and keep indemnified the Council against all liabilities, costs, expenses, damages and losses incurred by the Council out of or in connection with:
  - 6.2.1 the LEP's breach or negligent performance of non-performance of this Agreement;
  - 6.2.2 any claim made against the Council arising out of or in connection with the provision of the LEP's responsibilities and decision making, to the extent that such claim arises out of the breach, negligent performance of failure or delay in performance of this agreement or any decision making by the LEP; or
  - 6.2.3 the enforcement of this agreement; or
  - 6.2.4 all claims against the Council arising out of its carrying out of an instruction as issued by the LEP.

## 7 Confidentiality and Freedom of Information

- 7.1 The parties recognise that they are subject to legal duties which may require the release of information under the FOIA or any other applicable legislation governing access to information, and that they may be under an obligation to provide information to third parties on request. Such information may include matters relating to or arising out of this Agreement.
- 7.2 Each party will assist the other to enable it to comply with its obligations. In the event that either party receives a request for information under the FOIA or any other applicable legislation governing access to information and requests the other party's assistance in obtaining the information that is the subject of such request or otherwise, the parties will respond to any such request for assistance at its own cost and promptly, and in any event within 5 days.

## 8 Data Protection

- 8.1 **"Data Protection Laws"** means any applicable law relating to the processing, privacy and use of Personal Data, as applicable to either Party or the Services, including the General Data Protection Regulation (EU) 2016/679 (**"GDPR"**), the Data Protection Act 2018 and any laws that replace, extend, re-enact, consolidate or amend any of the foregoing.
- 8.2 The words and phrases "Processing", "Personal Data", "Personal Data Breach", "Data Subject" "Controller" and "Processor" used in this clause or elsewhere shall have the meaning as defined in the Data Protection Laws.
- 8.3 The Parties agree that they are each a Controller in relation to the Personal Data they Process pursuant to this Agreement.
- 8.4 Each Party shall comply with their obligations under the Data Protection Laws in relation to Processing of Personal Data pursuant to this Agreement.
- 8.5 Each Party agrees that they shall not do or omit to do anything which would cause the other Party to be in breach of its obligations under the Data Protection Laws.
- 8.6 The Party who deals directly with the Data Subject shall be responsible for obtaining any necessary consents for Processing and for providing the Data Subject with the information required by Articles 13 and 14 of the GDPR including the transfer of data between Parties and the purposes for which the Personal Data will be Processed.
- 8.7 If either Party determines that it is to make a report or notification to the ICO or any other person in relation to the Processing of Personal Data under this Agreement (the **"Reporting Party"**), the Reporting Party shall inform the other Party, and provide all known details of the proposed report unless prohibited by law.
- 8.8 If either Party receives any request from a Data Subject exercising or purporting to exercise their rights under the Data Protection Laws, the Receiving Party shall notify the other Party of the request and provide the other Party with any information reasonably requested unless prohibited by law.



- 8.9 The Parties shall provide each other with any cooperation or information reasonably required in relation to investigating or complying with requirements relating to the Data Protection Laws.

## 9 Termination

- 9.1 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving one notice to the other party if:
  - 9.1.1 the other party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
  - 9.1.2 the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or
  - 9.1.3 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 9.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement on giving not less than 6 months' written notice to the other party.

## 10 Consequences of Termination

- 10.1 On the Termination Date, where a new organisation will become the Accountable Body then the Council shall to the extent it is legally able to do so:
  - 10.1.1 Provide to the incoming organisation all information on the Funding income and expenditure including forecast income and expenditure;
  - 10.1.2 Provide the incoming organisation with all details of Loan repayments to be made to the new organisation;
  - 10.1.3 Notify all Loan recipients of the details of the new organisation to whom Loan repayments must be made;
  - 10.1.4 Provide the incoming organisation with all details of grant payments to be made by the new organisation;
  - 10.1.5 Transfer all monies, assets, equipment, materials, property and contracts held by the Council on behalf of the LEP to the new organisation.
- 10.2 On the Termination Date, where the LEP will cease to operate, the Council shall provide all necessary support to ensure the LEP is properly managed and wound up.
- 10.3 On the Termination Date, each Party shall return to the other all documents and materials (and any copies) containing the other Party's confidential

information and, to the extent possible, erase any such confidential information from its computer systems.

## 11 Dispute resolution

- 11.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (Dispute) then the Parties shall follow the procedure set out in this clause:
- 11.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Principal Accountant of the Council and Contract and Finance Manager of the LEP shall attempt in good faith to resolve the Dispute;
  - 11.1.2 if the Principal Accountant of The Council and Contract and Finance Manager of the LEP are for any reason unable to resolve the Dispute within 14 days of service of the Dispute Notice, the Dispute shall be referred to the Head of Finance of the Council and Chief Executive of the LEP who shall attempt in good faith to resolve it; and
  - 11.1.3 if the Head of Finance of the Council and Chief Executive of the LEP are for any reason unable to resolve the Dispute within 14 days of it being referred to them, the Dispute shall be referred to the Chief Operating Officer of the Council and the LEP Chair; and
  - 11.1.4 if the Chief Operating Officer of the Council and the LEP Chair are for any reason unable to resolve the Dispute within 14 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 28 days after the date of the ADR notice.
- 11.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 14 which shall apply at all times.
- 11.3 If the Dispute is not resolved within 14 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 14 days, or the mediation terminates before the expiration of the said period of 14 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 14 of this Agreement.

## 12 General

- 12.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

- 12.2 No variation of this Agreement shall be effective unless it is in writing and signed by Authorised Representatives of each party.

Entire Agreement

- 12.3 This Agreement, with the Service Level Agreement and the other documents referenced in this Agreement, forms the entire agreement between the parties. The Parties confirm that they have not entered in to this Agreement on the basis of any representation that is not expressly incorporated in to this Agreement.
- 12.4 This Agreement shall not constitute or imply any partnership, joint venture, agency or other relationship between the Parties other than the contractual relationship provided for in this Agreement.
- 12.5 Except as set out in clause 4.2.1(g) neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 12.6 Neither party shall assign, transfer, novate or otherwise transfer any of its benefits, rights, obligations or burdens under this Agreement without the prior written consent of the other Party.

**13 Governing law**

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

**14 Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

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

Executed as deed by Leicester and Leicestershire Enterprise Partnership acting by two directors:

Name of First Director:

.....

Signature of First Director:

DocuSigned by:  
*Kevin Harris*.....  
260F7F7F280940F...

Name of Second Director:

.....

Signature of Second Director:

DocuSigned by:  
*Andy Reed*.....  
4572FB2C467F4C6...

Executed as deed by Leicester City Council by the affixing of its common seal

DocuSigned by:  
*Seema Patel*.....  
D3301E4AG7F84F2.....

Authorised Signatory



Sealed By: Leicester City Council, Legal Services  
Sealed Time: 08 June 2020 | 08:58 BST

# Annex 1

## Finance

### Services Provided

- Accounts Payable and Receivable
- Financial Accounting
- Management Accounting
- Budget Planning, jointly with the LLEP
- Financial Advice
- Treasury Management and Borrowing
- Cash Management and Banking (including crediting quarterly interest earned)
- Taxation Advice
- Budget Monitoring (including quarterly financial reports to relevant Boards)
- Credit Checks on Funding Applicants
- Submission and approval of Grant Claims to relevant bodies

More generally, in line with the CIPFA guidance for section 151 officers within accountable bodies, Leicester City Council will undertake the following:

- Ensure a consensus approach to joint-decision making, with the expectation of mutual support between the LLEP and Finance officers;
- Carry out such checks as are necessary to ensure the proper administration of financial affairs in the LLEP. Where there are concerns, these will be acted upon promptly by the LLEP;
- Ensure attendance of the s151 officer or senior representative at all Board Meetings and Board agenda setting meetings;
- Ensure that there are the correct, established financial processes in place leading up to Board decisions such that financial delegations are respected;
- Ensure that the LLEP has procedures in place to consider the financial implications of decisions before and during the decision-making process rather than reviewing decisions afterwards;
- Agree and approve the budget risks facing the LLEP at the outset of the financial year and review them on a frequent basis. The LLEP will provide the risk register on each occasion that it is revised;
- At the beginning of each financial year, the s151 officer will be entitled to comment on the adequacy of the budget plan, including the capital Programme and revenue commitments and projections;
- The LLEP and the s151 officer will agree an internal audit plan for the year that provides assurance to the Council and the LLEP. Finance will request periodic audits throughout the year, by either internal or external audit;
- Finance officers will meet monthly with LLEP officers to review resource needs, and to ensure that appropriate procedures are in place to underpin good governance with the LLEP;

- The Section 151 Officer will, as required by Government, sign-off an Annual Assurance Statement once satisfied, after undertaking checks and ensuring the LLEP has proper process and administration in place for financial affairs in line with the LAF.

### Resources

The s151 officer will ensure that appropriate resources are allocated to carry out the above functions. Officer time involved in the provision of the services detailed above and associated activities of undertaking the functions of the accountable body are included. Specifically, the time of the following officers of the Council:

- s151 Officer
- Head of Finance
- Principal Accountant
- Accountant
- Other officer time as required

### Annual Fee

Annual fee for all of the above:

- £40,100 based on the estimated allotted time below;
- plus additional fees to be determined for LLEP-specific audits (excluding grant claims).

	Proportion of Time	Total
Section 151 Officer	5%	£6,700
Lead Head of Finance	10%	£9,300
Principal Accountant	15%	£10,400
Accountant	10%	£5,200
Exchequer, Payroll and Systems Support		£5,000
Internal Audit (10 days at average rate)		£3,500
		<b>£40,100</b>

Fees to be reviewed annually based on pay inflation rates and any significant changes to workload and services provided. Such variations to be agreed between the LLEP Chief Executive and the s151 officer.

## Legal Services

The Council as Accountable Body will be supported on all matters relating to contracting, report comments, supporting the LEP Board meeting as required, enforcement of any contractual arrangements entered into on behalf of the LEP and state aid compliance for the annual sum of £57,500.

This sum includes the cost of providing LLEP-specific advice directly to the accountable body. Should the LEP require advice on matters in which there is no conflict with the interests of the LEP and the Council then the Board request more specific legal advice, for which additional fees would apply in line with the Council's scale of fees and charges for the provision of legal services to external bodies, detailed below and as updated from time to time.

	<b>External 2020-21</b>
City Barrister	£160.00
Head of Law	£140.00
Principal Lawyer	£120.00
Qualified Lawyer	£120.00
Legal Officer	£105.00
Trainee Solicitor	£85.00