

GFirst LEP Strategic Economic Plan Delivery

Assurance Framework

Organisations and Bodies involved in Delivery

(updated March 2019)

Background

This annex provides summary information about the decision making and advisory bodies and organisations, which have responsibilities and important roles in; the delivery of the Growth Deal for Gloucestershire and; the Assurance Framework for this process.

Related information is also provided in the diagrams contained within Annexes to the Assurance Framework including:

Annex A; Growth and Governance

Annex C; Growth Fund Project Assessment and Fund Management Process

Delivery bodies/groups and how they relate to the GFirst LEP Board	
GFirst Local Enterprise Partnership Board	Role and Responsibilities
<ul style="list-style-type: none"> • Board has a minimum of 6 and a maximum of 14 directors. • up to one third of the Directors represent the public sector, including local government, further education and higher education. • Majority of directors from private sector (two thirds minimum). • Representation from voluntary, community and social enterprise sector. • One Director from Gloucestershire County Council. <p>http://www.gfirstlep.com/gfirst-LEP/About-Us/The-Board/</p>	<ul style="list-style-type: none"> • Responsible for strategic decision making of the LEP. • Responsible to Government for ensuring that all aspects of the Growth Deal are delivered. <p>For Single Local Growth Fund (SLGF), the LEP Board has the authority to:</p> <ol style="list-style-type: none"> a) Review and approve business case proposals for projects to be presented to Government with the aim of including them as part of the Growth Deal with Government; b) Review the recommendations made by the LEP Investment Panel and the findings of the due diligence assessments of projects in order to; make decisions to approve funding without conditions; approve for funding with conditions; require business case re-writing and re-submission. c) Review project monitoring reports and, if necessary, suspend or stop further payments to project promoters where insufficient progress has been made or where the Programme Management Group/Accountable Body advise that this is necessary.
Project Management Boards	Role and Responsibilities
<p>Project Management Boards may be set up to oversee delivery and ensure that progress is being made.</p> <p>Membership of these Boards will be agreed in partnership with the Lead Partners and the structure and meeting arrangements for these will</p>	<p>Project Management Boards will report directly to the LEP Board,</p> <ul style="list-style-type: none"> • To provide progress updates and recommendations as appropriate

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<p>be reviewed annually to ensure fitness for purpose.</p>	<ul style="list-style-type: none"> To oversee financial, delivery and output/outcome performance of main investment areas.
<p>Gloucestershire Economic Growth Joint Committee (GEGJC)</p>	<p>Role and Responsibilities</p>
<ul style="list-style-type: none"> One member (the Leader) from each of the seven Gloucestershire Local Authorities (voting) The Chair of Gloucestershire's LEP- or their nominee (non-voting) one other Board member of GFirst LEP – or their nominee (non-voting) <p>http://glostext.gloucestershire.gov.uk/mgCommitteeDetails.aspx?ID=725</p>	<ul style="list-style-type: none"> To facilitate and enable collaboration between the local authorities on economic development and associated activities In conjunction with the GFirst LEP Board to formulate and agree the Gloucestershire Strategic Economic Plan and the Gloucestershire EU Structural and Investment Fund Strategy and other economic plans related to economic growth and to work jointly to ensure their delivery To make recommendations to the GFirst LEP Board on matters relating to the economic wellbeing of Gloucestershire To ensure a coordinated approach by liaising with other groups/boards e.g. LEP Investment Panel, County Strategic Planning and Infrastructure Group
<p>Gloucestershire Economic Growth Overview and Scrutiny Committee (GEGOSC)</p>	<p>Role and Responsibilities</p>
<p>Six County Councillors and one person from each of the District Councils in Gloucestershire as voting co-opted Members.</p> <p>http://glostext.gloucestershire.gov.uk/mgCommitteeDetails.aspx?ID=731</p>	<p>Scrutiny Role:</p> <ul style="list-style-type: none"> To review the decisions of the Gloucestershire Economic Growth Joint Committee and To review the overall impact and delivery outcomes of the Gloucestershire Strategic Economic Plan and to make recommendations to the LEP Board and the Joint Committee on issues and Improvements
<p>Gloucestershire County Council – Accountable Body Role</p>	<p>Role and Responsibilities</p>
<p>Accountable body for the government's Local Growth funds which will be used to deliver the Growth Plan for Gloucestershire.</p> <p>Gloucestershire County Council (through its Responsible Financial Officer – the Section 151 Officer) is accountable for ensuring the grant income received is administered correctly.</p> <p>Gloucestershire County Council website www.gloucestershire.gov.uk</p>	<p>Gloucestershire County Council is responsible for monitoring for compliance within the terms of the LEP Assurance Framework</p> <ul style="list-style-type: none"> To ensure use of resources in accordance with Gloucestershire County Council's established processes including financial regulations and contract regulations To ensure there are arrangements for local audit of funding To issue funding agreements between the County Council and the project promoter to set out the terms and conditions for the Local Growth Funds To manage the administration fee process To manage the due diligence process
<p>LEP Investment Panel</p>	<p>Role and Responsibilities</p>

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<p>Advisory Panel which comprises both public/private sector representation as follows :</p> <ul style="list-style-type: none"> • Chair – Chief Executive of LEP • Private sector representatives from key Gloucestershire Business sector groups • Three Senior Officer representatives from Local Authorities – to include both rural and urban district councils ideally • Two Gloucestershire County Council officers (1 acting as Accountable Body observer) • Senior representative of the Homes and Communities Agency 	<p>Responsible for providing reports and recommendations to the LEP Board to facilitate the decision process for Local Growth fund grants</p> <ul style="list-style-type: none"> • To review the external Due Diligence reports regarding growth deal funding grant allocations to projects • To advise and make recommendations to the LEP Board on the grant allocation proposed and specific conditions or particular points to be considered • To identify contractual terms and advise the LEP Board accordingly <p>Please note: LEP Investment Panel has an important advisory role for the GIFF loan funding. The Panel reviews external appraisals, and makes investment recommendations to the LEP Board</p>
<p>Programme Management Group (PMG)</p>	<p>Role and Responsibilities</p>
<p>Advisory group which comprises:</p> <ul style="list-style-type: none"> • officers from the executive/staff of GFirst LEP • expert officers from the Accountable Body (Gloucestershire County Council) • specialist financial and legal input as required 	<p>Responsible for day to day management of the delivery processes including:</p> <ul style="list-style-type: none"> • To work with Government departments and agencies • To communicate with project promoters. • To commission, report on and review the recommendations produced following the due diligence process for Single Local Growth Fund proposals • To prepare and present summary papers and reports (e.g. due diligence) to key meetings including; LEP Investment Panel, GEGJC, LEP Board to support the delivery of the LGF and the necessary decision making process. • To work with Gloucestershire County Council as Accountable Body to agree project milestones, funding drawdown and project monitoring processes that will form the basis of the funding agreements between GCC and the project promoters. • To undertake other programme management tasks as required and directed by the LEP Board. • To make operational management decisions, such as being flexible with the timing of funding in response to changing circumstances

Annex B (addition June 2019) - Delegation

This further clarifies the GFirst LEP Scheme of Delegation ('the scheme'),

The scope of the scheme is the financial management of the following budgets:

1. Growth Deal
2. Growing Places Fund
3. Core (administration) budget.

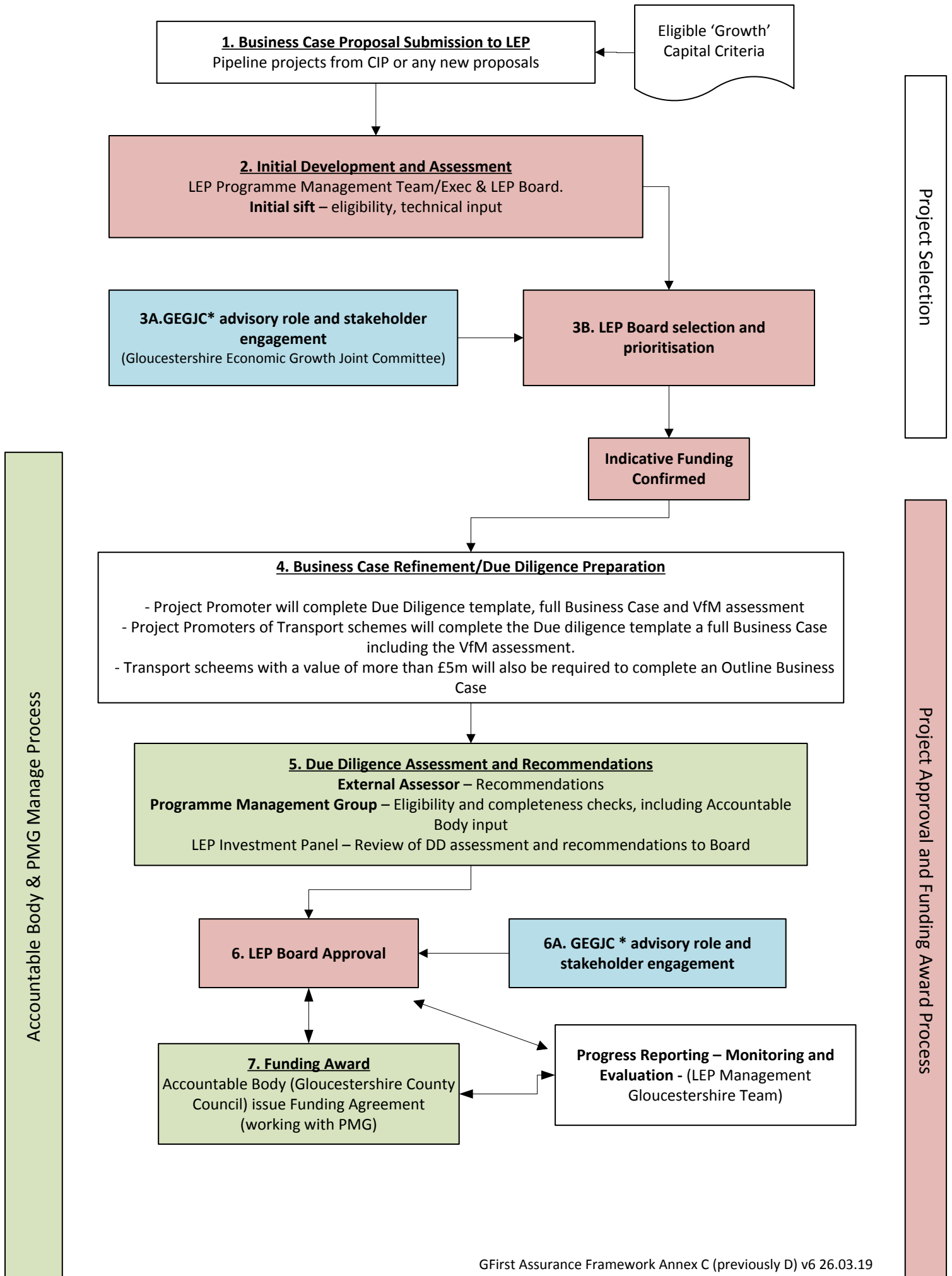
Principles of Delegation

To ensure the efficient running of GFirst Local Enterprise Partnership, there needs to be delegation arrangements that allow for the appropriate allocation of tasks and responsibilities.

The scheme exists to ensure that financial management of the in scope budgets aligns with the Assurance Framework for the GFirst Local Enterprise Partnership.

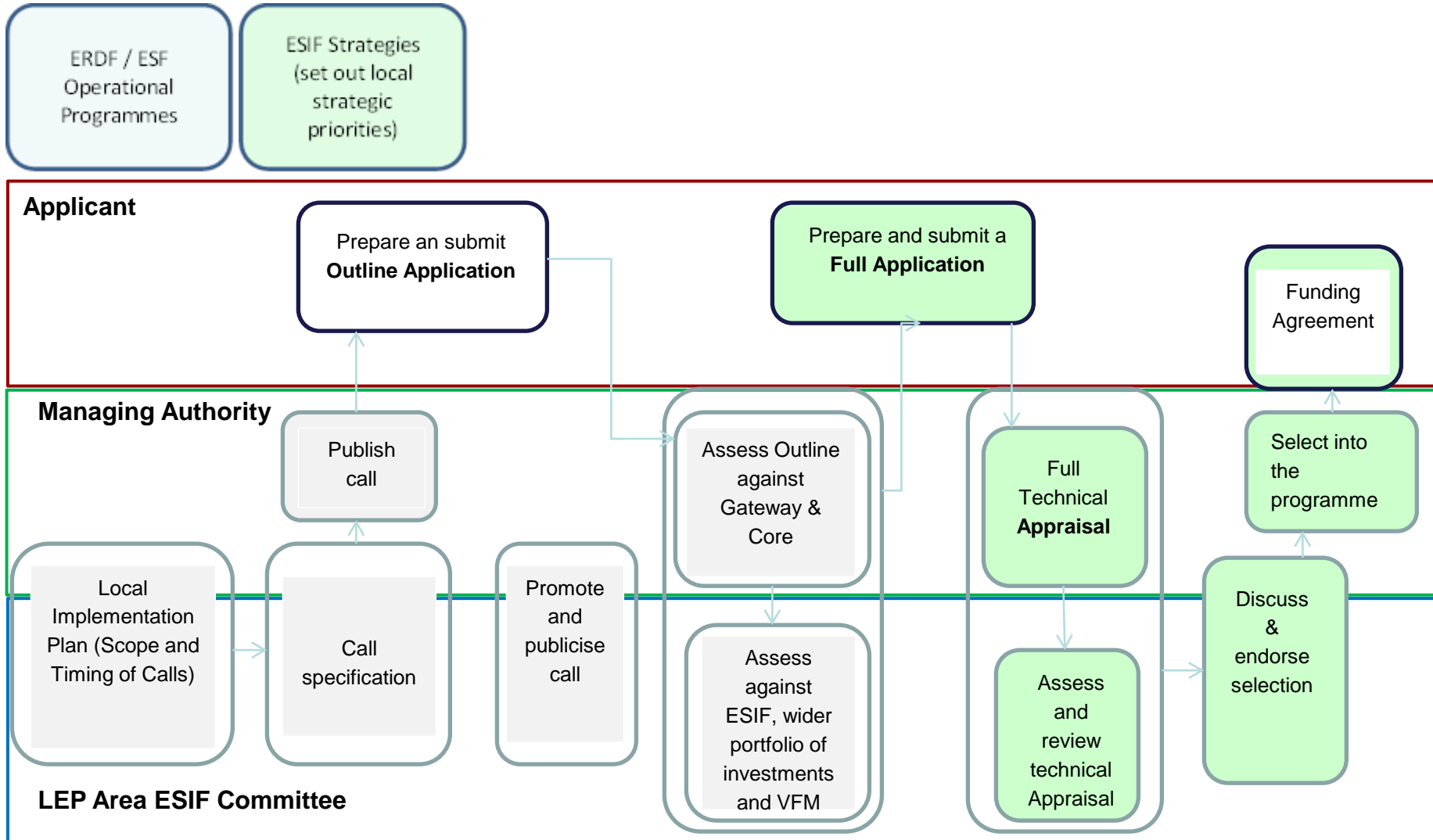
It should be noted that all funding decisions are made by the LEP Board.

Area of Responsibility	GFirst LEP Board	GFirst LEP Board Sub Groups	GCC Accountable Body	LEP Investment Panel	Chief Executive
Recommendations to the Full LEP Board for funding decisions: Growth Fund				x	
Recommendations to the Full LEP Board for funding decisions: Growing Places Fund				x	
Recommendations to the Full LEP Board on matters that have been reviewed by a Sub Group that relate to funding decisions		x			
Approval of funding of Local Growth Fund projects	x				
Approval of Loans for Growing Places Fund projects	x				
Management of Core Budget					x
Compliance assurance, Correct administration of funds			x		





European Growth Programme Business Process to Funding Agreement



DATED

20[XX]

GLOUCESTERSHIRE COUNTY COUNCIL (1)

- and -

[NAME] (2)

CONDITIONAL LOCAL GROWTH CAPITAL FUNDING AGREEMENT

relating to [PROJECT]

Gloucestershire County Council
Shire Hall, Westgate Street
Gloucester
GL1 2TG

THIS DEED is dated _____ 20[XX]

PARTIES

- (1) **GLOUCESTERSHIRE COUNTY COUNCIL** whose principal address is at Shire Hall, Gloucester, Gloucestershire GL1 2TG (the “Authority”); and
- (2) **[NAME]** whose principal address is **[ADDRESS]** (the “Promoter”).

WHEREAS:

- (A) It is acknowledged that the Authority is the “accountable body” for the Local Growth Funding described hereunder.
- (B) Subject to and conditional upon the Authority first receiving funding of a sum equal to the Local Growth Capital Funding from the **[Ministry of Housing, Communities and Local Government]** for the purpose of funding the Project the Authority has agreed to pay the said Local Growth Capital Funding to the Promoter for the purposes of the Promoter procuring the delivery of the Project.
- (C) The Authority and the Promoter are entering into this Agreement in order to record the terms and conditions on and subject to which their respective obligations hereunder in respect of the Local Growth Capital Funding will be discharged during the Term.

AGREED TERMS

1. DEFINITIONS

- 1.1 In this Agreement the following terms shall have the following meanings:

“**2015 Regulations**”: the Public Contracts Regulations 2015 (and any statutory modification thereto or re-enactment thereof).

“**Budget and Project Plan**”: the budget and project plan set out in Schedule 5.

“**Capital Expenditure**”: capital expenditure and associated expenditure (for example architect’s fees) in respect of an item with an expected life of more than one year.

“**Commencement Date**”: **[DATE] [DRAFTING NOTE FOR GCC OFFICERS: This date should correspond with the start date of the first Milestone Period set out in Schedule 4.]**

“**Data Protection Legislation**”: means (i) the General Data Protection Regulation

(regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing laws as amended from time to time, (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy, (iii) all applicable laws relating to personal data and privacy.

“HM Government”: Her Majesty’s Government.

“Environmental Law”: EU law and all other applicable laws and regulations as well as applicable international treaties of which a principal objective is the preservation, protection or improvement of the environment.

“Fixed Asset”: any asset that consists of land and/or buildings, plant, machinery or other thing that is, or is to be, fixed to any land and which is to be acquired, developed, enhanced, constructed and/or installed as part of the Project.

“Funding Manager”: the individual who has been nominated to represent the Authority for the purposes of this Agreement.

“Funding Payment Request Dates”: the funding payment request dates specified in the table set out in Schedule 4.

“Funding Payment Request Form”: a form used for requesting the payment of funding in the format specified in Schedule 1 submitted by the Promoter to the Authority in respect of a Local Growth Capital Funding Instalment in accordance with the funding payment procedure set out in Schedule 4.

“GFirst LEP”: GFirst LEP CIC (company number: 9353067)

“Half Year” means the period of 6 consecutive months commencing on the Commencement Date and each successive period of 6 months thereafter and the use of the term **“Half Yearly”** shall be construed accordingly.

“Intellectual Property Rights”: all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.

“Know-How”: information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

“Local Growth Capital Funding”: the sum of £[NUMBER] (WORDS) to be paid by the Authority to the Promoter in accordance with clause 3 and the funding payment procedure set out in Schedule 4.

“Local Growth Capital Funding Instalments”: the Local Growth Capital Funding Instalments specified in Schedule 4, each of which is a **“Local Growth Capital Funding Instalment”**.

“Major Asset”: an asset which is not a Fixed Asset but has a value as at the date of this Funding Agreement (or date of acquisition if the acquisition is funded Local Growth Capital Funding) of at least £100,000 (one hundred thousand pounds).

“Milestone Period” means each of the numbered milestone periods set out in the table contained in Schedule 4.

“Prohibited Act” means:

- (a) offering, giving or agreeing to give to any servant of the Authority any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Authority; or
 - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Authority;
- (b) entering into this Agreement or any other contract with the Authority where a commission has been paid or has been agreed to be paid by the Promoter or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Authority;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Authority; or
- (d) defrauding or attempting to defraud or conspiring to defraud the Authority.

“Project”: means the project more particularly described in Schedule 3, whose purpose is [PROJECT].

“Project Delivery Period” means the period commencing on [the Commencement Date] and expiring on the expiry of Milestone Period number [INSERT THE NUMBER GIVEN TO THE FINAL MILESTONE PERIOD IN SCHEDULE 4] set out in Schedule 4 unless terminated earlier in accordance with the terms of this Agreement or extended pursuant to clause 4.9. *[DRAFTING NOTE FOR GCC OFFICERS: The primary purposes of this definition is to establish the period during which the Promoter is required to carry out its performance obligations (whether they be construction related and/or the delivery of broader project related outcomes (eg, education)). Please bear in mind that this “Project Delivery Period” is comprised of the series of “Milestone Periods” set out in Schedule 4.]*

“Project Manager”: the person appointed by the Promoter to act on behalf of the Promoter for all purposes connected with this Agreement.

“Project Specification” the project specification set out in Schedule 3.

“Project Specific Conditions” the project specific conditions (if any) set out in Schedule 2.

“Quarter”: a period of 3 consecutive months. **“Quarterly”** shall be construed accordingly.

“Regulatory Bodies”: those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Authority and **“Regulatory Body”** shall be construed accordingly;

“Term”: the term of this Agreement commencing on the Commencement Date and expiring on [LONG DATE] unless terminated earlier in accordance with the terms of this Agreement. *[DRAFTING NOTE FOR GCC OFFICERS: The primary purposes of this date is to establish the period during which the Promoter may not dispose of major assets or fixed assets without GCC’s prior consent - see clause 5.2.]*

- 1.2 References to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as

amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted.

- 1.3 References to the singular shall include the plural and *vice versa*.
- 1.4 References to any gender shall include all genders.
- 1.5 References to clauses and Schedules are to clauses or sub-clauses, and schedules in this Agreement. References in any Schedule to paragraphs are to paragraphs or sub-paragraphs in that Schedule and references to this Agreement shall include the Schedules.
- 1.6 In the event of a conflict between the clauses and the Schedules to this Agreement, the clauses shall prevail.

2. **PURPOSE OF LOCAL GROWTH CAPITAL FUNDING**

- 2.1 The Promoter shall use the Local Growth Capital Funding only for Capital Expenditure net of recoverable input VAT for the purposes of procuring the delivery of the Project during the Project Delivery Period. The Local Growth Capital Funding shall not be used for any other purpose without the prior written agreement of the Authority.
- 2.2 The Promoter shall not make any material change to the Project without the Authority's prior written agreement.

3. **PAYMENT OF LOCAL GROWTH CAPITAL FUNDING**

- 3.1 Payment of the Local Growth Capital Funding by the Authority to the Promoter is subject to and conditional upon the Authority first receiving funding of a sum equal to the Local Growth Capital Funding from the [Ministry of Housing, Communities and Local Government] for the purpose of funding the Project. For the avoidance of doubt, the Promoter acknowledges and agrees that the Authority shall not be under any obligation to pay any Local Growth Capital Funding Instalment to the Promoter unless and until the Authority is first in receipt of [INSERT NAME OF FUNDING STREAM/POT] funding from the [Ministry of Housing, Communities and Local Government] of a sum equal to the relevant Local Growth Capital Funding Instalment for the purpose of funding the Project.
- 3.2 Subject to clauses 3.1 and 15, the Authority shall pay the Local Growth Capital Funding to the Promoter in accordance with the funding payment procedure set out in Schedule 4.
- 3.3 No Local Growth Capital Funding shall be paid unless and until the Authority is satisfied that such payment will be used for proper expenditure in procuring the delivery of the

Project in accordance with the terms and conditions of this Agreement and the Project Specific Conditions (if any).

- 3.4 The amount of the Local Growth Capital Funding shall not be increased in the event of any change to the Project pursuant to clause 2.2 or in the event any overspend by the Promoter in procuring the delivery of the Project.
- 3.5 The Promoter shall promptly repay to the Authority any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid in respect of a Local Growth Capital Funding Instalment or where Local Growth Capital Funding monies have been paid in error before all conditions attaching to the Local Growth Capital Funding have been complied with by the Promoter. Any such monies, whether disclosed by a report or otherwise, must be refunded forthwith to the Authority on its first demand or upon the Promoter becoming aware that a Local Growth Capital Funding Instalment has been overpaid, whichever first occurs

4. USE OF LOCAL GROWTH CAPITAL FUNDING

- 4.1 The Local Growth Capital Funding shall be used by the Promoter only for Capital Expenditure net of recoverable input VAT for the purposes of procuring the delivery of the Project during the Project Delivery Period in accordance with the terms and conditions of this Agreement, the Project specification set out in Schedule 3 and the agreed Budget and Project Plan set out in Schedule 5.
- 4.2 It is agreed and acknowledged that the Local Growth Capital Funding constitutes “state resources” for the purposes of the European Commission’s State Aid rules from time to time.
- 4.3 If and to the extent the Promoter uses any of the Local Growth Capital Funding to make payments to any third party, or if it transfers assets acquired using any of the Local Growth Capital Funding to any third party (where the term “third party” shall include, without limitation, any holding company or subsidiary from time to time of the Promoter or any subsidiary of any such holding company) the Promoter shall comply with (as applicable):
- (a) the European Commission’s State Aid rules from time to time; and
 - (b) the 2015 Regulations (or any regulations which amend, extend, consolidate or replace the same);

as though the Promoter is a contracting authority (as such term is defined in regulation 2(1) of the 2015 Regulations). For the avoidance of doubt, if the Promoter is a contracting authority (as such term is defined in regulation 2(1) of the 2015 Regulations) then it shall at all times comply with its obligations under the European Commission's State Aid rules from time to time and the 2015 Regulations (or any regulations which amend, extend, consolidate or replace the same).

- 4.4 Notwithstanding anything to the contrary in this Agreement, if and to the extent the aggregate value of any goods, works and/or services that the Promoter wishes to procure from any third party (where the term "third party" shall include, without limitation, any holding company or subsidiary from time to time of the Promoter or any subsidiary of any such holding company) using the Local Growth Capital Funding will exceed the relevant procurement threshold prescribed under the 2015 Regulations from time to time the Promoter shall procure all such goods, works and/or services in accordance with the 2015 Regulations as though the Promoter is a "contracting authority" as defined in the 2015 Regulations. For the avoidance of doubt, if the Promoter is a contracting authority (as such term is defined in the 2015 Regulations) then it shall at all times comply with its obligations under the 2015 Regulations (or any regulations which amend, extend, consolidate or replace the same) in respect of the procurement of goods, works and/or services.
- 4.5 The Promoter shall if required by the Authority provide a written report detailing the procurement practices adopted by the Promoter in the delivery of the Project to include (without limitation) details of how tenders have been assessed and tenderers have been selected.
- 4.6 Without prejudice to clause 2.1, the Promoter shall **not** use any of the Local Growth Capital Funding to:
- (a) pay for any expenditure commitments of the Promoter entered into before the Commencement Date without the prior written consent of the Authority;
 - (b) use any of the Local Growth Capital Funding in breach of clauses 2 or 4.1;
 - (c) make payments to any third party and/or transfer assets acquired using any of the Local Growth Capital Funding in breach of clauses 4.3 and/or 5;
 - (d) procure any goods, works and/or services in breach of clause 4.4 or clause 4.7;
 - (e) fund any revenue costs;

- (f) pay for any overheads allocated or apportioned at rates materially in excess of those used for any similar work procured by the Promoter;
- (g) pay input VAT which is recoverable by the Promoter from HMRC;
- (h) pay for any for activity of a political nature; or
- (i) meet balance sheet provisions.

4.7 The Promoter shall procure the delivery of the Project in such a manner that:

- (a) assists in improving the economic, social and environmental well being for the relevant area as defined in the Public Services (Social Value) Act 2012 and abide by any specific requirements of Authority policies relating to social value;
- (b) provides “best value” as described in the Local Government Act 1999 and the Promoter shall co-operate with all reasonable requests from the Authority which the Authority considers necessary in order to secure continuous improvement in the way in which the Project is delivered having regard to a combination of economy, efficiency and effectiveness.

4.8 The Promoter shall not spend any part of a Local Growth Capital Funding Instalment [nor submit any further Funding Payment Request Forms] after the expiry of the relevant Milestone Period. If any part of any Local Growth Capital Funding Instalment remains unspent at the end of the relevant Milestone Period the Promoter shall ensure that all such unspent monies in respect of that Growth Capital Funding Instalment are returned to the Authority forthwith unless the Authority has agreed to extend the relevant Milestone Period in accordance with clause 4.9 and Provided that such unspent monies are used for purposes which have been agreed in writing between the Authority and the Promoter. If any part of any Local Growth Capital Funding Instalment remains unspent at the end of the relevant Milestone Period the Recipient shall provide to the Authority an explanation therefor together with a timeline detailing the expected date(s) on which such Local Growth Capital Funding Instalment shall be spent.

4.9 The Authority may at its sole discretion extend any Milestone Period by a period not exceeding 12 (twelve) months and vary the next following Milestone Period and by consequence thereof the next following Funding Payment Request Date by it giving the Promoter written notice of such extension.

5. PROVISIONS RELATING TO FIXED ASSETS AND MAJOR ASSETS

5.1 Inventory of the Fixed Assets and Major Assets

- (a) If and to the extent that the Project involves the purchase of any Major Assets or Fixed Assets funded by the Local Growth Capital Funding, the Promoter must establish and maintain an inventory of each such asset which details the following:
- (i) date of acquisition of that asset;
 - (ii) description of the asset;
 - (iii) price paid net of recoverable VAT;
 - (iv) location of the asset;
 - (v) serial or identification numbers;
 - (vi) location of the title deeds (where relevant) of the asset;
 - (vii) date and proceeds (net of VAT) of any disposal of that asset; and
 - (viii) the name and address of any person to whom a disposal of that asset is made.

5.2 Disposals of Major Assets and Fixed Assets

- (a) The Promoter must not dispose of any interest in any Major Asset or Fixed Asset without the prior written consent of the Authority, such consent not to be unreasonably withheld. If the Authority provides its consent to such disposal, such consent may be subject to satisfaction of certain reasonable preconditions to include, without limitation, an obligation to repay to the Authority (at the Authority's absolute discretion) all or part of the Local Growth Capital Funding.
- (b) All disposals of Major Assets and/or Fixed Assets must be for a consideration which is the best that can reasonably be obtained in the open market, on an arm's length basis, on normal market terms, at the time of such disposal.
- (c) Where the Promoter disposes of any interest in any Major Asset or Fixed Asset without the prior written consent of the Authority, all or (at the Authority's absolute discretion) part of the Local Growth Capital Funding shall be immediately payable

to the Authority and may be recovered as a contractual debt if not paid within 20 Working Days of the date of the disposal.

6. ACCOUNTS AND RECORDS

6.1 The Promoter shall operate an open book accountancy policy and keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of all Local Growth Capital Funding monies.

6.2 The Promoter shall keep a separate, accurate and up-to-date record of:

(a) all payments made to third parties under clauses 4.3 and/or 4.4, detailing the recipients of such payments; the purpose of each such payment; the goods, works and/or services provided in consideration of such payments; and the total aggregate value of all payments paid and payable to each such third party; and

(b) all contracts entered into by the Promoter with third parties (where the term "third parties" shall include, without limitation, any holding company or subsidiary from time to time of the Promoter or any subsidiary of any such holding company) using any of the Local Growth Capital Funding as consideration therefore.

6.3 The Promoter shall keep all invoices, receipts, procurement documentation, contract records, and accounts and any other relevant documents relating to the expenditure of the Local Growth Capital Funding for a period of at least six (6) years following the expiry of the Project Delivery Period and the Authority, HM Government and the European Commission shall have the right to review and take copies of the same at the Authority's or (as appropriate) HM Government's or the European Commission's reasonable request.

6.4 The Promoter shall comply and facilitate the Authority's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Authority in relation to the Local Growth Capital Funding.

7. MONITORING AND REPORTING

7.1 The Promoter shall appoint a Project Manager. Any notice, information, instruction or other communication given or made to the Project Manager shall be deemed to have been given or made to the Promoter.

7.2 The Promoter shall forthwith give notice in writing to the Authority of the identity, address, email address and telephone numbers of the person appointed as its Project Manager and of any subsequent appointment to such role.

- 7.3 The Promoter shall closely monitor the delivery and success of the Project throughout the Project Delivery Period to ensure that the aims and objectives of the Project and the milestones/deliverables specified in the Budget and Project Plan are being met and that this Agreement is being adhered to.
- 7.4 The Promoter shall within one month following the last day of each [Quarter] provide to the Authority a report in a form stipulated by the Authority which details:
- (a) the progress of the Project against the milestones/deliverables set out in the Budget and Project Plan;
 - (b) the Promoter's incurred costs (net of recoverable input VAT) compared to the forecast set out in the agreed Budget and Project Plan set out in Schedule 5 for that [Quarter];
 - (c) an accurate and up to date record of the information specified in clause 6.2(a) for the relevant [Quarter];
 - (d) the Promoter's aggregate spend (net of recoverable input VAT) under each of the contracts described in clause 6.2(b) in the relevant [Quarter]; and
 - (e) a copy of the asset inventory described in clause 5.1.
- 7.5 In relation to the Local Growth Capital Funding, the Authority and/or HM Government and their respective representatives and advisers shall have the right to inspect the Project (to include, without limitation, site inspection visits) at any time and from time to time and to require such further information to be supplied as they see fit. Such further information may include but is not limited to information concerning the financial position of the Promoter. Reasonable notice shall be given by the Authority of its intention to carry out such visits. In addition the Authority and/or HM Government and their respective representatives and advisers shall have the right to call meetings with the Promoter if necessary during normal working hours.
- 7.6 The Promoter shall on request provide the Authority with such further information, explanations and documents as the Authority may reasonably require in order for it to establish whether the Local Growth Capital Funding has been used properly in accordance with this Agreement.
- 7.7 The Promoter shall provide the Authority with a final report on completion of the Project Delivery Period which shall confirm whether the Project has been successfully and properly completed in accordance with the Project Specification and the milestones/deliverables

specified in the Budget and Project Plan.

- 7.8 The Promoter shall inform the Authority promptly in writing of any cessation of work on the Project and of any event or circumstance likely to affect significantly the satisfactory completion of the Project.
- 7.9 If the Promoter has any grounds for suspecting any financial irregularity in the use of any amount paid under this Agreement, it must notify the Authority immediately, explain what steps are being taken to investigate the suspicion, and keep the Authority informed about the progress of the investigation. For these purposes “financial irregularity” includes fraud or other impropriety; mismanagement; use of Local Growth Capital Funding for improper purposes; and failure to comply with the requirements set out in this Agreement. The Authority or its representatives shall be entitled to interview employees of the Promoter if fraud or other financial irregularity is suspected by the Authority on the part of the Promoter.
- 7.10 The Promoter shall provide to the Authority on each anniversary of the Commencement Date a statement of assurance in the form set out in Schedule 6 confirming that the Local Growth Capital Funding has been used in accordance with clause 4.

8. **AUDITS**

- 8.1 Subject to clause 8.2, except where an audit is imposed on the Authority by a Regulatory Body, the Authority may, not more than once in any Half Year conduct an audit for the following purposes:
- (a) to verify the accuracy and completeness of the reports and information produced by the Promoter pursuant to clauses 6 and 7;
 - (b) to review any books of account kept by the Promoter in connection with the Project and the performance of its obligations under this Agreement;
 - (c) to monitor and evaluate the Promoter’s fulfilment of its obligations in accordance with the terms and conditions of this Agreement;
 - (d) to carry out the audit and certification of the Authority's accounts; and
 - (e) to ensure that the Promoter is complying with clause 4 hereto.
- 8.2 Notwithstanding clause 8.1, the Authority may conduct audits more frequently than once in any Half Year if such audits are conducted in respect of a suspected fraud.

- 8.3 The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Promoter or delay the Project.
- 8.4 Subject to the Authority's obligations of confidentiality, the Promoter shall provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- (a) all information and records requested by the Authority within the permitted scope of the audit;
 - (b) reasonable access to any premises controlled by the Promoter;
 - (c) access to the Promoter's information and communications technology system used by it in the delivery of the Project (including all software and equipment); and
 - (d) access to the Promoter's directors, members, employees and agents.
- 8.5 The Promoter shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Promoter's performance of its obligations in respect of the Project.
- 8.6 The Authority shall provide at least 10 working days' notice to the CEO (or equivalent) of the Promoter at the Promoter's registered address as referred to above of its intention to conduct an audit unless such audit is conducted in respect of a suspected fraud, in which event no notice shall be required.
- 8.7 The Authority and the Promoter agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 8, unless the audit identifies a material breach by the Promoter of its obligations under this Agreement in which case the Promoter shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.

9. **STATE AID**

- 9.1 The use of the Local Growth Capital Funding by the Promoter for beneficiaries must comply with Articles 107 and 108 of the Treaty on the Functioning of the European Union. The Promoter must ensure that if an exemption is relied upon, the relevant requirements of the exemption are met and that the use of the exemption is properly recorded and documented.
- 9.2 The Authority shall be entitled to withhold payment and/or claim repayment of the Local Growth Capital Funding under this Agreement to the extent of the amount of any grant or other payment which has been received, or is, in the opinion the Authority, likely to be

received, from any public authority and which the Authority considers is payable towards the Project. For the purposes of this clause "public authority" includes any of the European Communities or their Institutions, any government department, research council, local authority, or body wholly or partly supported by public funds or charitable contributions. The terms of this clause do not apply to grant or other payment whose availability has been disclosed by the Promoter to the Authority before the date of this Agreement.

9.3 The Authority may be required to submit state aids notifications to the European Commission on those aspects of the Authority's activities which involve the provision of support which might constitute a state aid. The Promoter shall at all times comply with the European Commission's State Aid rules in relation to the operation of the Local Growth Capital Funding and shall provide all reasonable assistance to the Authority in complying with the Authority's obligations in respect of such State Aid rules.

9.4 Notwithstanding clause 9.2 the Promoter expressly agrees that:

- (a) if any payment of the Local Growth Capital Funding by the Authority to the Promoter or by the Promoter to a third party is considered to be unlawful State Aid by any of HM Government, the European Commission, the European Court of Justice or any national court and an order for its payment is made the Promoter will repay the relevant instalment(s) of the Local Growth Capital Funding to the Authority within 15 working days of demand together with any such interest as may be applicable calculated at the prescribed rate;
- (b) the provisions of this clause 9 may be enforced by the Authority or any successor body in its own right.

10. **ACKNOWLEDGMENT AND PUBLICITY**

10.1 The Promoter shall acknowledge the Local Growth Capital Funding in its annual report and accounts, including an acknowledgement of HM Government as the source of the Local Growth Capital Funding, GFirst LEP as strategic lead organisation for the Gloucestershire Growth Deal and the Authority as "Accountable Body". Acknowledgement of GFirst LEP and the "Gloucestershire Growth Deal" shall be made using the correct names and logos and strictly in accordance with the guidance contained in GFirst LEP's "Gloucestershire Growth Deal Publicity Requirements" set out on the GFirst LEP website from time to time.

10.2 GFirst LEP and the Authority may acknowledge the Promoter's involvement in the Project as appropriate without prior notice.

11. **INTELLECTUAL PROPERTY RIGHTS**

- 11.1 The Authority and the Promoter agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either the Authority or the Promoter before the Commencement Date or developed by either party during the Term, shall remain the property of that party.
- 11.2 Where either party has provided the other with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the party which is the recipient of such Intellectual Property Rights shall, on termination of this Agreement, cease to use such Intellectual Property Rights immediately and shall either return or destroy such Intellectual Property Rights as requested by the other party.

12. **CONFIDENTIALITY**

- 12.1 Subject to clause 13 (Freedom of Information), each party shall during the during the Term and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.
- 12.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information which:
- (a) at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
 - (b) is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
 - (c) is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party; or
 - (d) may be required by law, court order, regulatory authority, any department, office or agency of the Government, or other competent authority.

13. **FREEDOM OF INFORMATION**

13.1 The Promoter acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR") and shall assist and co-operate with the Authority (at the Promoter's reasonable expense) to enable the Authority to comply with these information disclosure requirements or any other statutory requirements.

13.2 The Promoter shall:

- (a) transfer the request for information under the FOIA and/or the EIR and/or any other statutory requirement to the Authority as soon as practicable after receipt and in any event within two Working Days of receiving a request for information thereunder;
- (b) provide the Authority with a copy of all information in its possession or power in the form that the Authority requires within five working days (or such other period as the Authority may specify) of the Authority requesting that information; and
- (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a request for information under the FOIA and/or the EIR and/or any other statutory requirement within the time for compliance set out in the relevant legislation.

13.3 The Authority shall be responsible for determining at its absolute discretion whether the information:

- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004 or other statutory requirement;
- (b) is to be disclosed in response to a request for information under the FOIA and/or the EIR or other statutory requirement.

13.4 In no event shall the Promoter respond directly to a request for information under the FOIA and/or the EIR and/or other statutory requirement unless expressly authorised to do so by the Authority.

13.5 The Promoter acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the and/or the EIR to disclose information:

- (a) without consulting with the Promoter; or
- (b) following consultation with the Promoter and having taken its views into account,

provided always that where clause 13.5(b) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Promoter advanced notice, or failing that, to draw the disclosure to the Promoter's attention after any such disclosure.

- 13.6 The Promoter shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Authority to inspect such records as reasonably requested from time to time.
- 13.7 The Promoter acknowledges that HM Government and/or the Authority may choose to publish the amount of Local Growth Capital Funding together with the name of the Promoter and a brief description of the Project. The Promoter acknowledges and agrees that by entering into this Agreement the Promoter consents to any decision by HM Government and/or the Authority to publish such information.
- 13.8 The Authority and/or HM Government may be required to provide the European Commission with information relating to this Agreement. The Promoter acknowledges and agrees that by entering into this Agreement the Promoter consents to any decision by HM Government and/or the Authority to provide such information to the European Commission and that it will cooperate with the Authority and HM Government in providing such information.

14. DATA PROTECTION

- 14.1 The Promoter shall (and shall procure that any of its staff involved in connection with the activities under the Agreement shall) comply with their obligations under the Data Protection Legislation which arise in connection with this Agreement. *[DRAFTING NOTE TO GCC OFFICERS: This provision is drafted on the basis that no personal data shall be shared/transferred between the parties. If, however, it is intended that personal data will be shared/transferred between the parties, please seek legal advice.]*

15. WITHHOLDING, SUSPENDING AND REPAYMENT OF LOCAL GROWTH CAPITAL FUNDING

- 15.1 Subject to clause 3.1, the Authority's intention is that the Local Growth Capital Funding will be paid to the Promoter in full. However, without prejudice to the Authority's other rights

and remedies, the Authority may at its discretion withhold or suspend payment of the Local Growth Capital Funding and/or require repayment by the Promoter of all or (as appropriate) the relevant part of the Local Growth Capital Funding if:

- (a) the Promoter uses the Local Growth Capital Funding for purposes other than those described in Schedule 3 without the prior written agreement of the LEP Board and the Authority;
- (b) the Promoter breaches clauses 4.6 and/or 4.8;
- (c) the Authority acting reasonably considers that the Promoter has not made satisfactory progress with the Project against the milestones/deliverables set out in the Budget and Project Plan and the Authority and the Promoter have not agreed in writing an extension to the relevant Milestone Period;
- (d) the Authority acting reasonably considers that the future of the Project is in jeopardy;
- (e) in the Authority's reasonable opinion the Promoter does not have sufficient financial resource to carry out and/or satisfactorily complete the Project;
- (f) if there is any cessation of work on the Project or any event or circumstance which in either case in the Authority's reasonable opinion is likely to affect significantly the satisfactory completion of the Project;
- (g) the Authority acting reasonably considers that progress towards completion of the Project is unsatisfactory or if the part of the Project funded by the Local Growth Capital Funding is not completed by the end of the Project Delivery Period or, the Authority considers acting reasonably there is no longer any reasonable prospect of the part of the Project funded by the Local Growth Capital Funding being completed by that date;
- (h) there is a change in the nature or scale of the Project which the Authority reasonably considers is substantial, without the prior written approval of the Authority;
- (i) the Authority exercises its right to withhold and/or claim repayment of the Local Growth Capital Funding pursuant to clause 9 (State Aid);
- (j) the Promoter disposes of any Major Asset or Fixed Asset which has been purchased using the Local Growth Capital Funding without receiving the prior written consent of the Authority;

- (k) the Promoter is, in the reasonable opinion of the Authority, performing its obligations in respect of the Project in a negligent manner;
- (l) the Promoter provides the Authority with any materially misleading, incomplete or inaccurate information;
- (m) the Promoter commits or committed a Prohibited Act;
- (n) the Promoter in the reasonable opinion of the Authority engages in or permits improper or fraudulent accounting methods;
- (o) any member of the governing body, employee or volunteer of the Promoter has acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project;
- (p) an asset, the cost of which has been included in the Budget and Project Plan, is not used for the purpose of the Project without receiving the prior written consent of the Authority;
- (q) the Promoter becomes the subject of a proposal for a voluntary arrangement or has a petition for Administration Order or a petition for a winding-up Order brought against it or passes a resolution for a winding-up or makes any composition, arrangement, conveyance or assignment for the benefit of its creditors, or purports to do so, or if a receiver or any other person is appointed in respect of its undertaking or of all or any of its property or if the Promoter does or suffers anything substantially equivalent to any of the foregoing;
- (r) the Promoter ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- (s) the Promoter fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

15.2 Wherever under the Agreement any sum of money is agreed by the Promoter as being recoverable from or payable by the Promoter under the Agreement or is found by a court of competent jurisdiction to be so recoverable or payable (including any sum that the Promoter is liable to pay to the Authority in respect of any breach of the Agreement), the Authority may unilaterally deduct that sum from any sum then due, or which at any later

time may become due to the Promoter under the Agreement or under any other agreement or contract with the Authority.

15.3 The Promoter shall make any payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

15.4 Should the Promoter be subject to financial or other difficulties which are capable of having a material impact on the effective delivery of the Project or compliance with this Agreement it will notify the Authority as soon as possible so that, if possible, and without creating any legal obligation, the Authority will have an opportunity to provide assistance in resolving the problem or to take action to protect the Authority and the Local Growth Capital Funding monies.

16. **ANTI-DISCRIMINATION**

16.1 The Promoter shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment and, in particular, the Promoter shall comply with section 149 of the Equality Act 2010.

16.2 The Promoter shall take all reasonable steps to secure the observance of clause 16.1 by all servants, employees or agents of the Promoter and all suppliers and sub-contractors engaged in carrying out the Project.

17. **HUMAN RIGHTS**

17.1 The Promoter shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement as if the Promoter were a public body (as defined in the Human Rights Act 1998).

17.2 The Promoter shall undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998.

18. **LIMITATION OF LIABILITY**

18.1 The Authority accepts no liability for any consequences, whether direct or indirect, that may come about from the Promoter procuring the delivery of the Project; the use of the Local Growth Capital Funding; or from the suspension, withdrawal or a demand for repayment of the Local Growth Capital Funding. The Promoter shall indemnify and hold harmless the Authority, its employees, agents, officers or sub-contractors with respect to all claims,

demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Promoter in relation to the Project, the non-fulfilment of obligations of the Promoter under this Agreement or its obligations to third parties in connection with the Project.

18.2 Subject to clause 18.1, the Authority's liability under this Agreement is limited to the payment of the Local Growth Capital Funding.

19. **WARRANTIES**

19.1 The Promoter warrants as at the date of this agreement and undertakes and agrees that:

- (a) it has all necessary resources and expertise to procure the delivery of the Project (assuming due receipt of the Local Growth Capital Funding);
- (b) it has (and continues to have) all funding necessary to pay for expenditure in relation to the Project which is not funded by Local Growth Capital Funding;
- (c) it has not committed, nor shall it commit, any Prohibited Act;
- (d) it has not received any grant or payment of the nature described in clause 9.2;
- (e) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations including but not limited to EU law and Environmental Law insofar as they are relevant to the Promoter's obligations under this Agreement, and shall notify the Authority immediately of any significant departure from such legislation, codes or recommendations;
- (f) it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Project;
- (g) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (h) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (i) all financial and other information concerning the Promoter which has been disclosed to the Authority is to the best of its knowledge and belief, true and accurate;

- (j) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Local Growth Capital Funding;
- (k) it is not aware of anything in its own affairs, which it has not disclosed to the Authority or any of the Authority's advisers, which might reasonably have influenced the decision of the Authority to make the Local Growth Capital Funding on the terms contained in this Agreement; and
- (l) since the date of its last accounts there has been no material change in its financial position.

20. INSURANCE

20.1 The Promoter shall effect and maintain with a reputable insurance company throughout the Term and for six years thereafter a policy or policies in respect of all risks which may be incurred by the Promoter, arising out of the Promoter's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss (the Required Insurances). The Promoter shall (on request) supply to the Authority a copy of such insurance policies and evidence that the relevant premiums have been paid.

21. DURATION

21.1 Except where otherwise specified, the terms of this Agreement shall have applied and shall continue to apply throughout the Term.

21.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

22. TERMINATION

22.1 On the occurrence of any of the events set out in clause 15.1 or in the event that the Promoter commits a material breach of any of its obligations under this Agreement the Authority may without prejudice to any accrued rights or remedies under this Agreement terminate the same either in whole or in part by notice in writing having immediate effect.

23. ASSIGNMENT

23.1 The Promoter may not, without the prior written consent of the Authority, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden

of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Local Growth Capital Funding.

24. VARIATION

24.1 No variation or amendment of this Agreement or oral promise or commitment related to it shall be valid unless committed to writing and signed by or on behalf of both the Authority and the Promoter.

25. WAIVER

25.1 No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

26. NOTICES

26.1 All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

27. DISPUTE RESOLUTION

27.1 In the event of any complaint or dispute (which does not relate to the Authority's right to withhold funds or terminate) arising between the parties to this Agreement in relation to this Agreement the matter should first be referred for resolution to the Funding Manager.

27.2 Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Funding Manager or other nominated individual, as the case may be, either party may refer the matter to the Commissioning Director (Communities and Infrastructure) of the Authority and the Managing Director, Chief Executive (or equivalent) of the Promoter with an instruction to attempt to resolve the dispute by agreement within 28 days, or such other period as may be mutually agreed by the Authority and the Promoter.

27.3 In the absence of agreement under clause 27.2, the parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

28. **NO PARTNERSHIP OR AGENCY**

28.1 This Agreement shall not create any partnership or joint venture between the Authority and the Promoter, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

29. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

29.1 This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

30. **GOVERNING LAW**

30.1 This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

IN WITNESS whereof the parties hereto have executed and delivered this Agreement as a Deed the day and year first before written

SCHEDULE 1

Funding Payment Request Form

[On letterhead of the Promoter]

Re: Local Growth Capital Funding agreement dated [] 20[XX] (the "Local Growth Capital Funding Agreement") made between Gloucestershire County Council (as Accountable Body) and [NAME] (the "Promoter")

To: Gloucestershire County Council

Date: [date]

Dear Sirs

We refer to the above Local Growth Capital Funding Agreement. This is a Funding Payment Request Form submitted in accordance with the funding payment procedure set out in Schedule 4 of the Local Growth Capital Funding Agreement. Words and expressions in this Funding Payment Request Form shall have the meanings given to them in the Local Growth Capital Funding Agreement.

We request payment of £XXXXXX (XXWORDSXX pounds) to be made in respect of the Local Growth Capital Funding Instalment payable for the period [XXXXXX] to [XXXXXX]. We enclose a copy of the documentation specified in paragraphs 2, 4 and/or (as applicable) 5 of Schedule 4 to the Local Growth Capital Funding Agreement.

Please credit the above-mentioned Local Growth Capital Funding Instalment to the following account:

[ACCOUNT DETAILS]

Yours faithfully

.....
Duly authorised for and on behalf of the Promoter

Name:.....

Position:

SCHEDULE 2

Project Specific Conditions

[DRAFTING NOTE TO GCC OFFICERS: ... to add Detail taken from due diligence process and discussion at GFirst CIC Board. Include also obligation to settle fund arrangement fees, prior to first drawdown.]

SCHEDULE 3

Project Specification

[DRAFTING NOTE TO GCC OFFICERS: To be populated]

SCHEDULE 4

Funding Payment Procedure

1. The Promoter shall no later than 5 working days following the relevant Funding Payment Request Date submit to the Authority a funding payment request in respect of the relevant Local Growth Capital Funding Instalment using the Funding Payment Request Form.
2. Each Funding Payment Request Form submitted to the Authority in accordance with paragraph 1 of this Schedule 4 shall be in the format set out in Schedule 1.
3. Payment shall be made within ten (10) working days of receipt by the Authority (at its nominated address) of a valid Funding Payment Request Form and its accompanying documentation.
4. Each Funding Payment Request Form shall be accompanied by [receipted invoices, formal purchase orders (with proof of expenditure having been incurred)] [written quotes] or accounting documents of equivalent verifiable value in such format and detail as may be acceptable to the Authority relating to the amount of payment request. This should be provided in electronic format with original copies held by the Promoter. This evidence will be verified by a monitoring visit carried out by the Authority or its representative.
5. In the event that any Funding Payment Request Form is accompanied by quotes or accounting documents which relate to goods, works or services that are only part-funded by the Local Growth Capital Funding (on the basis that only part of such goods, works or services relate to the delivery of the Project) the Promoter shall ensure that each such Funding Payment Request Form is also accompanied by itemised records which demonstrate how much of any invoiced sum, as a proportion of the total invoice for such goods, works or services, relates to the delivery of the Project.

Milestone Period number	Milestone Period to which the Local Growth Capital Funding Instalment relates	Funding Payment Request Date	Local Growth Capital Funding Instalment
1.	[DATE] to [DATE]	[DATE]	[SUM]
2.	[DATE] to [DATE]	[DATE]	[SUM]
3.	[DATE] to [DATE]	[DATE]	[SUM]

Milestone Period number	Milestone Period to which the Local Growth Capital Funding Instalment relates	Funding Payment Request Date	Local Growth Capital Funding Instalment
4.	[DATE] to [DATE]	[DATE]	[SUM]
[etc]			

SCHEDULE 5

Budget and Project Plan

... add detail from final business case and/or due diligence process, including cost breakdowns and "milestones/deliverables" and "milestone/deliverables dates".

[DRAFTING NOTE FOR GCC OFFICERS: It is important that you make specific reference, in this Budget and Project Plan, to the "Milestone Period numbers" set out in Schedule 4. Please bear in mind that the words "Milestone Period" should always be capitalised so as to make clear that it is a defined term from clause 1.1.

For example:

"The Promoter shall complete [DETAILS OF RELEVANT MILESTONES/DELIVERABLES] no later than the expiry of Milestone Period number [NUMBER] set out in Schedule 4."

SCHEDULE 6

Statement of Assurance

Please return to the Authority no later than [DATE] in each year of this Agreement a completed and signed Statement of Assurance in the form set out below.

[On letterhead of the Promoter]

Re: Local Growth Capital Funding agreement dated [] 20[XX] (the “Local Growth Capital Funding Agreement”) made between Gloucestershire County Council (as Accountable Body) and [NAME] (the “Promoter”)

To: Gloucestershire County Council

Date: [date]

Dear Sirs

We refer to the above-mentioned Local Growth Capital Funding Agreement. I confirm that the Promoter has throughout the period [XXX 20XX] to [XXX 20XX] had in place a system of governance, audit and risk management for the project which gives me adequate assurance over the use of the funds. Sufficient monitoring and procedures have been implemented to ensure the expenditure is eligible and has been spent appropriately in accordance with clause 4 of the Local Growth Capital Funding Agreement.

I am not aware of any evidence to indicate that the funds received from the Authority have not, in all material respects, been used for the purposes set out in the above-mentioned Local Growth Capital Funding Agreement and in accordance with the terms and conditions set out therein.

Yours faithfully

.....
Duly authorised for and on behalf of the Promoter

Name:.....

Position

THE COMMON SEAL OF
GLOUCESTERSHIRE COUNTY
COUNCIL was hereunto affixed
in the presence of:

Head of Legal Services

EXECUTED as a Deed
by [NAME] acting by and under the
signatures of:

.....

Print name of Director

Director's signature

.....

Print name of Director/Secretary

Director's/Secretary's signature

Gloucestershire Strategic Economic Plan Delivery

Due Diligence Process

Prior to the issue of a formal legal Funding Agreement between GCC and the Organisation that will deliver the Growth Deal project, a formal Due Diligence process will be undertaken by GCC either directly or using consultant resources.

Due Diligence checks will be undertaken by GCC as the Accountable Body for all projects approved by the LEP under the Growth Deal. These checks will be in addition to GCC's role in providing accounting and reporting support to the LEP as well as responsibilities for requests under the Freedom of Information Act, dealing with complaints, and the provision of legal and other advice e.g. environmental, equalities, conflicts of interest etc.

The Due Diligence process presumes that all projects requiring Growth Funds will have undergone an appraisal as part of the LEP approval process. The prioritisation and programming of the projects is a matter for the GFirst LEP, although GCC will have provided initial advice on any implications on delivery.

The Due Diligence checks will therefore rely on the latest full appraisal (in some cases there may have been earlier appraisal stages e.g. strategic and outline for major transport schemes) that formed the basis for the approval of funds by the LEP. The checks will apply to all projects, be they skills transport or major schemes identified in the SEP.

Prior to the Funding Agreement which would allow for funds to be advanced and payments made, the following areas (also known as the Five Cases Methodology) will be examined as part of the Due Diligence process. Please refer to Annex H (previously K) for further information.

- Strategic
- Financial
- Economic
- Delivery
- Management

Strategic

The rationale behind the need and demand for the project will be examined, confirming the contribution to the SEP and local strategies and identifying any changes since the project was approved that might otherwise affect the consideration and approval of Growth Funds. Importantly the need for Growth Funds will be verified.

Financial

The latest detailed cost and funding profiles will be established and documented as these will form part of the Funding Agreement between GCC and the beneficiary Organisation. Checks will be made on the organisation's own accounting and audit arrangements. It may be appropriate to verify assumptions made for any income streams that could impact on a project's viability, as well as examining any ongoing revenue costs and funding.

Economic

Here the process will ensure that the preferred project has emerged from a robust consideration of alternative options (including do nothing) with clear and reasonable assumptions underpinning the identification of outputs, outcomes and impacts for options on which the Value for Money assessment for the project is based. Certain key output measures may be included in the Funding Agreement.

Delivery

The latest timetable for the project will be examined with key milestones identified for inclusion in the Funding Agreement. Checks will also be made to ensure that there are no constraints to delivery in the form of site ownership or rights, planning or other factors. The procurement process will be examined to ensure that this meets with EU rules and that the investment of public funds is State Aid compliant. The contribution to social value and the environment will be reviewed. The existence of a risk register and the arrangements for keeping this up to date will also be examined.

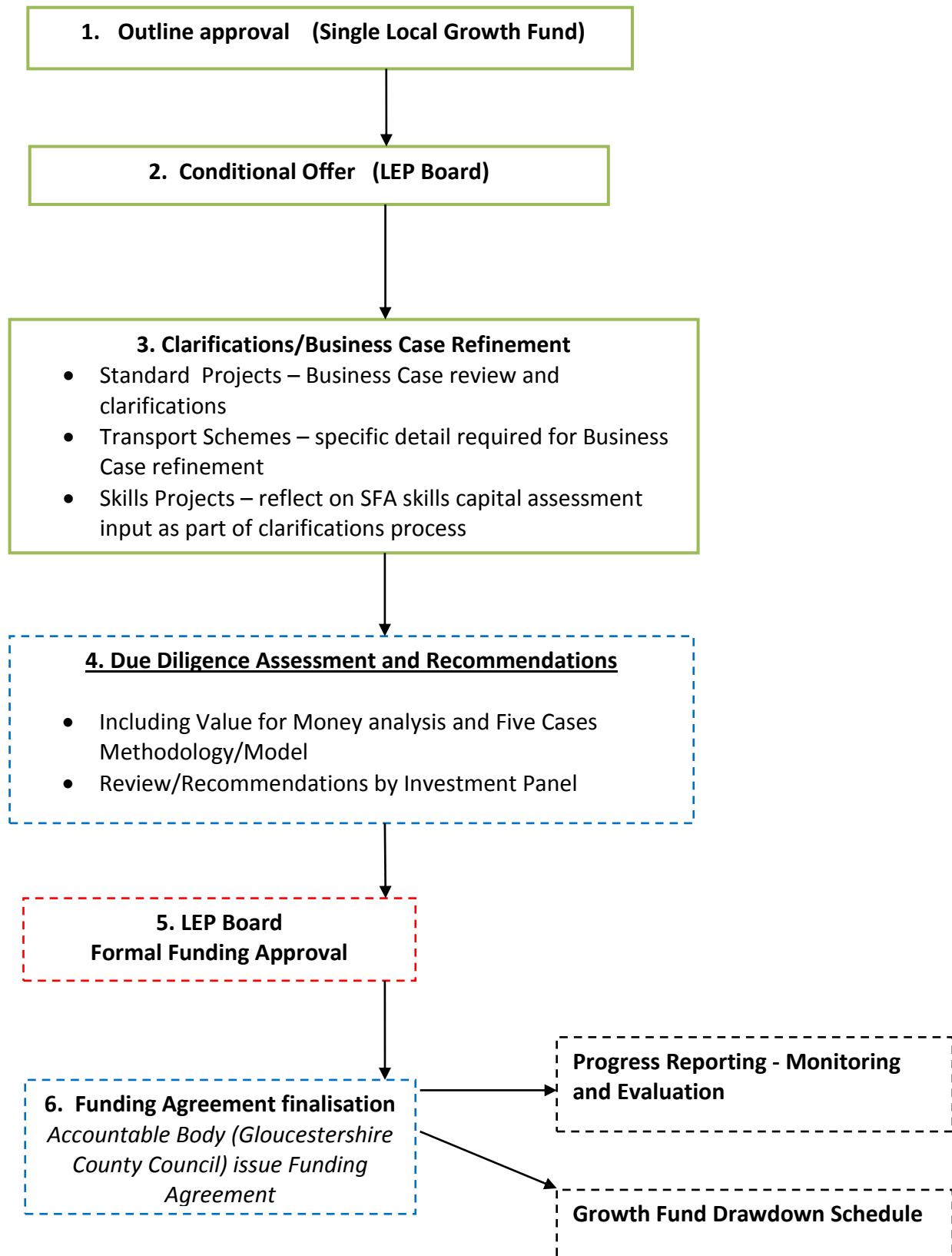
Management

Checks here will determine the nature of the Organisation receiving Growth Funds in terms of State Aid as well as financial checks as part of the Know Your Customer (KYC) principles. The resources and skills of the delivery team will be examined to satisfy the ability to deliver the project or multiple projects. Roles and responsibilities will be examined, including authorisation and delegation levels to individual officers, and the reporting arrangements. In the absence of a formal communications or marketing strategy the arrangements for publishing progress to stakeholders, client base and general public will be examined. The Funding Agreement may contain specific conditions in this area. Finally, the arrangements for capture and measure of both financial and economic benefits will be examined along with the reporting of these as part of a transparent and ongoing monitoring process, together with how these will be used in the evaluation of the project post completion.

The Due Diligence report resulting from the above will summarise the key components of cost/funding, key milestones underpinning the critical path for delivery and implementation of the project, and outputs/outcomes for inclusion in the Funding Agreement (envisaged as Schedules to a standard boiler plate agreement).

A more detailed list of the elements to be covered in the Due Diligence Report is included as an appendix.

GFirst LEP Assurance Framework: Business Case Refinement and Due Diligence



KEY

- Red outline – decision point
- Green outline – input from Project Promoters
- Blue outline – GCC Accountable Body

General	
Project	Name of the project
Promoter	Name of Organisation promoting the project
Contact	Name, email, telephone of primary contact for the project
Location	Physical location and/or geographic cover of the project
Description	Brief description of the project
Strategic	
Rationale	What is the rationale for the project – is this clearly set out in the Business Case and has anything changed since? Why is public funding in the form of Growth Funds necessary?
Need/Demand	Does the Business Case adequately address the need and demand for the project?
Aims	Which LEP objectives does the project address?
Fit	What other local strategies does the project fit e.g. LA local plan, Economic Strategies etc?
Financial	
Cost profile	Attach the latest cost profile with elemental breakdown
Funding	Attach the funding profile that matches the cost profile – indicate the source of all funding both public and private; indicate the status of funding e.g. spent/committed, approved, application submitted, TBA etc
Accounting	Set out the accounting arrangements e.g. how payments made (invoices or claims), who certifies for payment, where records are held, treatment of VAT etc
Audit	Set out Internal and independent audit arrangements
Post Project	Are there on-going cost implications and if so how will these be funded?
Viability	Is the project viable? Is there a reliance on income to support the project and if so are the forecasts reasonable?
Economic	
Options	What options were considered as part of the Business Case?
Outputs	Are there clear and reasonable assumptions underpinning identified outputs?
Outcomes	Are there clear and reasonable assumptions underpinning identified outcomes?
Impacts	Are there clear and reasonable assumptions underpinning identified impacts?
	Have distributional and social effects been taken into account?
VFM	Summarise the VFM indicators and results for the preferred option/project Has a Value for Money Statement been completed?
Delivery	
Timetable	Attach the latest project timetable identifying key milestones Is there a Gantt chart showing timescales for detailed elements? Confirm contract timescale Confirm implementation timescale
Site	Confirm ownership of the site and detail arrangements to ensure unfettered access e.g. covenants, rights of way, easements etc
Planning	Does the project have planning permission? Are there planning conditions that still need to be satisfied e.g. s106, ecology etc?
Environmental /Social Value	What aspiration is set out in the Business Case and to what quality standard? How evidenced? What contribution is the project likely to make to social value?

Annex F (previously G)

	What will be the environmental impact of the project and have potential opportunities for environmental enhancement been identified?
Procurement	Outline the procurement strategy – is this State Aid compliant? Basis for contractor selection: is this best VFM? Contractor checks including collateral warranties
State Aid	Does the investment provide a benefit to an undertaking in a way that is not recognised through an appropriate contribution? Is the investment covered by General Block Exemption Rules or any other EU approved notification? Confirm the investment of Growth Funds is State Aid compliant.
Risk	Set out Risk management strategy including allocation/transfer Confirm Risk register in place and arrangements for maintaining
Management	
Organisation	Set out the Status of the organisation receiving funds for State Aid purposes Undertake general finance check e.g. credit rating, KYC, money laundering etc
Capability	Does the delivery team possess the necessary skills and resources to deliver the project? Are there multiple projects that are the responsibility of the same team, and if so how managed with the project?
Governance	Are there clearly defined role responsibilities including authorisation and delegation levels? What are the reporting arrangements?
Communication	How will the project communicate with stakeholders, client base, public? Is there a marketing strategy?
Monitoring	What are the arrangements for monitoring for both finance and economic benefits?
Evaluation	How will the completed project be evaluated?
Summary	
Total Cost	Total capital cost of the project
Funding	Total Growth Fund, Other Public and Private Sector
Milestones	Key dates for the critical path for delivery and implementation
Outputs	Employment (new and safeguarded), Apprentices, Trainees, Land serviced, road constructed/improved, floorspace created, private sector investment etc
Outcomes	Increased GVA/other measures

GFirst LEP Assurance Framework

Annex G (previously J)

**TRANSPORT SCHEMES BUSINESS CASE GUIDANCE
Updated February 2017**

1. Purpose

1.1 Background

The GFirst Local Economic Partnership (LEP) Assurance Framework outlines the process by which decisions regarding the distribution of Growth Deal funding for major schemes and projects are made. As an appendix to the LEP Assurance Framework this document provides detailed guidelines for the development of scheme Business Cases for Growth Fund transport schemes.

It is essential that prioritised schemes follow a clear, transparent and robust process which establishes the following in an appropriate level of detail:

- **Contribution to important policy objectives** – in particular economic growth.
- **Value for money** – with the benefits significantly exceeding the costs.
- **Affordability** – within a relatively modest government allocation.
- **Deliverability** – getting the scheme on the ground (and therefore delivering benefits) as soon as possible.

There are a number of very good reasons why a robust business case process is necessary:

- To ensure that the right schemes are identified to solve actual problems.
- To provide a consistent and transparent framework for decision making.
- To understand the impacts of schemes (including those that may not have been anticipated).
- To provide a clear and transparent “audit trail” of assessment work and decision making.
- To reduce the potential for legal challenge as a result of a clear process not being followed.

The DfT document, *The Transport Business Cases*¹, sets out three business case stages:

1. **Strategic Outline Case (SOC)** – Undertaken in order to state the case and need for change and outline the range of options for addressing the identified problem.
2. **Outline Business Case (OBC) – Identification of a preferred scheme and**

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85930/dft-transport-business-case.pdf

detailed work on assessing the costs, benefits and deliverability of the most favourable scheme options.

3. **Full Business Case (FBC)** – Confirmation of the scheme value for money following early contractor involvement.

The full transport scheme business cases are generally published on the promoter's website following the Investment Panel meeting before the forthcoming Board meeting. The only exception to this relates to material of a confidential or commercially sensitive nature.

Opinions expressed by the public and stakeholders will be made available to the LEP Board when decisions are being taken through the information provided within the transport business cases and through a summary of correspondence received by the LEP up to a week before the relevant LEP Board meeting date.

1.2 Proportionate Appraisal

The DfT guidance is designed to apply to very large transport schemes funded directly by the DfT, hence the need for a three stage appraisal process. For GFirst LEP Growth Deal funded schemes it has been determined that the content of the proposal stage (referred to as the '*Growth Deal Business Case Proposal Submission*') are sufficient to negate the need for a separate SOC submission and approval stage.

To ensure that GFirst LEP Business Case requirements are proportionate to the scale of each scheme it has also been determined that schemes identified as 'Minor' will be fast tracked to the Final Business Case stage and will therefore not have to complete a separate OBC. The below indicates the criteria that will be used to determine minor schemes:

- Schemes of less than £5m in total value
- Schemes which are considered non-contentious, as determined by the Programme Management Group
- Schemes which have existing procurement arrangements in place (such as a term contractor)
- Schemes which represent 'business as usual' for the scheme promoter
- Schemes considered low risk, as determined by the LEP

The final decision on which schemes are to be considered 'minor' lies with the Programme Management Group. Whether a scheme can be classified as 'minor' will be determined ahead of the commencement of the business case process as part of the agreement of an Appraisal Specification Report (ASR) for the scheme, which will also be utilised to agree the level of appraisal appropriate to the scheme. The requirements of the ASR are discussed in Section 4 of this report.

The requirements of the OBC and FBC stages are outlined in Sections 5 and 6 of this report. In order for any scheme to receive funding from the GFirst LEP, the promoter must provide robust evidence to demonstrate that the requirements of the business case process have been met. One of the main purposes of this guidance is to outline how that technical evidence should be assembled, so that approval to deliver schemes can be obtained as efficiently as possible.

1.3 Status of this Guidance

This guidance is a “working document” and will be updated periodically as required; for example due to changes to government guidance and technical refinements. Scheme promoters are welcome to discuss the proportionality of the guidance in relation to their scheme with the GFirst LEP and its technical advisors. However, the underlying principles and requirements of the Transport Scheme Business Case process are not likely to change, unless the government substantially revises its own guidance.

This document does not aim to repeat at length the guidance produced by the government. Instead it proposes to summarise the overall process and, where necessary, “sign post” scheme promoters to the key guidance documents that they will need to follow in order to produce robust business cases. A glossary of useful guidance documents is provided in Section 7.

2. Summary of the Business Case Process

2.1 Summary of the Process

It is important that promoters fully understand the overall process to be followed, between prioritisation of schemes and the start of construction. Please see the Gfirst LEP Assurance framework Annex D which provides a summary of the approval and business case processes that promoters will need to follow.

The precise requirements for each of the business case stages will vary by the size and type of scheme – and more details are provided in sections 4 to 6 below.

3. The Five Cases Model

3.1 Introduction

Within each of the business case stages, there is a common structure based around the “five cases model” which has been developed by HM Treasury for use on public sector business cases as summarised in Table 1.

Table 1 – Summary of Five Cases Model

Case	Overall Purpose	Summary of Requirements
Strategic	Explains why the scheme is needed.	To demonstrate the case for change based on a clear rationale for making the investment; and strategic fit, how the scheme will address existing problems and further the aims / objectives of the promoter and its customers.
Economic	Establishes value for money.	The economic, environmental, social / distributional and public accounts impacts of a scheme are all examined, using qualitative and quantitative (monetised) information. In assessing value for money, all of these impacts are consolidated to determine the extent to which a proposal’s benefits outweigh its costs.
Financial	Assesses affordability and financial sustainability.	Concentrates on the affordability of the scheme, its funding arrangements and technical accounting issues. It presents the financial profile of the different options and the impact of the proposed investment on the accounts of the organisation which will become responsible for future maintenance of the asset created by the scheme.
Commercial	Outlines procurement and construction strategy.	Clearly sets out the financial implications of the proposed procurement strategy, focussing on evidence on risk allocation and transfer, contract timescales and implementation timescale as well as details of the capability and skills of the team delivering the project.
Management	Assesses timescales, governance and risks.	Outlines the project planning, governance structure, risk management, communications and stakeholder management, benefits realisation and assurance (for example a Gateway Review to ensure that the scheme is still likely to deliver value for money). There should be a clear and agreed understanding of what needs to be done, why, when and how, with measures in place to

		identify and manage any risks.
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Source: Adapted from HM Treasury Guidance

This summary applies to all types of investment and the precise requirements will need to be tailored to individual transport schemes. More detail about the specific requirements against each of these cases will be outlined in this guidance and the relevant government documents.

4. Appraisal Specification Report

To ensure a proportionate and appropriate appraisal of each scheme, promoters are required to produce an Appraisal Specification Report (ASR) outlining the proposed methodology and scope of appraisal and modelling work to be undertaken as part of their business case. A pro-forma has been produced to be filled in by scheme promoters. This covers the key questions required to determine a proportionate level of appraisal at each business case stage. The ASR should be submitted to the LEP Technical Advisors ahead of commencing a stage of appraisal work to agree the appraisal and modelling work to be undertaken ahead of submission of the OBC or FBC.

The LEP does not want promoters to undertake appraisal work for the sake of it, and therefore wishes to use the ASR as a means of establishing an approach which is **proportionate** to the scale and costs of the scheme, as well as the likely scheme benefits and dis-benefits. The ASR document will provide the starting point for discussions between the scheme promoter and LEP Technical Advisors regarding the most appropriate appraisal approach for each scheme.

The key principles of the LEP proportionate approach are:

- Less expensive and technically straight forward schemes should generally have less need for detailed appraisal.
- Unless there are exceptional circumstances a quantified economic appraisal using an appropriate transport modelling package will generally be expected, but existing models can be used. A GCC/HA modelling suite is available for use in modelling project impacts. Scheme promoters should seek early engagement with GCC/HA to understand the capabilities of this package and to arrange access to the modelling suite.
- Scheme promoters will be expected to appraise and identify potential mitigation measures for any significant negative impacts, especially those that relate to the environment (as identified by Statutory Environmental Bodies and local organisations) or particular social groups.
- If the promoter can demonstrate that there is likely to be a neutral impact on any specific sub-objective, then the LEP Technical Advisors may agree that no appraisal of that sub-objective is required or that a qualitative assessment will suffice.
- It is in the promoter's interest to appraise as many of the benefits of their scheme as possible, as this will boost the value for money case (discussed further in Section 6.3) and potentially make LEP Board approval more likely.

5. Outline Business Case (OBC)

5.1 Purpose

An OBC is a Growth Fund requirement for transport schemes which do not meet the criteria of a 'Minor Scheme'. The overall purpose of the Outline Business Case (OBC) is to provide a detailed economic and financial appraisal of the preferred scheme option and any credible alternatives. This appraisal should also inform an assessment of scheme deliverability, in particular focusing on the management and commercial cases.

5.2 Format

The OBC needs to be proportionate to the size and complexity of the scheme being considered. The document should be structured around the five cases, as outlined below.

5.3 Information Required for OBC

The below bullet points outline the key questions that the OBC should seek to answer within each of the five cases. The exact scope of the OBC – in particular the economic appraisal - will be discussed and agreed with promoters on a scheme by scheme basis as part of the ASR.

Strategic Case

Key questions to address include:

- What are the key elements of the scheme?
- What changes have been made to the scheme since that described in the Growth Deal Business Case Proposal submission?
- How does the currently proposed scheme deliver the aims and objectives of:
 - The promoter?
 - The asset owner / operator (if different to the promoter)?
 - The GCC Local Transport Plan?
 - The GFirst LEP Strategic Economic Plan?
- What are the problems the scheme will address?
- What evidence of these problems actually exists and how does the scheme tackle them?
- What would be the impacts if the scheme was not progressed?
- What are the specific, measurable, achievable, realistic, time-bound (SMART) objectives for the scheme to solve the problems identified?
- What would constitute a successful scheme, and in particular which groups of people are the key beneficiaries?
- Are there any factors (e.g. interdependencies with other transport schemes or land use developments) upon which the scheme depends to

- be successful?
- What scheme options have been considered and how has preferred option been identified?
- What approach has been taken to modelling the economic and financial impacts of the scheme?
 - It is anticipated that this will follow the guidance provided in WebTAG Unit 3.1:
<http://www.dft.gov.uk/webtag/documents/expert/unit3.1.php>
 - Where an alternative approach is used this should be agreed as part of an Appraisal Specification Report and specifically outlined and justified here.
 - Scheme appraisal will need to be based on a credible forecast of future travel demand, with the DfT's National Trip End Model (NTEM) being the starting point for Central Case assessments.
<https://www.gov.uk/government/organisations/department-for-transport/series/tempo>
 - Other sources of forecasts can be used in determining suitable sensitivity tests to test higher or lower growth assumptions if required.

Economic Case

The Economic Case for the preferred option, and any credible alternatives, must be presented in the form of an Appraisal Summary Table (AST) - see WebTAG Unit 3.2:

http://www.dft.gov.uk/webtag/documents/expert/pdf/u3_2-appraisal-120726.pdf

and Units 3.3 to 3.8:

<http://www.dft.gov.uk/webtag/documents/index.php>

The AST table should cover the appraisal areas agreed as part of the ASR. Table 2 outlines the key questions that should be given consideration within the AST table.

A summary of the appraisal findings should be presented within the AST table, with appendices provided as required outlining the methodologies adopted and any more detailed findings within each of the appraisal areas.

Table 2: AST Table Suggested Contents

Theme	Requirement
Economy	<ul style="list-style-type: none"> • What are the specific journey time saving benefits that accrue to different business user groups – such as car drivers, car passengers and public transport users / operators? • What is the material impact on day to day journey time reliability for business users and public transport operators? • Is there a positive impact on access to key Regeneration areas – for example by tackling congestion and improving sustainable transport provision? • Are there wider economic impacts that the scheme could positively deliver or at least influence? For example: <ul style="list-style-type: none"> ○ Reducing costs of travel to businesses, and hence improving market competitiveness. ○ Opening up new markets that were previously unviable because of transport barriers. ○ Reducing or removing barriers to inward investment in an area. ○ Opening up specific parcels of land for development. ○ Widening access to labour markets. ○ Keeping people in education and training. ○ Enabling companies to do business with each other in the same locality. ○ Providing sustainable transport links to new housing sites.
Environment	<ul style="list-style-type: none"> • What is the change in the prevalence of noise at key receptor sites; and what mitigation measures are necessary to deal with any significant noise increases (and the possibility of Part 1 Claims)? • What is the change in local air quality as a result of the scheme; in particular within any designated Air Quality Management Areas? • What are the changes in greenhouse gas emissions from surface transport through changes in overall traffic levels and the promotion of public transport, walking and cycling? • What are the visual impacts of the scheme on the landscape – in particular the setting of natural features and areas of particular value? What are the mitigation measures that will minimise any impacts? • What are the visual impacts of the scheme on the townscape – in particular the setting of historic buildings or other features within the urban area such as parks and trees? What are the mitigation measures that will minimise any impacts? • What are the impacts on areas which are used by protected species of flora and fauna, and are there impacts on “corridors of movement” for these species?

	<p>What are the mitigation measures that will minimise any impacts?</p> <ul style="list-style-type: none"> • Is there a risk that the scheme could result in flooding as a result of increased surface run-off into natural or man-made watercourses? What are the mitigation measures that will minimise any impacts? • Is there a risk that the scheme could result in surface water contamination from run-off into natural or man-made watercourses? What are the mitigation measures that will minimise any impacts?
<p>Social</p>	<ul style="list-style-type: none"> • What are the specific journey time saving benefits that accrue to different social – such as commuters, shoppers and students – and by different transport modes? • What is the material impact on day to day journey time reliability for commuters, shoppers and students? • What are the opportunities that the scheme provides for increased levels of physical activity – specifically walking and cycling? • How does the scheme improve the quality of journey for car drivers, car passengers, public transport users, pedestrians and cyclists? • How does the scheme change the predicted levels of accidents? • What potential benefits to personal safety and security does the scheme provide? • What is the level of change in terms of access to key services – such as employment, shopping and education – as measured by public transport, walking and cycling journey times? • What is the impact on affordability of transport? • What are the key issues of severance addressed by the scheme? • Does the scheme provide a facility that non-users would be nevertheless be willing to pay for as an option? • Will the scheme have any disproportionate impacts on the following equality impact groups (race, ethnicity, colour, nationality, sex or marital status, disability, age, religion, sexual orientation, other).
<p>Public Accounts</p>	<ul style="list-style-type: none"> • What are the capital and revenue costs associated with constructing, operating and maintaining the scheme? <p>What is the impact on tax revenues (in particular fuel duty) as a result of changes to travel demand?</p>

The monetised benefits and costs of the preferred option, and any credible alternatives should be presented in the form of a Transport Economic Efficiency Table (TEE). The overall scheme option Benefit to Cost Ratio (BCR) should also be presented within this table. TEE benefits should be calculated using the DfT TUBA software or a spreadsheet adopting equivalent principles and DfT approved values, if agreed at the ASR stage.

WebTAG Unit A1-1 outlines the required process for cost benefit analysis:

<https://www.gov.uk/government/publications/webtag-tag-unit-a1-1-cost-benefit-analysis-november-2014>

A TEE table template can be downloaded from the below link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479053/tag-worksheet-tee-table.xls

Transport model files, TUBA input and output files and/or economic spreadsheets should all be presented to the LEP for review alongside the business case submission to ensure that the WebTAG approach has been correctly applied.

Financial Case

The following key questions should be addressed as part of the financial case:

- What are the latest financial costs of the scheme?
 - This should outline the updated scheme capital costs and any ongoing maintenance or operational (whole life) costs. These should be presented in current prices.
- What are the non LEP contributions to the scheme and what is the status of these contributions (i.e. is the scheme fully funded)?

Commercial Case

The following key questions should be addressed as part of the commercial case:

- What income is predicted to be generated by the scheme?
 - Any income generated should also be reflected in the economic and financial appraisal where appropriate.
- If income is generated is this sufficient to ensure the long-term viability of the scheme?
- What is the proposed procurement strategy?
 - How will this ensure the correct balance of risk is allocated between the scheme sponsor and contractor?

Management Case

- What are the latest plans for design and construction methods?
 - An update should be provided on any changes in the above since those outlined in the Growth Deal Business case proposal.
- What legal powers are required to deliver the project and how/when will these be obtained?
- What are the planned public and stakeholder consultation activities?
 - Promoters are required to indicate their plans for public and stakeholder engagement on their preferred option scheme design and appraisal. Engagement should be undertaken at the FBC stage (see page ?).
- What are the key project risks and how will these be mitigated?
 - This should include a Quantified Risk Assessment (QRA) and a Risk Register indicating how project risks will be mitigated.
- What are the project governance arrangements?
 - This should include a project governance structure with named individuals allocated to roles.
- What is the project programme?
 - A detailed project programme should be provided based upon information from the scheme design and appraisal and should be provided in GANTT chart format.

6. Full Business Case

6.1 Purpose

The overall purpose of the Full Business Case (FBC) is to provide confirmation of the value for money and deliverability of the scheme following:

- Completion of suitably detailed feasibility design to accurately confirm scheme costs and risks.
- Obtaining of all the necessary statutory orders.
- Early contractor involvement to confirm scheme costs.

6.2 Format

The FBC should be structured in the same way as the OBC, using the headings of the five cases (see chapter 7 above).

6.3 Information Required for FBC

It is expected that the Full Business Case will fulfil all of the requirements of the previous Outline Business Case stage.

For major schemes where a separate OBC stage is required, the scheme promoter should reiterate the case presented in the OBC, updating where appropriate to reflect changes to the scheme since submission of the OBC. Table 3 outlines the FBC requirements for different scheme classifications, specific issues are also discussed below.

Table 3: Additional FBC Requirements on top of those required at OBC stage.

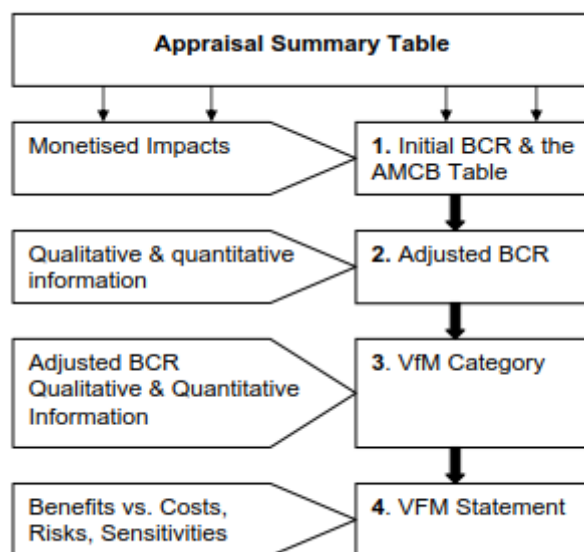
Case	Requirements	
	Minor Schemes	Major Schemes
Strategic Case	See OBC Guidance for requirements	Update findings from OBC to reflect any changes to designs – updates required to be agreed with Programme Management Group
Economic Case	See OBC Guidance for requirements	Update findings from OBC to reflect any changes to designs or scheme costs – updates required to be agreed with Programme Management Group. A Value for Money Statement should also be produced, see below guidance.
Financial Case	See OBC Guidance for requirements	Update findings from OBC to reflect any changes to scheme costs – updates required to be agreed with Programme Management Group
Management Case	See OBC Guidance for requirements, plus those listed below	Update to reflect findings from early contractor involvement and consultation activities. A Monitoring and Evaluation Plan and Benefit Realisation Strategy should also be produced at this stage, see comments below.
Commercial Case	See OBC Guidance for requirements, plus those listed below	Update to reflect any commercial issues resulting from contractor procurement.

Value for Money Statement

At the FBC stage as part of the Economic Case a Value for Money (VfM) Statement should be produced. This should summarise all of the key economic benefits and costs of the scheme, allowing decision makers to determine whether the scheme represents Value for Money.

DfT advice in relation to the production of a VfM statement can be found below:
<https://www.gov.uk/government/publications/value-for-money-advice-for-local-transport-decision-makers>

The below diagram indicates how information from the Appraisal Summary Table produced as part of the FBC Economic Case can be used in the production of a VfM Statement.



A key element of the VfM statement will be the initial Benefit to Cost Ratio (BCR) of the scheme. This value is derived from the monetised impacts of the scheme by dividing the Present Value of Costs (PVC) by the monetised Present Value of Benefits (PVB).

An initial Value for Money Category should be presented based upon the BCR value utilising the below categories:

BCR Value	VfM Category
<1.0	Poor
1.0 to 1.5	Low
1.5 to 2.0	Medium
2.0 to 4.0	High
>4.0	Very High

VfM scores

It was agreed that under normal circumstances all investments should demonstrate high value for money(vfm). However, the LEP Board recognises that there may be circumstances in which some investment may provide value for money for broader

reasons than the factors taken into account in the initial vfm scoring. For example the project may deliver broader strategic or economic growth outputs or outcomes.

A number of potential economic benefits of the scheme may not be monetised and therefore not included within the initial BCR, such as regeneration impacts, dependent development and landscape impacts. Where possible it may be appropriate to produce an 'adjusted' BCR to take account of these benefits of the scheme. The DfT Guidance in the production of a VfM statement, indicated overleaf, provides further guidance in the production of an adjusted BCR.

Where a monetary assessment is not feasible a qualitative impacts assessment should be presented utilising evidence provided as part of the Appraisal Summary Table to provide justification for the benefits indicated. The above processes can be utilised to justify a higher value for money category than that indicated in the initial BCR.

Public and Stakeholder Engagement

The LEP wishes to use public and stakeholder engagement to demonstrate the wider benefits to society of the proposed scheme. All scheme promoters will be required to undertake public and stakeholder engagement on their preferred option scheme design and appraisal.

Scheme promoters should give consideration to the likely impacts of their scheme and scale and nature of public interest in the proposals in determining the format of their public engagement activities. Consideration should also be given to whether the scheme may already have been publically consulted upon as part of a policy or strategy document, such as the Local Transport Plan, in determining their planned engagement activities to avoid duplication.

It will be necessary for promoters to ensure that the relevant transport asset owners / operators and the statutory environmental bodies have given their "in principle" approval.

The FBC document should describe the engagement activities undertaken, outline the results and set out (if necessary) how public or stakeholder feedback has been incorporated into the final scheme design and appraisal.

Monitoring and Evaluation

As part of the FBC submission scheme promoters must include an appropriate monitoring and evaluation plan indicating how the outturn scheme will be assessed against its stated objectives and planned outputs and outcomes. A pro-forma is available upon request which indicates the key areas that scheme promoters should consider in designing their monitoring and evaluation approach. Further guidance is available within the below document:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9154/1a-major-schemes-monitoring-evaluation.pdf

6.4 Due Diligence Requirements

In addition to the Final Business Case submission and prior to final funding approval a formal due diligence checking process will be undertaken. These checks will apply to all Growth Deal funded projects, be they skills, transport or major schemes and will cover the five cases as outlined section 4 of this document. Annex G of the GFirst LEP Assurance Framework outlines the requirements of the due diligence checks and provides a template to be completed by scheme promoters to aid the Accountable Body in completing these checks. It is anticipated that the vast majority of the requirements of these checks will be covered in the FBC submission. To avoid duplication where possible scheme promoters should therefore propagate this table with links to the locations within their FBC submission where each of the due diligence requirements are covered. Where elements are not sufficiently covered within the FBC submission scheme promoters should provide additional detail as part of the Due Diligence submission, providing supporting evidence where relevant.

LEP Technical Advisors will review the evidence provided in the Due Diligence submission and referenced sections of the FBC in undertaking their checks and may come back to scheme promoters for clarification on any issues of uncertainty.

Once the Due Diligence checks have been completed and assuming a satisfactory resolution a formal legal Agreement will be drawn up between GCC and the scheme promoter, allowing funding to be issued.

7. Key Guidance Documents

7.1 Introduction

There are a number of guidance documents that scheme promoters will need to be aware of when producing their business cases. Whilst some of these documents will be referred to throughout this guidance, it is useful to briefly summarise the purpose and usage of each. The LEP will work with scheme promoters in order to ensure there is a proportionate approach to the business case work.

The Transport Business Case

- **Purpose:** Outlines how the DfT assesses the business case for its own proposals.
- **Usage:** Promoters will be expected to follow the principles of the guidance when producing their scheme business cases, with the Programme Management Group advising on proportionality (i.e. level of detail required for specific schemes). The document also provides further sources of advice and guidance, which scheme promoters should consider using as necessary.
- **More Information:** <https://www.gov.uk/government/publications/transport-business-case>

The Green Book

- **Purpose:** Detailed guidance from HM Treasury as to how all public sector bodies should appraise schemes before committing to invest.
- **Usage:** Promoters will be expected to follow the basic principles (in particular the five case model) and (where relevant to the scheme) the detailed guidance.
- **More Information:** <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

Value for Money Statement Information Note

- **Purpose:** Summarises how the DfT assesses and presents the economic case for transport schemes (including economic, environmental, social / distributional and public accounts impacts).
- **Usage:** Promoters will be required to produce value for money assessments and statements for their schemes, as part of the OBC and FBC stages. The information will be particularly important for the final approval of a scheme, following the successful completion of the business case refinement and due diligence work. Decision makers will be looking for schemes to represent 'high' value for money, although schemes with lower value for money will be considered in certain instances.
- **More information:** https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/267296/vfm-advice-local-decision-makers.pdf

Transport Analysis Guidance - WebTAG

- **Purpose:** Provides detailed guidance covering all the main areas of appraisal for transport schemes – in particular the positive and negative impacts on economic, environmental, social / distributional and public accounts objectives.
- **Usage:** Promoters will be expected to follow the relevant parts of WebTAG as agreed with the LEP, following production of an Appraisal Specification Report (ASR).
 - **More Information:** <https://www.gov.uk/guidance/transport-analysis-guidance-webtag>

Design Manual for Roads and Bridges (DMRB)

- **Purpose:** Provides detailed guidance covering appraisal and design of highway schemes.
- **Usage:** Promoters will be expected to follow the relevant advice when appraising and designing their schemes; in particular ensuring that they liaise with the relevant highway authority for specific advice and especially if there are likely to be departures from DMRB standards (which will need explicit approval).
 - **More Information:** <https://www.gov.uk/guidance/standards-for-highways-online-resources>

Governance for Railway Investment Projects (GRIP) – For Rail Projects Only

- **Purpose:** Network Rail's guidance for the planning, appraisal and delivery of projects on the rail network.
- **Usage:** Promoters of rail schemes will be expected to follow the GRIP process, and ensure they receive appropriate technical advice from Network Rail.
- **More Information:** <http://www.networkrail.co.uk/asp/4171.aspx> (the detailed GRIP guidance is available from Network Rail on a CD).

ANNEX H

5 Cases Methodology – Key Principles

Strategic Case

- Strategic fit
- Why intervention required
- Objectives

Economic Case

- Demonstrate public value, outputs, outcomes
- Options appraisal
- Cost/benefit analysis, VFM assessment
- Justification for preferred option

Commercial Case

- Demonstration that preferred option will result in viable procurement and a well structured deal
- Planning and management of the procurement
- Risk and contract management

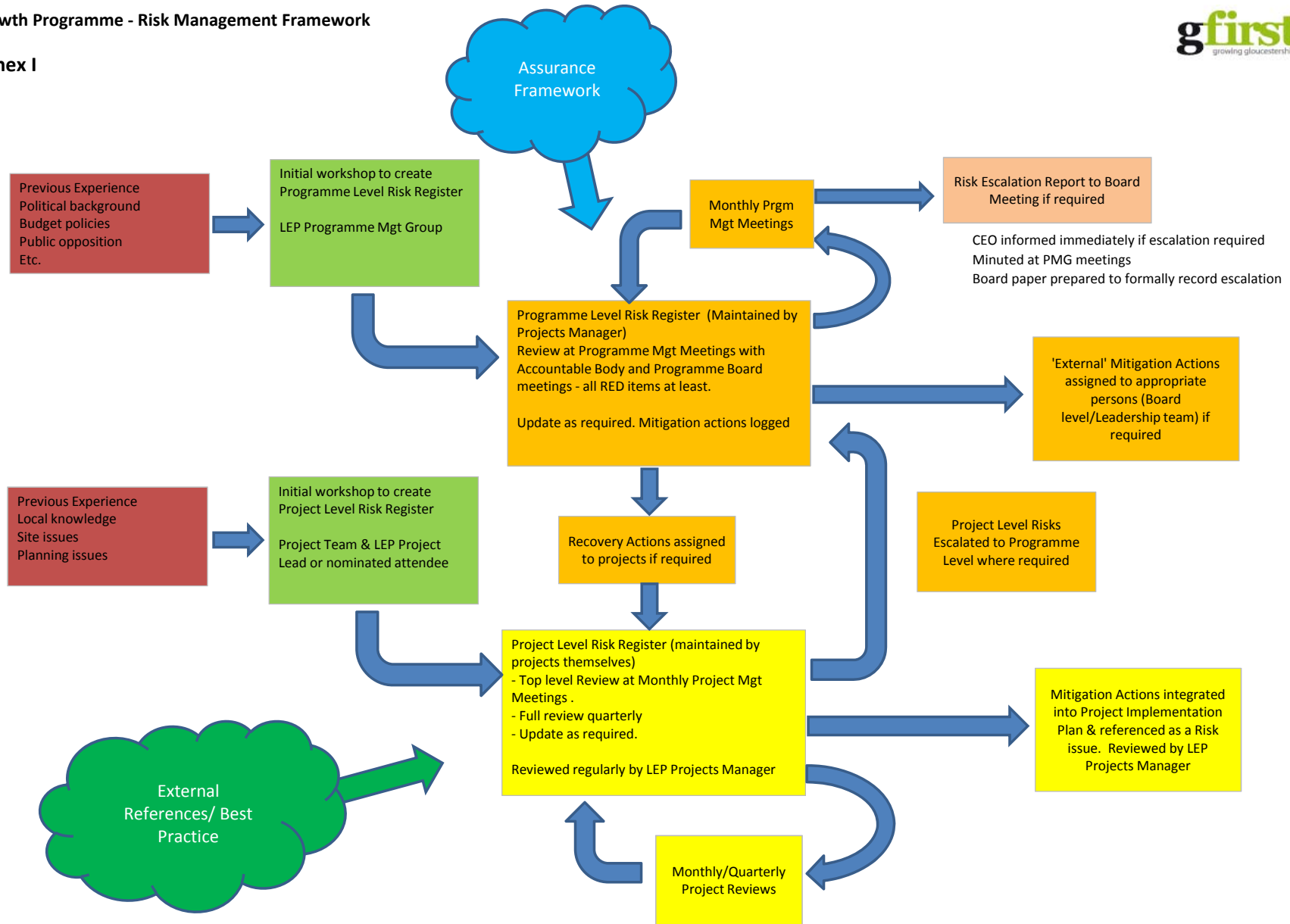
Financial Case

- Detailed capital and revenue requirements
- Impact analysis

Management Case

- Delivery capability
- Risk, programme and contract management

Annex I



JOB DESCRIPTION

Job Title: GFirst LEP Chair

Job Purpose/Key Role:

To provide leadership of the Board, and ensure its effectiveness in all aspects of its role.
To support the LEP in developing the strategic direction and priorities that will deliver the LEP's objectives.

To be an effective external advocate of the Board in public and with Local Authorities and Westminster, as well as being a credible advocate in both print and broadcast media.

Main Duties/Responsibilities/Accountabilities:

- Represent and promote Gloucestershire on a local, national and international basis to deliver on our core priority to grow the economy of Gloucestershire and ensure GFirst LEP has the capability to deliver on the fundamental task of generating inclusive economic growth.
- Actively engage with stakeholders to capture and engage their interest and facilitate their involvement in the county and analysing evidence of economic strengths and weaknesses of Gloucestershire; identifying the priority areas for investment; and to develop an investment plan to secure necessary funding to take this work forward.
- Contribute to the diversity of view on the board through their expertise, sector knowledge or background.
- To ensure effective and efficient focus on the priorities for local economic growth and to deliver impact, there should be robust monitoring and evaluation programmes used to inform decisions around awarding, continuing or withdrawing funding.
- Contribute to and have influence over a challenging vision and objectives, overseeing delivery through appropriate mechanisms.
- Contribute to the development of the board, providing expert advice and guidance.
- Help ensure effective planning, management and financial control procedures are in place to ensure that all relevant legal and statutory requirements are met.
- Provide visible leadership and strategic direction to the GFirst LEP Board, translating an ambitious strategic vision into a deliverable Local Industrial Strategy.
- Chair and develop an effective Board of Directors.

- Support, motivate and hold to account the Executive Team in its delivery of strategies, plans, targets and budgets.
- Lead the Board in its scrutiny of the Executive Team in delivering strategies, plans, targets and budgets effectively.
- Work with the Accountable Body and Executive Team to ensure the highest standards of public and company governance, financial control and conduct of financial affairs.
- Allocate specific roles and responsibilities to Board Directors; supporting and holding them to account for their delivery, with particular regard to the importance of skills and employment, business support, innovation and programme delivery.

Person specification

- A demonstrable passion for Gloucestershire, its economic wellbeing and success.

Experience

- Highly successful and widely respected individual, with a significant track record of organisational leadership, entrepreneurship, and management at the highest level.
- Proven record of success in leading in delivering the objectives of complex organisations and major projects.
- Extensive current knowledge and experience in one of Gloucestershire's key sectors, businesses or the voluntary/community sector.
- Success in influencing decision-making and developing high quality thinking in a business context.
- Strong financial management, with excellent commercial acumen.
- Background in leadership roles at board level with successful enterprises.
- Highly strategic, with experience of bringing the long-term to life, inspiring, engaging and building ownership necessary to achieve generational change

Abilities, skills and knowledge

- Ability to provide leadership, create and inspire others with a long-term vision for Gloucestershire and promote cross-LEP working to maximise economic benefit for all.
- Outstanding communication and interpersonal skills that command credibility and respect amongst a wide variety of audiences.
- Authority and credibility to represent GFirst LEP both in and outside Gloucestershire.
- Ability to network and harness the commitment of a wide range of partners and stakeholders and to the vision and objectives.
- Delivering in the public spotlight and instilling public confidence.

- Strong commitment to equality and diversity on the LEP Board and in all LEP activity.
- Ability to establish and maintain robust governance and assurance frameworks and systems to ensure effective financial performance and the delivery of agreed outcomes.

Personal Style and Behaviour

- Strong leader with flair, energy and entrepreneurial vigour.
- Personal and professional demeanor with a sense of integrity that maintains the confidence and trust of partners and stakeholders.
- Team based working style which engages people at all levels and engenders a positive culture throughout the organisation.
- Personal and professional credibility that will command wide confidence of stakeholders.
- Clear strategic and creative thinker, able to influence the delivery of complex strategic projects.

Remuneration

- The role of Chair is not remunerated.

Conduct

- The Chair must follow the Nolan Principles and act in what they believe to be the best interests of GFirst LEP and declare any potential or actual conflicts of interest.

Time Commitment

The Chair will be required to:

- Chair and attend GFirst LEP Board meetings (circa 6 per year)
- Attend Leadership Gloucestershire meetings (circa 6 per year)
- Chair and attend other meetings as required to fulfil the role, including meetings of the LEP Network and those involving regional LEP collaboration.
- Actively represent the GFirst LEP and Gloucestershire locally, nationally and internationally.
- Chair and attend meetings with MPs, Government Ministers and senior officials.
- Approximate time investment of 5 days per month.

Equal Opportunities Statement:

GFirst LEP is an Equal Opportunities employer and seeks to ensure that all applicants are treated in a fair and non-discriminatory manner. Standardised recruitment processes are followed and all applications for posts are considered against pre-determined criteria relevant to the requirements of the post. Consistent with our Equal Opportunities Policy, the Company does not discriminate on any grounds including, but not limited to, race, ethnic origin, colour, sexual orientation, gender, marital status, disability, class, age, political belief, religion or belief.

Respect and Dignity at Work – ‘Improving Working Lives’

GFirst LEP is committed to equality of opportunity and diversity in the workplace; all managers and staff are responsible for ensuring that this is delivered in practice.

GFirst LEP is equally committed to respect for other people and all managers and staff are expected to be clear of what is expected of them and for ensuring that they commit to this policy in their day-to-day working life.

GFirst LEP will not tolerate any forms of bullying or harassment in the workplace. Everyone has a personal responsibility to seek to improve his/her own and colleagues’ working lives to create a healthy and productive working environment.

GDPR

GFirst LEP takes the security of your data seriously. We have internal policies and controls in place to try to ensure that your data is not lost, accidentally destroyed, misused or disclosed, and is not accessed except by its employees in the performance of their duties.