

DATE: 7 MAY 2014



- (1) WALSALL METROPOLITAN BOROUGH COUNCIL**
- (2) DUDLEY METROPOLITAN BOROUGH COUNCIL**
- (3) SANDWELL METROPOLITAN BOROUGH COUNCIL**
- (4) WOLVERHAMPTON CITY COUNCIL**
- and-**
- (5) BLACK COUNTRY CONSORTIUM LIMITED**

COLLABORATION AGREEMENT
in relation to
the Black Country Executive Joint Committee
City Deal and Growth Deal

Walsall Council
Civic Centre
Darwall Street
Walsall, WS1 1TP

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SCHEDULE 1 – Constitution and Terms of Reference of Advisory Board

SCHEDULE 2 – Working Group

SCHEDULE 3 – Business Case Model

**SCHEDULE 4 – Constitution and terms of reference of the Black Country Executive Joint
Committee**

SCHEDULE 5 – Decision and Oversight Matrix

THIS AGREEMENT is made on the day of 2014

BETWEEN:

- (1) **WALSALL METROPOLITAN BOROUGH COUNCIL** of Civic Centre, Darwall Street, Walsall, WS1 1TP ("**Walsall**");
- (2) **DUDLEY METROPOLITAN BOROUGH COUNCIL** of The Council House, Priory Road, Dudley, West Midlands, DY1 1HF ("**Dudley**");
- (3) **SANDWELL METROPOLITAN BOROUGH COUNCIL** of Freeth Street, PO Box 2374 Oldbury, B69 3DE ("**Sandwell**");
- (4) **WOLVERHAMPTON CITY COUNCIL** of Civic Centre, St Peter's Square, Wolverhampton, WV1 1RG ("**Wolverhampton**"); and
- (5) **BLACK COUNTRY CONSORTIUM LIMITED** (Company Registration number 05159791) whose registered office is at The Deckhouse, Waterfront West, Dudley Road, Brierly Hill, DY5 1LW ("**BCC**")

(each being a Party together being "**the Parties**").

WHEREAS:

- (A) The Parties have agreed to collaborate [to administer the allocation by central Government of funding across the Black Country area which comprises the administrative boundaries of Walsall, Dudley, Sandwell and Wolverhampton known as ["City Deal and "Growth Deal"] (together "the Programme").
- (B) The Executives of each Party have agreed to establish a Joint Executive Committee the Constitution and Terms of Reference of which are set out at Schedule 4 pursuant to Section 101(5) of the Local Government Act 1972 and regulations issued under Section 9EB of the Local Government Act 2000. The decision dates respectively being Walsall Cabinet 11 September 2013, Dudley Cabinet 30 October 2013, Sandwell Cabinet 13 November 2013, Wolverhampton Cabinet 4 December 2013.
- (C) The Parties are empowered under Section 1 of the Localism Act 2011 to "do anything that individuals generally may do" and BCC is a company limited by guarantee that may carry out general public administration activities and will help to facilitate the Programme
- (D) The purpose of this Collaboration Agreement is to set out a framework for joint working between the Parties to enable delivery of the Programme.

1. Definitions

1.1. Interpretation

In this Agreement the following words and expressions have the following meanings:

Accountable Body means the local Authority allocated by the Joint Committee to be the Accountable Body to central government for the Deal or any parts thereof.

Authority means one of the four Council signatories to this agreement.

Advisory Board means the Black Country wide Advisory Board which will oversee the delivery of the Programme in accordance with its Terms and Reference as set out in Schedule 1.

Business Case means the business case which sets out a Project proposal in the format as set out in Schedule 3 and which is ultimately approved by the Joint Committee to enable Project commencement.

Deal means City Deal and / or Growth Deal and / or any subsequent amended or replacement for them as determined by central Government.

Force Majeure means any circumstances beyond the reasonable control of any Party (including, without limitation, any strike, lock-out or other form of industrial action)

Funding Agreement means any funding agreement and related documents to be entered into between the Accountable Body and central government.

Governance Structure means the decision making structure for the Joint Committee as set out in the constitution of the Joint Committee and Advisory Board and this Collaboration Agreement.

Intellectual Property Rights means all patents, trade marks, copyright, moral rights, rights to prevent passing off, rights in designs, know how and all other intellectual or industrial property rights, in each case whether registered or unregistered and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world

Joint Committee means the Joint Committee that has been established as a legally formed body of the Cabinets of Walsall, Dudley, Sandwell and Wolverhampton and is known as the "Black Country Executive Joint Committee" and which will carry out its decision making in accordance with the Governance Structure approved by each Party.

Joint Executive Committee Terms of Reference and Constitution means the Terms and Reference and Constitution as set out in Schedule 4 which has been approved by the Executive of each Council.

Lead Authority means the local authority allocated by the Joint Committee to be the Lead authority for delivery of a particular Project

Material Change in Circumstances means a change that does or is likely to significantly affect or impact upon delivery of the Programme or any Projects under it which necessitates a change in any decision made by the Joint Committee or if such circumstances were known at the time of the Joint Committee decision it would have potentially influenced the Joint Committee to make different decision than the one that was made originally.

Monitoring Procedures means the Programme monitoring procedures, Programme audits and any other reporting, monitoring or audit processes required by a central Government department in relation to the Programme

Objectives and Outputs means the successful delivery and completion of all Projects and or

initiatives as agreed by the Joint Committee together with such other objectives and outputs as are adopted by the parties from time to time in accordance with this Agreement

Programme means the operational element of initiative and funding from central Government for the Black Country area which comprises the administrative boundaries of Walsall, Dudley, Sandwell and Wolverhampton known as “City Deal and “Growth Deal” including any individual Projects, funding streams comprising part of the Deal.

Programme Manager means an officer appointed by Walsall Council to fulfil the roles and duties of the Programme Manager as detailed in this agreement.

Project means an individual Project or initiative within the overall Programme that is subject to an application to the Joint Committee for funding to be allocated to it pursuant to the Programme

Working Group means the meeting of the Executive Directors as set out in Schedule 2

1.2. In this Agreement:

1.3. the clause headings do not affect its interpretation,

1.4. words in the singular shall include the plural and vice versa,

1.5. unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a paragraph are to a paragraph of that Schedule,

1.6. references to any statute or statutory provision include references to:

1.7. all Acts of Parliament and all other legislation having legal effect in the United Kingdom,

1.8. any subsequent statutes directly or indirectly amending, consolidating, extending, replacing or re-enacting that statute and also include any orders, regulations, instruments or other subordinate legislation made under that statute,

1.9. a person includes a natural person, corporate or unincorporated body or organisation and their successors and permitted assigns,

1.10. including means including, without limitation,

1.11. if any provision is held to be illegal, invalid or unenforceable that provision shall be struck out and the legality, validity and enforceability of the remainder of the Agreement is to be unaffected.

2. Collaboration

2.1. The Parties agree to work in a spirit of mutual co-operation to fulfil their agreed roles and responsibilities to achieve the Objectives and Outputs, and to put in resources to the extent set out in this Agreement.

- 2.2. Each Party which is an Authority has agreed to form a Joint Committee which will undertake the functions as set out in the Joint Committee Terms of Reference and Constitution as set out in Schedule 4.
- 2.3. Walsall Council as secretary to the Joint Committee will publish in accordance with its own constitution all agendas, reports, Forward plan and minutes of the Joint committee and will distribute all agendas, reports, and minutes of the Joint Committee to the Authority Parties within such timescales that will allow the Authority parties to comply with their statutory Access to Information requirements Walsall as secretary will maintain the Forward Plan of the Joint Committee and submit the plan to all parties in a timely manner
- 2.4. The Authority Parties have agreed the principles of how the Joint Committee will operate which is set out in the Governance Structure. Walsall will provide copies of all agendas, reports, and minutes to all Authority parties as soon as they become available for publication in accordance with any legislative requirements.
- 2.5. Each Party shall:
 - 2.5.1. carry out the tasks and contribute sufficient resources and facilities to ensure that the Programme objectives are met and commitments under this agreement are met;
 - 2.5.2. co-operate with each other and do such acts, matters and things as may be necessary or desirable to implement the decisions of the Parties and in order to complete the Programme,
 - 2.5.3. keep the other Parties fully informed of the progress of and of any matters relevant to the Programme and make available to the other Party all relevant information, data, reports and opinions in relation to the Programme,
 - 2.5.4. immediately notify the other Parties in writing if there is an unexpected problem which are likely to cause a material delay to achievement of any of the objectives of the Programme or any particular stage of the Programme or any material increase in the costs of the Programme or if any Party becomes aware of the action of any third party which threatens to affect adversely the progress of the Programme or the reasonable expectations of either Party hereunder.
- 2.6. The direction of the Programme shall be vested in the Joint Committee which shall be advised by Advisory Board which shall carry out its role in accordance with its Constitution and Terms of Reference.
- 2.7. The planning, and overall management of the Programme including initial appraisal of Project proposals shall be vested in the Working Group. The terms of reference, composition, roles and responsibilities and modus operandi of the Working Group are set out in Schedule 2. Without prejudice to the generality of the foregoing, the matters set out in Schedule 2 shall only be agreed by the Working Group.
- 2.8. The final decision making on Project Approval, including material changes to approved Projects, shall be vested in the Black Country Executive Joint Committee. Material changes are variations to a Project that change the nature, outcome or objectives of a Project for the avoidance of doubt material variations includes but is not limited to:

- 2.8.1 changes that mean that the Project objectives as approved by the Joint committee will no longer be achieved;
 - 2.8.2 An increase in the budget or expenditure of 5% or more on a Project;
 - 2.8.3 Any change in timescales that will adversely affect the Project and or its objectives
- 2.9 Where a Material Change in Circumstances occurs after a Project has been approved by the Joint Committee, the Joint Committee must be advised of that Material Change in Circumstances as soon as practicable after the Lead Authority for a Project becomes aware of the Material Change in Circumstances.
- 3. Appointment to Roles**
- 3.1 The Joint Committee will decide the apportionment of the role of Accountably Body and or Lead Authority.
 - 3.2 Appointment to the Accountably Body role can be on a Project by Project basis, Project rotation, Project specific and or overall for all City Deal and or Growth Deal funding.
 - 3.3 Appointment to Lead Authority will be decided upon on a Project by Project basis by the Joint Committee.
 - 3.4 Where the Accountably Body and Lead Authority are one and the same the respective duties of those roles as defined in this agreement, agreed by the Joint Committee, or otherwise set out in a Joint Committee approved Project Business Case shall be concurrent.
 - 3.5 The Joint Committee will with the agreement of the Accountable Body decide how the Accountable Body will recover the costs associated with the implementation of the City Deal initiative. Except as specifically agreed between the Parties, the cost of all officer time and resources necessary to perform the role of Accountable Body shall be met from the funding available and not from the budgets of the Parties to this Agreement.
- 4. Project Approval**
- 4.1. Project proposals shall be worked up by the parties to this agreement, for the avoidance of doubt any Project proposal put forward by the Parties can be a Project proposal initiated by a third Party. Where such a Project proposal is initiated by a third Party the Project proposer must detail the third Party who intuited the Project proposal.
 - 4.2. The process for Project proposals shall be:
 - 4.3. Initial presentation of a headline Project proposal to the Working Group by the proposing Party for approval and the agreement for a Business Case to be prepared for the proposed Project.

- 4.4. If the Working Group consider any proposal made to it warrants further consideration and referral to the Advisory Board then the Working Party shall prepare the proposal in the Business Case Model format as set out in Schedule 3. At that stage of initial Project approval the Working Group will for each Project designate a proposed Lead Authority for the purpose of preparing and presenting the Project Business Case to the Working Group for approval and submission to the Advisory Board. For the avoidance of doubt the final decision on the Lead Authority status for any Project is at the point of Project approval by the Joint Committee.
- 4.5. If agreement of the Advisory Board is given for the submission of Business Case to the Joint Committee the designated Lead Authority and BCC shall jointly present the Business Case to the Joint Committee for approval supported by a report in the format as agreed by the Joint Committee.
- 4.6. The above stages can involve comment, clarification and requests for amendment and re submission of a Project proposal or Business Case following consideration at any stage during the process of approval leading up to final Project approval by the Joint Committee.

5. Project Management

- 5.1. When appointed Lead Authority the Lead Authority will assign a member of staff to the role of Project Manager and provide sufficient support officers to ensure delivery of the Programme and the Projects.
- 5.2. The Lead Authority shall be responsible for writing and submitting updates and progress reports jointly with BCC as set out in the Business Case and in any event as requested by the Working Group, Advisory Board and Joint Committee. For the avoidance of doubt the Lead Authority for any Project will send its relevant Executive Director or his representative to all meetings at which the Projects for which they are Lead Authority are being considered.
- 5.3. The Parties will set up a Working Group in accordance with Schedule 2 and the role of the Working Group will be as set out in schedule 2. Notwithstanding anything contained within this agreement and the schedules the Parties role at the Working Group will be to have overall operational responsibility for the implementation of the Programme and all of its elements.
- 5.4. The Advisory Board as set out in schedule 1 will oversee the delivery of the Programme, regularly receiving reports prepared by the Lead Authority from the Working Group as required by the Advisory Board on progress of any Project, in addition to the reporting timescales as set out in the Business Case for each Project and any reports the Working Group chose. Nothing within this agreement shall prevent the Accountable Body from reporting to the Advisory Board or Joint Committee as it considers necessary.
- 5.5. Unless agreed otherwise with central government and subject to at all times compliance with EU procurement law requirements all procurement of goods, works and or services needed for or in the delivery of Projects shall be procured in accordance with the Lead Authorities constitution and in particular contract and or procurement rules.
- 5.6. The Parties roles and responsibilities in relation to the Programme's, the Joint Committee, the Advisory Board and or the Working Group as set out in this agreement shall be carried

out by personnel of the Parties and no charge shall be made to the Programme in respect of costs except for where costs have been agreed to claimed by a Party either as part of an approved Business Case and or by the Joint Committee at any time.

- 5.7. The Programme Manager will be responsible for arranging the Working Group and Advisory Board meetings, their agenda, minuting decisions, and will be responsible maintaining the Project Register and providing such written updates to Working Group, Advisory Board and Joint Committee on the Project Register and generally the progress of specific Programme tasks and Projects as appropriate.
- 5.8. The Parties agree that they shall ensure officers attend Programme Manager meetings arranged and chaired by the Programme Manager comprising of lead regeneration officers, Project Managers and Project support officers and any other relevant officers the purpose of which is to develop the Programmes priorities, initial Project proposals, Project updates and generally as necessary to enable the Programme Manager to manage the Programme effectively.

6. Project Audit and Claw-back

- 6.1. Each Party shall be responsible for ensuring compliance with all financial requirements imposed under any grant terms imposed by central Government for any element of the Program or Project for which they are the Lead Authority.
- 6.2. At all times each Party will be responsible for ensuring that adequate audit arrangements are in place for any element of the Program or Project for which they are the Lead Authority including providing free and unfettered access to all information and documentation in relation to the Programme and or Project for which they are the Lead Authority.
- 6.3. Each Party agrees to give an Accountable Body and Lead Body unrestricted and unfettered access to all information and documentation in relation to any element of the Programme and or Project for which they are the Lead Authority including providing copies of any such information and or documentation free of charge.
- 6.4. In the event of any irregularity of any expenditure declared by any the auditor of a Party or the Accountable Body's auditor that Party shall be liable in respect of such irregularity and shall be required to repay to the Accountable Body any amounts unduly paid.
- 6.5. Subject to Clause 6.4, and unless agreed otherwise by the Joint Committee, the Parties agree that in the event that any monies are clawed back from the Accountable Body by central Government as the Accountable Body pursuant to any Funding Agreement, then all of the Parties will:
 - 6.5.1. take all reasonable steps to mitigate the amount of monies clawed back from the Accountable Body; and
 - 6.5.2. save where there is an administrative irregularity by the Accountable Body or Lead Body declared by an auditor of a party and accepted by the Joint Committee the parties shall meet the costs of the claw-back in the same

proportion to the programme funding that has been expended within their administrative area.

7. General Obligations

- 7.1. The Parties agree that they will be bound by the terms of any City Deal or Growth Deal Funding Agreement(s) entered into by the Accountable Body or Lead Authority as if they had entered into the agreement in so far as the actions of a Party causes or Leads to a breach of the Funding Agreement by the Accountable Body or Lead Authority.
- 7.2. The Parties agree that they shall be required to comply directly with the terms of any Funding Agreement if they are a recipient of any funding derived from the Funding Agreement.
- 7.3. The Parties agree to assist, co-operate and comply with the Monitoring Procedures and will work together to resolve or rectify any errors or irregularities identified during the Monitoring Procedures or otherwise.
- 7.4. Each Party shall be liable for any cost implications or irregularities or errors attributable primarily to it and identified during any Monitoring Procedures.
- 7.5. Each Party indemnifies the others against all claims, liabilities, costs, expenses, damages or losses suffered by the others arising out of the negligence, default or breach by such Party of this Agreement or the Funding Agreement and each Party shall be responsible for maintaining sufficient insurance where available in respect of such liabilities under this Agreement.
- 7.6. Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against another pursuant to this Agreement.

8. Scrutiny of Joint Committee decisions

- 8.1. As and when required by an Overview and Scrutiny Committee or Board or an Audit Committee of any Party the member of the Joint Committee for the Authority whose the Overview and Scrutiny Committee or Board or Audit Committee has instigated an investigation shall take the lead responsibility for accounting for the activities of the Joint Committee to the Overview and Scrutiny Committee or Board or Audit Committee and shall attend such meetings of those committees of its Authority as necessary.
- 8.2. The Parties shall liaise and co operate at all times with the Authority whose Overview and or Scrutiny Committee or Audit Committee have made requests for information and or reports and use all reasonable endeavours to assist that Authority in responding to such requests but for the avoidance of doubt no Party its officers or members shall be required to attend the Overview and or Scrutiny Committee or Board or an Audit Committee of any other Party.

9. Documentation

- 9.1. The Working Group will produce the initial drafts of the standard documentation for the Programme for approval by the Advisory Board.

10. Confidentiality

- 10.1. Each Party shall use all reasonable endeavours to keep in strict confidence, and shall bind all its employees and agents to keep in strict confidence, all commercial and technical information in whatever form acquired by it (whether directly or indirectly) concerning another Party in consequence of this Agreement (hereinafter called **Confidential Information**). No Party shall, save as hereinafter provided, use or disclose any such Confidential Information other than for the purposes of the Programme or as expressly permitted by this Agreement. The foregoing restriction shall not apply to:
- 10.2. information which at the time of disclosure is generally available to the public,
- 10.3. information which the Parties obliged to release under the provisions of the Freedom of Information Act 2000,
- 10.4. information which after disclosure becomes generally available to the public through no fault of the receiving Party,
- 10.5. information which the receiving Party can show was in its possession prior to the disclosure and which was not acquired directly or indirectly from the other Party, and
- 10.6. information which the receiving Party can show was received by it after the time of disclosure from any Party without any obligation of confidentiality and which was not acquired directly or indirectly from the other Party.
- 10.7. The confidentiality obligations set out in this clause shall survive for a period of five (5) years after the termination of the Programme
- 10.8. Each Party shall impose the same confidentiality obligations set out in this clause 9 upon its affiliates, consultants and other third parties who are in association with it and may have access to any Confidential Information during the term of this Agreement.

11. Intellectual Property

- 11.1. The Parties agree that all Intellectual Property Rights relating to the Programme shall unless otherwise agreed in writing belong to the Parties jointly, and that the Parties will use all reasonable endeavours to ensure that each receive appropriate rights to any Intellectual Property Rights created during and relating to the Programme.

12. Warranties

- 12.1. Each Party warrants to the other Parties that:
- 12.2. it has the necessary right and authority to enter into this Agreement,
- 12.3. the signatories hereto for and on behalf of that Party are authorised and fully empowered to execute this Agreement on that Party's behalf.

13. Force majeure

- 13.1. If any Party is affected by Force Majeure it shall forthwith notify the other Parties of the

nature and extent thereof.

- 13.2. No Party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, by reason of any delay in performance, or the non-performance, of any of its obligations hereunder, to the extent that such delay or non-performance is due to any Force Majeure of which it has notified the other Parties, and the time for performance of that obligation shall be extended accordingly.
- 13.3. If the Force Majeure in question prevails for a continuous period in excess of three months, the Parties shall enter into bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable.

14. Duration and termination

- 14.1. The provisions of this Agreement shall come into force on the Commencement Date and, subject to the provisions of clause 14.2 shall continue in force until the completion of the Programme.
- 14.2. A Party may only withdraw from this Agreement by three month's written notice to the others parties and the Joint Committee if the Party has not received funding or the benefit of funding under the programme within their administrative area and or the Programme is terminated.
- 14.3. In the event of any one or more Party giving notice to terminate this agreement then the Joint Committee shall meet within one month of the service of any such notice of termination for the purposes of preparing an implementation plan for the termination. The Parties shall each act reasonably in co-operating with each other to facilitate the termination and the Party giving notice of termination(or if there is more than one such Party then each of them in equal shares) shall bear all costs arising out of or in connection with such termination and shall indemnify the remaining parties against all costs and expenses incurred or to be incurred by them arising out of or in connection with that termination
- 14.4. No relaxation, forbearance, delay or indulgence by any Party in enforcing any of the terms of this Agreement or the granting of time by any Party to any other shall prejudice, affect or restrict the rights and powers of that Party in relation to the other, nor shall any waiver by any Party of a breach of this Agreement be considered as a waiver of any subsequent breach of the same or any other provision.
- 14.5. The rights to terminate or withdraw from this Agreement given by this clause 14 shall not prejudice any other right or remedy of any Party in respect of the breach concerned (if any) or any other breach.

15. Variation

- 15.1. The Joint Committee shall from time to time review the operation of this Agreement and implementation of the Programme. Such reviews to be undertaken every two years or at such other interval as appear to the Joint Committee to be appropriate and the Joint Committee shall make proposals to the Member Authorities for any changes which seem to the Joint Committee to be reasonable and appropriate in the circumstances which shall be dealt with be a Deed of Variation appended to this Agreement.

16. Publicity and Public Relations

- 16.1. The Parties shall co-operate and consult with each other in respect of any matter involving public relations in so far as reasonably practicable having regard to the nature and urgency of the issue involved. The Parties acting through Advisory Board and the Joint Committee may agree protocols for the handling of public relations from time to time.

17. Disputes

- 17.1. If any dispute arises between the Parties arising out of the provisions of this Agreement the Parties shall endeavour to resolve the dispute by agreement as quickly as possible but if the dispute has not been resolved within ten (10) Working Days then either Party may request the others to participate in a meeting of their Chief Executives. The parties in dispute shall exchange statements at least three (3) clear Working Days prior to the date of the meeting, setting out their respective views of the disputed issues. If the Chief Executives do agree a strategy for the resolution of the dispute the Parties shall then liaise in good faith to arrange and implement the strategy for resolution within ten (10) Working Days of the meeting.
- 17.2. If notwithstanding any steps taken by the Parties pursuant to clause 17.1, the dispute between them remains unresolved then at the request of any Party it shall be referred (in the absence of any express provision to the contrary) to an Independent Person appointed jointly by the Parties.
- 17.3. The Independent Person is to have at least 10 years relevant post qualification experience and his/her identity shall be agreed between the Parties.
- 17.4. If the Parties cannot agree on the Independent Person's identity the Independent Person is to be appointed at the request of any of the Parties by the president or chairman for the time being of whichever of the following bodies is most appropriate having regard to the nature of the dispute:
- 17.5. The Royal Institution of Chartered Surveyors;
- 17.6. The Institute of Chartered Accountants in England & Wales; or
- 17.7. The Law Society of England and Wales.
- 17.8. The Independent Person is to act as arbitrator in accordance with the Arbitration Act 1996 and the costs of the arbitration shall be payable by the Parties in the proportions determined by the Independent Person unless agreed otherwise the default position being as determined under the Arbitration Act 1996.
- 17.9. Where costs of the Independent Person remain unpaid by the Party liable to pay them pursuant to this clause, the other Parties or any of them may discharge those costs and recover the sum so paid from the defaulting Party as a debt on written demand.

18. Priority of documents

18.1. In the event of any inconsistencies between the terms of this agreement and its Schedules the Parties are the following order of priority of documents:

18.1.1. This Agreement

18.1.2. The Constitution of the Joint Committee

18.1.3. The Constitution of the Advisory board

18.1.4. The Constitution of the Working Group

19. Complaints

19.1. In the event of a complaint about a Project being received the Lead Authority for that project will manage the complaint and shall report regularly as necessary upon the complaint and in any event at the conclusion of the complaint.

20. Local authority powers

20.1. Nothing in this Agreement shall prejudice or affect any of the statutory rights powers obligations and duties for the time being vested in the Parties.

21. Notices and service

21.1. Any notice or other information required or authorised by this Agreement to be given by any Party to the other Parties shall be given by:

21.2. delivering the same by hand,

21.3. sending the same by pre-paid registered post, or

21.4. sending the same by facsimile transmission,

21.5. to the other Party or Parties at the address given at the beginning of this Agreement or such other address as has been notified to the parties in writing.

21.6. Any notice or information sent by post in the manner provided by clause 21.1 which is not returned to the sender as undelivered shall be deemed to have been given on the second day after the envelope containing it was so posted, and proof that the envelope containing any such notice or information was properly addressed, pre-paid, registered and posted, and that it has not been returned to the sender, shall be sufficient evidence that the notice or information has been duly given.

21.7. Any notice or information sent by facsimile transmission shall be deemed to have been duly given on the date of transmission, provided that a confirming copy is sent to the other Party or Parties at the appropriate address within

22. Freedom of Information

- 22.1. The Parties acknowledges that they are subject to the requirements of the code of practice on access to government information, the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations ("EIR") and shall assist and cooperate with each other to enable the Parties to comply with their information disclosure obligations.
- 22.2. The Parties shall provide all necessary assistance as reasonably requested by the other Parties to enable the other Parties to respond to any requests for information that falls under the FOIA or EIR and is related to the Project ("Request for Information") within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 22.3. The Party who received the initial Request for Information shall be responsible for responding to the initial request and determining in its absolute discretion and 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 access to government information, FOIA or the EIR.
- 22.4. The Parties shall ensure that all information produced in the course of this Agreement is retained for disclosure and shall permit the other Parties to inspect such records as requested from time to time.

23. Data Protection Act 1998 (the "DPA")

- 23.1. With respect to the parties' rights and obligations under this Agreement, the Parties agree to each comply with the obligations imposed on them by the DPA as a Data Controller and to ensure that Personal Data (as defined in the DPA) is processed only in accordance with their own policies on data protection, information security and retention of personal data to comply with their obligations under the DPA.

24. Equality Act 2010

- 24.1. The Parties agree to each comply with the obligations imposed on them by the Equality Act 2010.

25. General

- 25.1. This Agreement is personal to each of the Parties and no Party may assign, mortgage, charge or (except as otherwise provided in this Agreement) license any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder, except with the written consent of all the other Parties.
- 25.2. Nothing in this Agreement shall create, or be deemed to create, a partnership, or the relationship of principal and agent, between the Parties.
- 25.3. The Parties will act in good faith towards each other in relation to the Programme and in achieving the Objectives and Outputs of the Programme and in complying with this Agreement and the Funding Agreement.
- 25.4. If any provision of this Agreement is held by any competent authority to be invalid or

unenforceable in whole or in part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.

- 25.5. This Agreement, the Funding Agreement and the documents referred to in it, constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the parties relating to the subject matter of this Agreement.
- 25.6. All of the parties acknowledge and agree that in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether Party to this Agreement or not) other than as expressly set out in this Agreement. Nothing in this clause shall, however, operate limit or exclude any liability for fraud.
- 25.7. All payments by any Party pursuant to this Agreement are exclusive of any applicable value added tax except where expressed to the contrary, and if any such value added tax is payable, the Party in question shall be additionally liable for such tax, which shall accordingly be shown on the relevant VAT invoice.
- 25.8. No variation to this Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by and on behalf of all of the Parties.
- 25.9. Every Party shall from time to time do all such acts and execute all such documents as may be reasonably necessary in order to give effect to the provisions of this Agreement.
- 25.10. The Parties shall bear their own costs of and incidental to the preparation, execution and implementation of this Agreement.
- 25.11. The Parties do not intend that any of this Agreement should be enforceable pursuant to the Contracts (rights of Third Parties) Act 1999 by any person who is not a Party to this Agreement.
- 20.12 This Agreement shall be governed by and construed in accordance with the laws of England and Wales

SIGNED by or on behalf of the parties on the date which first appears in this Agreement

SCHEDULE 1

Constitution and Terms of Reference of Advisory board

The Black Country wide Advisory Board will oversee the delivery of the programme making key recommendations to the Joint Committee.

CONSTITUTION

1. The Advisory Board shall comprise of:
 - I. The Cabinet member for regeneration for four Black Country local authorities (voting members)
 - II. Four business community representatives of the Black Country LEP (voting members)
 - III. The Executive Directors of the Black Country local authorities with responsibility for regeneration (non-voting member)
 - IV. A Black Country Consortium Ltd representative (non-voting member)
 - V. Such government department representatives as the committee agrees to (non-voting member)
 - VI. Such representatives of the community, business and or other bodies as the committee agrees to (non-voting member)
 - VII. The Program Manager (non-voting member)
2. The Advisory Board shall at its Annual Meeting (held in line with the start of municipal year) elect a Chair and Vice-Chair from among its voting members. In the event of both being absent from the meeting, the Chair and Vice-Chair for whatever reason, the Advisory Board shall elect a chair from amongst the voting members present for that meeting. Only a voting member is entitled to be elected as Chair or Vice-Chair of the Committee.
3. Four voting members of the Advisory Board shall constitute a quorum.
4. All questions shall be decided by a majority of the votes of the voting members present, the Chair having the casting vote in addition to his/her vote as a member of the Committee.
5. The Advisory Board shall meet as agreed at AGM and set the forthcoming years timetable of meetings.
6. A meeting of the Advisory Board may also be convened by the Chair within 21 days of the receipt of a requisition of any two voting members of the Advisory Board addressed to the Secretary of the Advisory Board. All requisitions shall be in writing and no business other than that specified in the requisition shall be transacted at such a meeting. However in

cases of genuine urgency a meeting of the Advisory Board may be convened at any time by the Chair, upon 5 working days notice to all members of the committee.

7. The Advisory Board shall from time to time appoint such sub- Advisory Boards to consider and deal with any of the functions of the Advisory Board as may be thought desirable. Membership of which is determined by the Advisory Board subject to a any Advisory Board must have a Councillor and LEP representative from the Advisory Board as members of the sub-Advisory Board.
8. The Advisory Board Secretary shall be Walsall Council, and all meetings of the Advisory Board shall take place at Walsall Council.
9. The role of the Secretary shall include:
 - i. the Secretary will be responsible for preparing the agenda and submitting reports prepared by either of the Councils or other bodies to the Advisory Board and minutes of the Advisory Board.
 - ii. The Secretary shall be responsible for making arrangements for recommendations from the Advisory Board , including supporting reports, to the Joint Committee will be sent to Walsall Metropolitan Borough Council secretary of the Joint Committee to enable compliance with the necessary legislative requirements for access to information
10. Members of the Advisory Board or sub- Advisory Board that are elected representatives appointed by a Black Country Council must comply with their own Councils code of conduct.
11. Non Councillor members of the Advisory Board or sub- Advisory Board with conflicts of interest must comply with the following rules:
 - a. A conflict-of-interest arises where any decision potentially gives direct commercial or financial payment or benefits to:
 - a. you,
 - b. a close member of your family, a
 - c. an organisation that you are either:
 - i. are employed by or hold office with or
 - ii. in which you own more than 10% of the issued share capital
 - b. a conflict-of-interest as set out in situations above does not arise in relation to any business regarding allocation of funding streams or Projects to be allocated to or benefit the area of any of the four Black Country Councils.
 - c. Upon a conflict-of-interest arising:
 - i. in the case of a voting member that member must declare an interest and not vote, but may remain in the room to make representations;

- ii. in the case of non-voting members that member must declare an interest but may remain in the room to make representations.
12. Gifts and hospitality policy for elected members will be the same as that of their own local authority. For non elected voting members, they should declare any gifts or hospitality that has a value over £25 which may be seen as related to their role on the Advisory Board and or any specific scheme, Project or funding stream.
13. Only the Joint Committee can make amendments or variations to this Constitution and Terms of reference.

Functions of the Advisory Board

- 1) To receive reports from the Working Group, Black Country councils, central government, the businesses community, Lead and or Accountable bodies under City Deal and Growth Deal and Growth Deal and such other persons or bodies as the Advisory Board deems appropriate.
- 2) To receive reports from any Sub Advisory Board of the Advisory Board.
- 3) To act as a strategic advisory body; reviewing and recommending objectives for strategic investment across the Black Country in relation to the City Deal and Growth Deal, including;
 - a. Providing a coherent single position on the major strategic City Deal and Growth Deal issues;
 - b. Formulating proposals for allocation of spending;
 - c. Formulating proposals for major priorities;
 - d. Consider and agree recommendations made by Working Group;
 - e. Recommending Lead and or Accountable Body status for a body or organisation;
 - f. Referring final recommendations from the Working Group as to items a) to e) above to the Joint Committee for formal approval.
- 4) Receiving regular monitoring reports from the Working Group on the City Deal and Growth Deal program and/or funding streams and/or individual Projects upon the effectiveness and performance of delivery by the Lead and/or Accountable Body
- 5) Reporting regularly or upon request of the Joint Committee, and in any event at least once a year to the annual general meeting of the Joint Committee, to the Joint Committee upon the

effectiveness and performance by the Lead and/or Accountable Body in delivering the City Deal and or growth Deal initiatives, programmes and or funding streams for which they are responsible

- 6) Influence and align government investment in order to boost economic growth;
- 7) to ensure alignment between decision making on City Deal and Growth Deal and decisions on other areas of policy such as land use, transportation, economic development and wider regeneration;
- 8) Co-ordinate and align decision making on other areas of policy such as land use, transportation, economic development and wider regeneration with the LEPs ensuring that business views are taken on board and that LEP growth plans are reflected in strategic priorities;
- 9) Advising the Joint Committee in relation to the City Deal and Growth Deal capital expenditure programmes and potential programs and ensuring policy and programmes are delivered effectively through partners;
- 10) To report to the Joint Committee on such matter as it considers appropriate and relevant to City Deal and Growth Deal and the Programme.

SCHEDULE 2

Working Group

Manage the Programme on an operational basis.

To manage promotion of the programme.

To agree the timeline for delivery of the implementation of the Programme, monitor progress and ensure that the key milestones are achieved.

To undertake the initial appraisal of Project proposals and agree them being worked up in a Business Case

Approve Project Business Cases and provide recommendations to the Advisory Board in the form of the Business Case with recommendations.

To establish a Project Register setting out Project details including, Project Authority, Project Authority Project Lead officer, Project Objectives, funding amount, Key dates, specific tasks/targets that need to be delivered to ensure Project success, Project key risks and mitigation measures in place, any relevant cut of date for funding spend and latest Project position.

Executive Directors will ensure that the Project Register is kept fully up-to-date by officers, in their respective authorities, who are responsible for leading on the Projects for which their Authority is the Lead Authority.

To devise, oversee, manage and monitor the Programme and elements of it generally and specifically review and evaluate on a regular basis ongoing individual Projects progression and delivery against the Business Case for the Project, including any key miles stones, financial spend and compliance with any central Government grant terms.

Receive from Lead Authorities detailed updates on Projects in accordance with the timescales set out in the Business case or otherwise as necessary, and Provide written updates along with appropriate recommendations to the Advisory Board on the progress of the specific Projects.

To identify and manage risk for the Programme and individual Projects

To ensure appropriate financial management is in place and complies with any government grant terms, EU and UK law, and accounting good practice.

Make recommendations to the Advisory Board on the progress of the specific Projects.

Membership:

Decision making membership

- Relevant Executive Directors (or their nominated proxy)

Adviser/support membership (none decisions making members)

- Programme Manager
- Regeneration Managers
- Project Managers
- Project Support Officers
- Other officers as appropriate

SCHEDULE 3

Business case model

Business Case Front Page	
Name of Project	
Key Decision	Yes/No If the final decision that is required for this project is a Key Decision it needs to be included in the Forward Plan of each Council.
Description of Project	
Project Objectives	
Delivery and Risk	
Proposed Lead Authority	
Project Lead Officer	
Project Support Officer	
Key Delivery Partners:	
Collaboration with other City Deals/Body's/LEPs	
Key Milestones (Reportable to the Advisory Board and Joint Committee)	
Project Timetable attached (NB must includes key stages for update reports)	Yes/No NB If No the Project cannot go to Advisory Board/Joint Committee for approval
Aligned Activity or other Projects	
Local Programmes	
European	
Value for Money	
Input – Level of Investment	
Secured Collaborative Agreement – 7/5/14	

Business Case Detailed Project description	
Match Funding Sources:	
Project Activities:	
Outputs:	
Outcomes:	
Economic Impact:	
Equality Impact Assessment:	
Project Officer name	
Date of Business Case	

SCHEDULE 4

Constitution and Terms of Reference of the Black Country Executive Joint Committee



Black Country Executive Joint Committee
Dudley, Sandwell, Walsall and Wolverhampton

BLACK COUNTRY EXECUTIVE JOINT COMMITTEE

CONSTITUTION

26 March 2014

1. (i) Dudley MBC, Sandwell MBC, Walsall MBC and Wolverhampton City Council established an Executive Joint Committee known as the Black Country Joint Committee ('the Committee') for the purpose of discharging the functions mentioned in **Annex A**. The Committee is a joint committee of the Executive for the purposes of Part VI of the Local Government Act 1972 and Part I Chapter 2 of the Local Government Act 2000 and the provisions of thereof that are applicable to Joint Committees of the Executive shall apply to the Committee.
2. (i) The Committee shall comprise four members, each Council being entitled to appoint one voting member who shall be a member of the Councils Cabinet making the appointment. In the event of a voting member of the Committee ceasing to be a member of the Council which appointed him/her, the Council shall forthwith appoint another voting member in his/her place. Only a voting member is entitled to be elected as Chair or Vice-Chair of the Committee.
 - (ii) Each Council may appoint members of its Executive as substitute for the voting members appointed under (i) above to attend meetings of the Committee and its sub-committees in the absence for any reason of the voting members or observer members appointed under (i) above and in attended meetings of the Committee and its sub-committees the substitute voting members or observer members shall be treated in all respects if they were appointed under (i) above as the case may be. The Secretary for the Committee shall be informed prior to the commencement of the meeting of the names of the substitute members.
 - (iii) The Chairman of the Black Country Local Enterprise Partnership shall be an ex officio member of the Committee on matters relating to City Deal and Growth Deal. Ex officio members may speak at meetings of the committee but not vote. The Chairman of the Black Country Local Enterprise Partnership shall present reports to the Joint Committee from the City Deal and Growth Deal Advisory Board.

- (iv) The Black Country Consortium Ltd will be responsible for writing reports to the Joint Committee from the **City Deal and Growth Deal** Advisory Board in the format provided for at **Annex B**. All other reports from any subcommittee and or Council will also take the form as set out in **Annex B**. A representative of the Black Country Consortium Ltd can be in attendance at meetings of the Joint Committee on matters relating to **City Deal and Growth Deal** in an advisory role as the Joint Committee see fit.
 - (v) The Committee shall at its Annual Meeting, elect a Chair and Vice-Chair from among its voting members or chose to adopt for that year to have a rolling Chair and Vice Chair being upon rotation. In the event of both being absent from the meeting, the Chair and Vice-Chair for whatever reason, the Committee shall elect a chair from amongst the voting members present for that meeting but shall not count for purposes of rotation.
 - (vi) Three voting members of the Committee shall constitute a quorum. Except as otherwise provided by statute, all questions shall be decided by a majority of the votes of the voting members present, the Chair having the casting vote in addition to his/her vote as a member of the Committee.
 - (vii) The Committee shall meet as agreed at its AGM. However a meeting of the Committee may be convened at any time by the Secretary in consultation with the Chair for the meeting that would be convened. A meeting of the Committee must also be convened by the Chair within 28 days of the receipt of a requisition of any two voting members of the Committee addressed to the Secretary of the Committee. All requisitions shall be in writing and no business other than that specified in the requisition shall be transacted at such a meeting.
 - (viii) The Committee shall from time to time make such standing orders for the carrying on of the business of the Committee as the Committee shall deem necessary and or desirable.
 - (ix) For the avoidance of doubt and subject to there being no changes to the law on this issue, where a Council is operating executive arrangements pursuant to the Local Government Act 2000 (and any regulations made under it), it will be a matter for the Executive of the Council to appoint any voting member, or substitute member of the Committee as long as that member is a member of the appointing Councils Cabinet.
- 3. The Committee shall from time to time appoint such sub-committees and Advisory Boards to consider and deal with any of the functions of the Committee as may be thought desirable.
 - 4. The Committee Secretary and such other officers as may be deemed necessary for the due conduct of the business of the Committee shall be Walsall Metropolitan Borough Council.
 - 5. Meetings of the Joint Committee shall be held at Walsall Metropolitan Borough Council unless otherwise directed by the Joint Committee.
 - 6. The Secretary shall:
 - iii. Be responsible for preparing the agenda and submitting reports prepared by either of the Councils or other bodies to the Joint Committee and minutes of the Joint Committee.

- iv. Be responsible for making arrangements for the publishing in accordance with Access to Information requirements all meetings, agenda, agenda items and minutes as appropriate.
- 7. That the relevant Standing Orders for Black Country Joint Committee are those of Walsall Metropolitan Borough Council.

Annex A – Terms of Reference



Black Country Executive Joint Committee
Dudley, Sandwell, Walsall and Wolverhampton

FUNCTIONS OF BLACK COUNTRY EXECUTIVE JOINT COMMITTEE

1. To receive reports from any Sub Committee of the Joint Committee or Advisory Board of the Joint Committee.
2. At any time review and agree proposed changes to the Functions of the Committee, and seek approval of the same from the four Council Executives of the Black Country authorities.
3. To agree and approve any proposed governance and or reporting structure that the committee sees fit.
4. In relation to the City Deal and Growth Deal:
 - 4.1 To act as a strategic body; setting and reviewing objectives for strategic investment across the Black Country, including;
 - a. Providing a coherent single position on the major strategic City Deal and Growth Deal issues;
 - b. Agreeing allocation of spending;
 - c. Agreeing major priorities;
 - d. Consider and agree recommendations made by any Sub Committee of the Joint Committee or Advisory Board of the Joint Committee;
 - e. Refer recommendations received back to any Sub Committee of the Joint Committee or Advisory Board of the Joint Committee for further consideration as and when minded in the first instance to not follow recommendations at all or to materially change the substance of the decision except in the case of genuine urgency requiring a decision to be made at that time;
 - 4.2 Agreeing Lead and or Accountable Body status for a body or organisation;
 - 4.3 Agree, review and amend options at any time for City Deal and Growth Deal governance which is fit for purpose;
 - 4.4 influence and align government investment in order to boost economic growth;

- 4.5 have regard to the duty to cooperate and Joint Committee's overall function as set out above;
- 4.6 to ensure alignment between decision making on City Deal and Growth Deal and decisions on other areas of policy such as land use, transportation, economic development and wider regeneration;
- 4.7 Co-ordinate and align decision making on transport with the LEPs ensuring that business views are taken on board and that LEP growth plans are reflected in strategic priorities;
- 4.8 Deciding on capital expenditure programmes and ensuring policy and programmes are delivered effectively through partners;

Annex B



Black Country Executive Joint Committee
Dudley, Sandwell, Walsall and Wolverhampton

REPORT OF THE CITY DEAL AND GROWTH DEAL ADVISORY BOARD

(OR COUNCIL)

TO

BLACK COUNTRY EXECUTIVE JOINT COMMITTEE – (DAY, MONTH, YEAR)

(INSERT TITLE OF REPORT)

Key Decision:	Yes/No
Forward Plan:	Yes/No

1. PURPOSE OF REPORT

- a. Details of what is being sought in summary

2. RECOMMENDATIONS

- a. Specific recommendation from the City Deal and Growth Deal Advisory Board with approval requested by the Joint Committee.

3. REPORT DETAIL

- a. All relevant and pertinent information so as to enable a fully informed decision to be made by the Joint Committee to include the report from the City Deal and Growth Deal Working Group that will have been approved by the City Deal and Growth Deal Advisory Board for recommendation to the Joint Committee.

4. FINANCIAL IMPLICATIONS

- a. All relevant financial implications

5. LEGAL IMPLICATIONS

- a. All relevant Legal implications

6. RISK MANAGEMENT

- a. Key risk identified and explanations as to how they will be managed are to be inserted.

7. EQUALITY IMPLICATIONS

- a. An equality impact assessment to be done and equality implications set out in the report as well as how they will be managed.

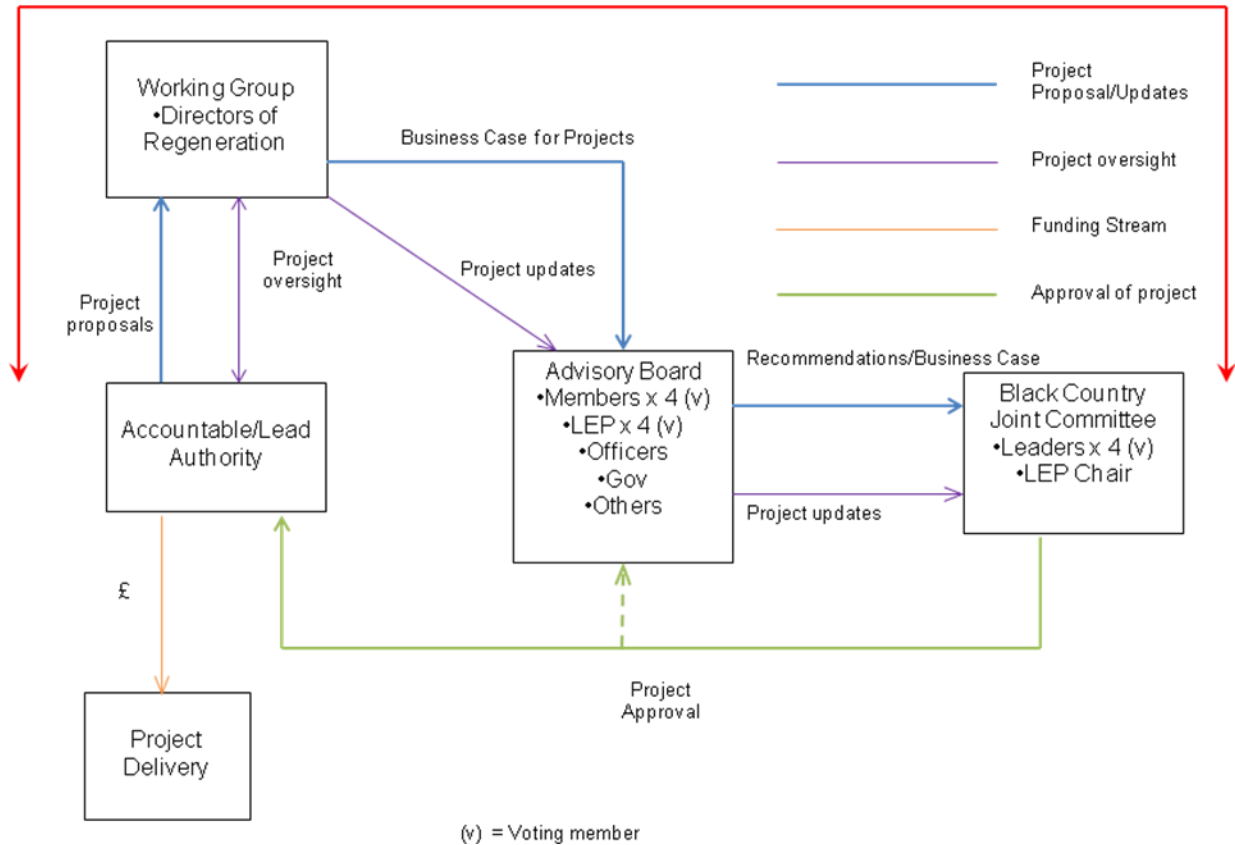
Back Ground papers

Authors name and contact details

SCHUDLE 5

Decision and oversight matrix

Black Country LEP Strategic Role



SIGNED by Councillor Mike Bird, Leader on behalf of
WALSALL METROPOLITAN BOROUGH COUNCIL

.....

SIGNED by Councillor David Sparks, Leader on behalf of
DUDLEY METROPOLITAN BOROUGH COUNCIL

.....

SIGNED by Councillor Darren Cooper, Leader on behalf of
SANDWELL METROPOLITAN BOROUGH COUNCIL

.....

SIGNED by Councillor Roger Lawrence, Leader on behalf of
WOLVERHAMPTON CITY COUNCIL

.....

SIGNED by Sarah Middleton, Chief Executive on behalf of
THE BLACK COUNTRY CONSORTIUM LIMITED

.....

SIGNED by a duly authorised officer for and on behalf of
WALSALL METROPOLITAN BOROUGH COUNCIL

Authorised Signatory

Print Name

SIGNED by a duly authorised officer for and on behalf of
DUDLEY METROPOLITAN BOROUGH COUNCIL

Authorised Signatory

Print Name

SIGNED by a duly authorised officer for and on behalf of
SANDWELL METROPOLITAN BOROUGH COUNCIL

Authorised Signatory

Print Name

SIGNED by a duly authorised officer for and on behalf of
WOLVERHAMPTON CITY COUNCIL

Authorised Officer

Print Name

SIGNED by a duly authorised officer for and on behalf of
BLACK COUNTRY CONSORTIUM LIMITED

Authorised Signatory

Print Name