

## **City Deal Borrowing and the establishment of the Greater Norwich Strategic Investment Fund**

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**Portfolio:** Planning

**Ward(s) Affected:** All

### **Purpose of the Report:**

At their public meetings on 17 June and 30 September 2021, the Greater Norwich Growth Board (GNGB) endorsed a recommendation to drawdown £20m City Deal borrowing to create a recyclable programme of funding to bring forward the delivery of major community infrastructure projects. This report provides the background to the City Deal borrowing and explains the governance, legal and administrative arrangements that would be required to support the proposed new fund.

### **Recommendations:**

It is proposed that Cabinet recommend that Council:

1. Gives authority to Norfolk County Council, as the Greater Norwich Growth Board's Accountable Body, to drawdown up to £20m from the Public Work Loans Board to create a recyclable fund to support local infrastructure projects as agreed in the Greater Norwich City Deal, subject to the following conditions:
  - The loan is used to create a fund, which will accelerate the delivery of infrastructure projects within the parameters defined within Community Infrastructure Levy legislation.
  - Repayment to be made from the Infrastructure Investment Fund pooled CIL.

- The fund will be available to any of the Greater Norwich partners acting as lead authority and secured in a borrowing agreement with Norfolk County Council, which will include an agreed repayment schedule and back stop date.
  - Repayments from the lead authority would be made into a new recyclable Strategic Investment Fund.
  - Due diligence and legal arrangements regarding the beneficiary project will be the responsibility of the lead authority.
2. Agrees the draft legal agreement that will commit future pooled Community Infrastructure Levy income as repayment against the drawdown of up to £20m through the Greater Norwich City Deal (amounts will be drawn in stages see Appendix D and E)
  3. Subject to recommendation 2, upon each staged draw down totalling no more than £20m, the GNGB to be granted delegated authority to sign the legal agreement together with their s151 officers, under the direction of Norfolk County Council as the Accountable Body and in accordance with their signed Joint Working Agreement
  4. Agrees that the GNGB be given delegated authority to manage the allocation of the City Deal borrowing and later, governance of the Strategic Investment Fund in line with the draft Terms of Reference - Appendix A and B.

## **1 SUMMARY**

- 1.1 At their public meetings on 17 June and 30 September 2021, the Greater Norwich Growth Board (GNGB) endorsed a recommendation to drawdown £20m City Deal borrowing to create a recyclable programme of funding to bring forward the delivery of major community infrastructure projects. This report provides the background to the City Deal borrowing and explains the governance, legal and administrative arrangements that would be required to support the proposed new fund.

## **2 BACKGROUND**

- 2.1 As part of the Greater Norwich City Deal agreement<sup>1</sup> signed with MHCLG in 2013, the Greater Norwich Growth Board (GNGB) were afforded the opportunity to access lower-cost loan funding from the Public Works Loans Board (PWLb).

- 2.2 The total £80m borrowing was allocated in this way:

£60m for strategic infrastructure investment:

- £40m for the Broadland Northway (previously known as the NDR)
- £10m for the Long Stratton Bypass
- £10m for Central Norwich road network schemes

<sup>1</sup> <https://www.gov.uk/government/publications/city-deal-greater-norwich>

£20m to establish the Local Infrastructure Fund (LIF)

- 'to create a revolving fund to support local infrastructure projects' as detailed by Her Majesty's Treasury when initially granting access to the loan.

- 2.3 To date, £40m for the Broadland Northway has been drawn down by the Board. This loan runs until June 2041 and is repaid in annual instalments from the Infrastructure Investment Fund (IIF, also known as pooled CIL). A further £6.733m has more recently been agreed to be drawn down to support the delivery of Long Stratton Bypass. This loan will run for 25 years from the date that it is drawn, which is forecast to end in 2047/48.
- 2.4 In addition to the reduced cost borrowing, the signing of the City Deal led to the establishment of the IIF. Income received from the Community Infrastructure Levy (CIL) is pooled within the IIF and allocated to the infrastructure projects which form the Greater Norwich Growth Programme which is administered by the GNGB. To date, the partnership has allocated over £29m of IIF funding and £46m of CIL supported borrowing which has levered in at least an additional £240m to deliver infrastructure projects within the Greater Norwich area.
- 2.5 The £20m allocated to the Local Infrastructure Fund (LIF) was a loan facility intended to provide upfront funding for onsite infrastructure delivery to small and medium-sized local developers. The facility was available for four years but the rate and level of take up was lower than expected. All the agreed loans were financed directly by Norfolk County Council (NCC) without the need to draw down the £20m through the City Deal.
- 2.6 Following a review of the LIF facility, on 17 March 2020 the GNGB made the decision to bring it to a close and instructed the Greater Norwich Infrastructure Delivery Board (IDB) to prepare an updated City Deal Borrowing schedule, proposing a reassignment of the £20m previously allocated to LIF. Several options were reviewed and on 17 June 2021 the GNGB endorsed the 'in principle' draw down of up to £20m City Deal borrowing to create a new recyclable programme of funding to bring forward the delivery of major community infrastructure projects and that the IIF should be used to repay the PWLB borrowing.

### **3 CURRENT POSITION**

- 3.1 The Greater Norwich partners have been working together for over 10 years. This ongoing partnership relationship will soon result in the current Joint Core Strategy being replaced by the Greater Norwich Local Plan (GNLP). The GNLP seeks to ensure that the development needs of Greater Norwich continue to be met to 2038, and its production demonstrates the partners' commitment to working together to support growth in the longer term. To support the delivery of the GNLP many strategies and plans have been developed including, but not limited to:
- Norfolk Strategic Infrastructure Delivery Plan (includes the Broadland Growth Link Road £38m)

- Local Transport Plan and Transport for Norwich Strategy Implementation Plans, including the Transforming Cities Programme and the Local Walking and Cycling Infrastructure Plans (includes the Green Loop £5.8m).
- Education capital programme (a new High School to the North East of the City £26m).
- East Norwich Masterplan (indicating that costs for infrastructure are £28.3m and £76.1m for site specific costs excluding schools and health/community facilities)

3.2 As these programmes develop and move closer towards delivery, eligible projects will be encouraged to apply to the IIF for funding. To date just over £39m has been received into the IIF and the forecast of total income received by March 2026 is £74m<sup>2</sup>. But this amount is small when compared to the full infrastructure requirements of Greater Norwich. The GNGB are proactively working together to close this funding gap and wish to harness the full benefit of the reduced cost borrowing that was made available through the City Deal. They have endorsed a recommendation to reassign the borrowing that was initially allocated to the LIF, to a new loan model which will lead to the establishment of the Strategic Investment Fund: a recyclable fund that will be used to support local infrastructure projects, as originally intended within the City Deal.

### **The objectives of setting up a new fund**

3.3 The objectives of establishing the Strategic Investment Fund

- To accelerate the delivery of major strategic infrastructure projects.
- To ultimately capture the benefit of extending the scope of beneficiary projects beyond that which is currently possible with the IIF, whose use is restricted by CIL legislation. By establishing the SIF, the definition of infrastructure projects can be broadened to match the original definition agreed within the City Deal *'This fund will be used to support infrastructure required to open up sites for housing or employment development'*
- To realise the benefit of drawing down the full allocation of reduced cost borrowing which is available to the GNGB until end March 2026.

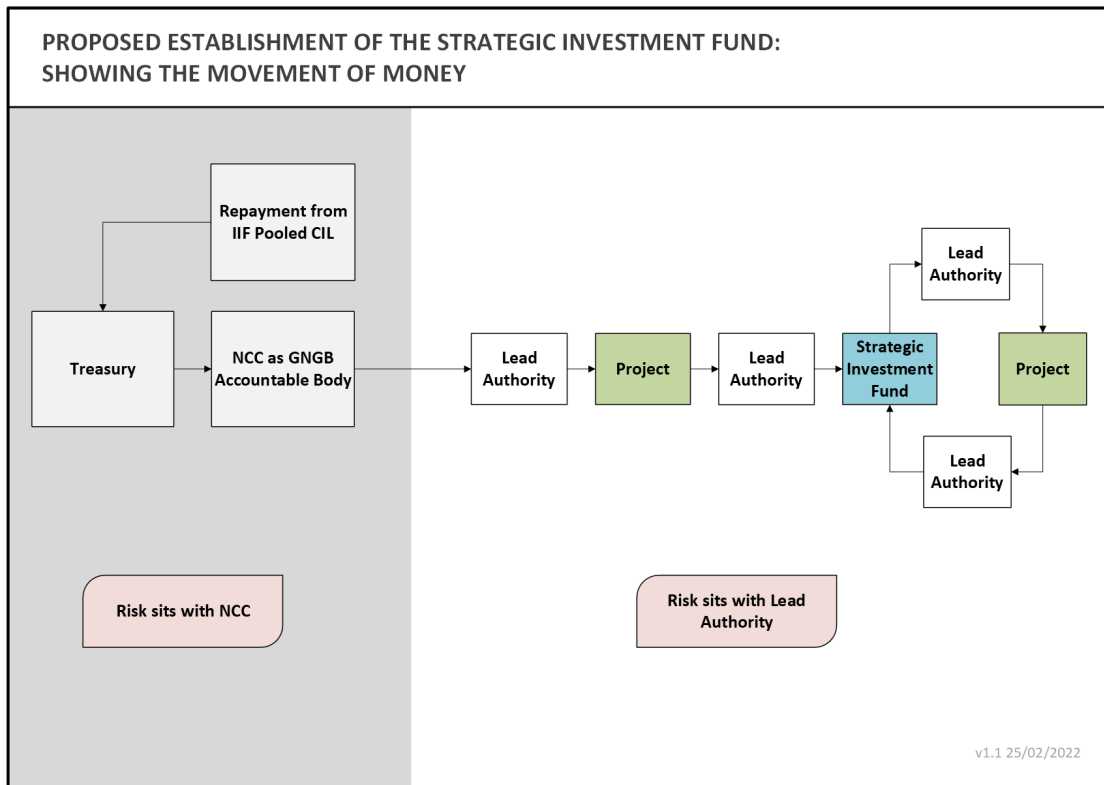
## **4 THE PROPOSED MODEL – The Strategic Investment Fund**

4.1 For the Strategic Investment Fund (SIF) to be formed, up to £20m City Deal borrowing will first need to be drawn down from PWLB and loaned to infrastructure projects as defined by CIL regulation. This enables the GNGB to repay the City Deal loan from the IIF, as they do for the Broadland Northway. The beneficiary project will then repay the loan plus interest back to the GNGB. As money is repaid it will be paid into the newly established SIF. Money paid into the SIF will then be reloaned on a cyclical basis to future projects that are no longer restricted by CIL legislation and can be delivered beyond the term of the City Deal

<sup>2</sup> The complexity of CIL forecasting leads to a very high margin of error in any projections, either up or down.

agreement (March 2026). See diagram 1 below which demonstrates the route of the money.

**Diagram 1**



4.2 The delivery of Long Stratton Bypass (LSBP) has been used to demonstrate how the proposed new model could be utilised (4.3 and 4.4). Please note that this is for demonstration purposes to aid understanding and is not a recommendation to agree that a loan should be allocated to this project.

4.3 Long Stratton Bypass funding is made up of three parts:

1. A £26.2m contribution from the Department for Transport (DfT).
2. A £6.733m local contribution from the Highways authority which has recently been agreed to be drawn down through the City Deal borrowing (see 1.2 and 1.3) and repaid from the IIF.
3. A £4.5m developer contribution. This is to be agreed through the signing of a s106 agreement, which will confirm the delivery related trigger points at which the payment is due.

4.4 It is proposed that the GNGB utilises the borrowing allocated within their City Deal to fund the ‘developer contribution’ of the project budget, by way of facilitating a loan that covers the period before the developer has reached the respective trigger points and repays the loan. In doing so, LSBP will be delivered much earlier in the overall Long Stratton development.

4.5 The proposed process of drawing down this loan (Also see diagram in Appendix D) is as follows:

- The £4.5m required for the 'developer contribution' is drawn down from the PWLB by Norfolk County Council, as the GNGB's Accountable Body. This amount will be deducted from the total borrowing facility originally allocated to the LIF within the City Deal.
- The interest and loan repayments for the PWLB loan are made from the Infrastructure Investment Fund (IIF) for the full term of the loan. This borrowing will require a legal agreement signed by all district partners.
- The £4.5m developer contribution would be lent on to South Norfolk Council (SNC) and a legal borrowing agreement will be signed between SNC and NCC (as the GNGB's Accountable Body). This will confirm the loan and interest repayments to be made back to the GNGB. A backstop date will be agreed to confirm the latest point at which the loan will be repaid.
- SNC will enter into an agreement with the owner/promoter of LSBP to cover the repayments of the £4.5m (this may be the S106 agreement). Liability for the repayments to be received from the developer will rest with SNC. It is expected that repayments will be received in stages.
- Once all legal agreements are established, SNC will pay the £4.5m to NCC (as Highways Authority) to allow them to deliver LSBP. This will be in advance of when the developer payment would otherwise have been available, thereby accelerating its delivery.
- Repayments for the £4.5m PWLB loan will be paid from the IIF because the developer contribution is not available at the time of delivering LSBP.
- Interest and loan repayments made by the developer to SNC will be transferred to a new Strategic Investment Fund (SIF).
- The SIF will be independent of the IIF. Amounts received into the SIF can be re-loaned to other schemes in the future creating a 'recyclable pot'. It is forecast to take 2-10 years before any funding will be available within the SIF.
- Sections 5- 8 outline the arrangements the GNGB intends to put in place to safeguard the decision making for all partners.

## **5 LEGAL ARRANGEMENTS**

5.1 All projects will need one Greater Norwich partner to act as the Lead Authority. In most circumstances, the loan process will be supported by three legal agreements:

### 5.1.1 NCC draw down money from PWLB

- NCC sign a legal loan agreement with all partners to underwrite the initial loan draw down from PWLB, committing to repay the interest and loan from the IIF (as with the Broadland Northway)

### 5.1.2 NCC loan money on to the Lead Authority

- Lead Authority will sign a legal agreement with Norfolk County Council to underwrite and therefore take the risk of the interest and loan repayments which will be made back to the SIF.

### 5.1.3 Lead Authority loan money on to the developer

- Lead Authority will sign a s106 agreement and/or a legal agreement with the developer to confirm the details of the repayments that are to be made. (Both may be required because not all aspects can be secured through a s106 agreement)

5.2 The intention of these legal arrangements is for the financial risk of the loan to be transferred away from the GNGB and the IIF. This is done by securing a long stop date for the loan to be repaid by the Lead Authority. In the case of LSBP, SNC would agree to repay the full loan by a particular date, irrespective of whether they have secured the full repayment from the developer.

5.3 Recommendation 2 of this report is seeking to approve the draft agreement referred to in para 5.1.1 above.

## 6 MANAGING THE COST TO THE INFRASTRUCTURE INVESTMENT FUND

6.1 £20m will not be required at once, instead increments will be drawn down over time as projects progress to delivery and are approved. If the total £20m was drawn down, given current interest rates the forecasted repayment from the IIF would be £1,284,000 a year for 20 years. But it will take several years before this full amount will be required.

6.2 The GNGB will commit to providing a forecast of the City Deal loan repayments within each publication of the joint Five-Year Infrastructure Investment Plan. The forthcoming year's IIF repayments will be confirmed and committed alongside the decision-making process for each Greater Norwich Annual Growth Programme, which has an established route of decision making through all partner District Cabinets and Councils.

## 7 GOVERNANCE

7.1 The initial City Deal borrowing, and later the SIF, are expected to be flexible in their allocation, allowing for a variety of projects and repayment models to be utilised. It is expected that the detail of all processes will be tailored to each new loan allocation with certain models emerging over time. The funds will need to be flexible with clear and transparent reporting to ensure that the GNGB meets all government standards, legislative requirements and to support decision making.

7.2 The establishment of the SIF will enable the GNGB to utilise available funds without the restrictions that currently bind the IIF. The SIF project scope can be extended to the full extent of what was originally permitted within the City Deal Document.

'This fund will provide loans to developers for site specific help to enable housing sites to be delivered quickly, managed on a rolling basis. This fund will be used to support infrastructure required to open up sites for housing or employment development'

7.3 Foundational governance and legal arrangements need to be in place to safeguard the partners against risk and to provide confidence in delegating the

management of the fund to the GNGB. The GNGB is an award-winning established board who are considered a model of best practice for the way they manage the IIF. This voluntary partnership is supported by a joint working agreement which requires all decisions to be unanimously agreed and has been formalised by the signing of a legal agreement relating to the Draw-down and Borrowing Authorisations. (See Appendix E)

- 7.4 Two separate governance arrangements will need to be agreed and established. One for the initial City Deal borrowing and a second for the SIF. The GNGB have endorsed two draft Terms of Reference for these funds within appendix A and B. Subject to agreement, these Terms of Reference will be used as the foundation from which processes are designed and developed to support the administration, monitoring and reporting of this proposed model of borrowing.

## **8 MONITORING AND REPORTING**

- 8.1 The GNGB has an established governance and decision-making process. This is supported by the Greater Norwich Infrastructure Delivery Board whose membership consists of a director from each partner authority and the Chief Executive of the LEP.
- 8.2 The GNGB compile a joint Five-Year Infrastructure Investment Plan on an annual basis, which is reviewed and agreed by each District Cabinet and Full Council. It is proposed that delivery and financial reports for the City Deal Borrowing and SIF are added as an additional section within this Plan.
- 8.3 Lower-level processes for the general administration and monitoring of each loan will be developed by the Greater Norwich Projects Team, who already administer the IIF. More details of the documents that will be required are included within the draft Terms of Reference.

## **9 AGREEMENT WITH HER MAJESTY'S TREASURY**

- 9.1 The draw down schedule for the total £80m borrowing was initially agreed in 2013 when the City Deal was signed. Later in 2017, following the £40m draw down for the Broadland Northway, the schedule was reprofiled and re-agreed by Her Majesty's Treasury (HMT). Most recently in August 2021, HMT agreed a new schedule and confirmed that they have sufficient information to enable the GNGB to proceed to draw down the remaining borrowing at the reduced 'project rate' as agreed within the City Deal.

## **10 OTHER OPTIONS**

- 10.1 Cabinet may choose not to agree the recommendations in this report.

## **11 ISSUES AND RISKS**

- 11.1 **Resource Implications** – Staff resource will be as detailed within the roles & responsibly section of each Terms of Reference. No additional staff resource is proposed.



**11.2 Legal Implications** – The £20m City Deal borrowing will be drawn from PWLB by NCC as the GNGBs Accountable Body.

The drawing down of £20m City Deal borrowing and ultimately the establishment of the SIF are dependent upon a legal borrowing agreement being signed by all four partner authorities to agree that the interest and loan repayments for the £20m City Deal borrowing will be made from the IIF for the full term of the loan. This will require each Cabinet and Full Council agreement.

The legal loan agreement between NCC as Accountable Body and the Lead Authority will require agreement with the Cabinet and Full Councils of the signing partners involved. (In the example of LSBP this would be NCC and SNC)

The legal loan agreement between the Lead Authority and the developer will require agreement with the Cabinet and Full Council of the Lead Authority. (In the example of LSBP this would be SNC)

**11.3 Equality Implications** – It will be the responsibility of the Lead Authority to undertake an equality assessment of the individual project where appropriate.

**11.4 Environmental Impact** – It will be the responsibility of the Lead Authority to consider the environmental impacts of the scheme as part of the associated planning approval.

**11.5 Risks**

The GNGB's membership consists of the Leaders of each partner authority together with the chair of the New Anglia LEP. The GNGB's joint working agreement requires a unanimous agreement from all five partners for all decisions. This ensures that project allocations from either the initial City Deal Borrowing or the SIF will not be able to proceed unless all partners agree.

The risk of project delivery delaying repayment to the SIF will be underwritten by a backstop date within the legal agreement between NCC and the Lead Authority.

The risk of not having enough CIL within the IIF to make the interest and loan repayments to PWLB (the initial £20m drawn down through the City Deal) is mitigated through the GNGB's administration and reporting arrangements that are already in place. Annual delivery and financial updates will continue to be provided to all partners by means of the joint Five-Year Infrastructure Investment Plan. As with previous City Deal loan drawdowns, a reserve equal to one year's interest and loan repayment will be secured to allow a cushion of time if any issues do arise.

In August 2020 the Planning For The Future white paper proposed the cessation of CIL in favour of a new Infrastructure Levy. No further details have been published about this but informal advice from Department for Levelling Up, Housing and Communities (DLUHC) is that any change will be subject to trials in certain areas and there is expected to be an extended transitional period. To safeguard against changes, CIL is defined in the signed legal agreement relating to GNGB draw-down and borrowing authorisations dated 21st Oct 2015 (Appendix

E): The "Community Infrastructure Levy" means the Community Infrastructure Levy pursuant to the Planning Act 2008 and Community Infrastructure Levy Regulations 2010 or equivalent - or replacement developer tax or levy as implemented from time to time.

The government has recently consulted on proposed legislative changes to the Minimum Revenue Provision (MRP) calculation. It believes some authorities are not making a prudent amount of MRP in their revenue budgets in accordance with current policy. This has the potential to impact on some local authority's ability to finance future capital investment. Until the final regulations are announced it is not known how this will impact on each local authority's MRP calculation and consequently their ability to borrow. Whilst any changes should not prevent the proposals in this paper, they do represent a risk which will need to be considered by Section 151 officers before drawing down PWLB funding and entering into loan agreements.

## **12 CONCLUSION**

- 12.1 The proposed borrowing model and establishment of a Strategic Investment Fund as set out in this report will enable the accelerated delivery of major strategic infrastructure projects to support housing and employment growth across the Greater Norwich area, providing site specific funding support to enable infrastructure to be delivered quickly and in advance of any specified development trigger points.
- 12.2 The proposal will enable the scope of beneficiary infrastructure projects to be extended beyond that currently allowed by the IIF, whose use is restricted by CIL legislation. By establishing the SIF, the definition of infrastructure projects can be broadened to match the original definition agreed within the City Deal 'This fund will be used to support infrastructure required to open up sites for housing or employment development'.

## **13 RECOMMENDATIONS**

It is proposed that Cabinet recommend that Council:

1. Gives authority to Norfolk County Council, as the Greater Norwich Growth Board's Accountable Body, to drawdown up to £20m from the Public Work Loans Board to create a recyclable fund to support local infrastructure projects as agreed in the Greater Norwich City Deal, subject to the following conditions:
  - The loan is used to create a fund, which will accelerate the delivery of infrastructure projects within the parameters defined within Community Infrastructure Levy legislation.
  - Repayment to be made from the Infrastructure Investment Fund pooled CIL.
  - The fund will be available to any of the Greater Norwich partners acting as lead authority and secured in a borrowing agreement with Norfolk County Council, which will include an agreed repayment schedule and back stop date.

- Repayments from the lead authority would be made into a new recyclable Strategic Investment Fund.
  - Due diligence and legal arrangements regarding the beneficiary project will be the responsibility of the lead authority.
2. Agrees the draft legal agreement that will commit future pooled Community Infrastructure Levy income as repayment against the drawdown of up to £20m through the Greater Norwich City Deal (amounts will be drawn in stages see Appendix D and E)
  3. Subject to recommendation 2, upon each staged draw down totalling no more than £20m, the GNGB to be granted delegated authority to sign the legal agreement together with their s151 officers, under the direction of Norfolk County Council as the Accountable Body and in accordance with their signed Joint Working Agreement
  4. Agrees that the GNGB be given delegated authority to manage the allocation of the City Deal borrowing and later, governance of the Strategic Investment Fund in line with the draft Terms of Reference - Appendix A and B.

## **Appendices**

- A City Deal borrowing Draft Terms of Reference
- B Strategic Investment Fund Draft Terms of Reference
- C Proposed establishment of the SIF- a more detailed flow diagram
- D Draft legal agreement for the drawdown of up to £20m to be repaid by the IIF
- E Agreement relating to GNGB Draw-down and Borrowing Authorisations. Dated 21st Oct 2015

## **Background Documents**

[GNGB Infrastructure Investment Fund terms of reference](#)

[GNGB Joint working agreement](#)

## **Fund Name**

City Deal Borrowing

## **Vision**

To enable and where possible to accelerate the delivery of growth within the Greater Norwich area, maximising the opportunities for job, homes and prosperity for local people.

## **Purpose**

Upfront funding for infrastructure is seen as one of the biggest barriers to the creation of new jobs and homes. Borrowing as agreed through the Greater Norwich City Deal will be drawn down to support the delivery of infrastructure required to facilitate growth in the Greater Norwich area. It is intended that this borrowing will be used as capital funding for projects, with interest and repayments being made into the Strategic Investment Fund\*, thereby creating a capital fund that can be recycled to provide for ongoing strategic investment within the Greater Norwich area.

## **Scope**

Infrastructure projects funded from the initial borrowing as agreed within the Greater Norwich City Deal, will be required to provide a clear community benefit through the delivery of infrastructure as defined by legislation; Section 216(2) of the PA 2008 as originally enacted:

- Roads and other transport facilities (section 216(2)(a), PA 2008).
- Flood defences (section 216(2)(b), PA 2008).
- Schools and other educational facilities (section 216(2)(c), PA 2008).
- Medical facilities (section 216(2)(d), PA 2008).
- Sporting and recreational facilities (section 216(2)(e), PA 2008).
- Open spaces (section 216(2)(f), PA 2008).

Acceptance into the City Deal Borrowing programme will be determined on a case by case basis. Projects would need to demonstrate their strategic nature whilst adhering to the vision and purpose of the fund.

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\*Strategic Investment Fund – separate terms of reference support this fund

## Governance

As set out in the Greater Norwich City Deal, a fund of up to £20 million will be established through borrowing from the Public Works Loan Board (PWLb) by Norfolk County Council on behalf of the Greater Norwich Growth Board. This borrowing will be undertaken to finance a programme of strategic projects. Individual projects will be assessed by the Greater Norwich Growth Board (GNGB) and unless otherwise agreed by all partners, the Lead Authority named in the Business Case will be required to enter into a legal contract with Norfolk County Council, as the Accountable Body for the borrowing.

Due to the strategic nature of the projects, the progress through the decision-making process is likely to be an iterative and collaborative process and therefore may be developed over an extended period of time.

The allocation of money to successful projects together with the ongoing oversight of the City Deal borrowing will be delegated to the GNGB in agreement with Norfolk County Council as their Accountable Body. However, the responsibility for securing repayments and enforcing the terms of the borrowing agreement will rest with the respective Lead Authority.

## Process

A suite of fund management processes will be developed and agreed by all partners. This will include:

Fund rules

Project application form

Application guidance notes (for applicant)

Application appraisal guidance (for appraisee)

Agreement in Principle

Rejection Letter

Project Highlight Report

## Roles & Responsibilities

**Accountable Body**- Norfolk County Council as the accountable body for the GNGB will action any loan drawn down from the PWLB. They will also direct the GNPT in the monitoring of the City Deal Borrowing.

**Lead Authority**- each project application will be sponsored by one of the Greater Norwich partners as the Lead Authority (LA). The LA is responsible for progressing the application through the agreed decision-making procedure and will adhere to the agreed fund reporting processes.

**Greater Norwich Growth Board**- will continue to work in accordance with [their Joint Working Agreement and Constitution](#) as signed by all parties in September 2014, and under the delegated powers as granted to them by each authorities Cabinet and Full Councils.

**Infrastructure Delivery Board-** will oversee the management of the City Deal Borrowing and the delivery of its project programme, providing annual updates to the GNGB.

**Greater Norwich Project Team-** will monitor the City Deal Borrowing and provide biannual updates to the IDB.

## **Fund Name**

Strategic Investment Fund (SIF)

## **Vision**

To enable and where possible to accelerate the delivery of growth within the Greater Norwich area, maximising the opportunities for job, homes and prosperity for local people.

## **Purpose**

Upfront funding for onsite infrastructure is seen as one of the biggest barriers to the creation of new jobs and homes. The Strategic Investment Fund (SIF) will be used to support infrastructure required to open up sites for housing or employment growth. It is intended that this borrowing will be used as capital funding for projects, with interest and repayments being made back into the SIF, thereby creating a capital fund that can be recycled to provide for ongoing strategic investment within the Greater Norwich area.

## **Scope**

Acceptance into the SIF programme will be determined on a case by case basis. Projects would need to demonstrate their strategic nature whilst adhering to the vision and purpose of the fund.

## **Governance**

As set out in the Greater Norwich City Deal, a fund of up to £20 million will be established through borrowing from the Public Works Loan Board (PWLB) by Norfolk County Council on behalf of the Greater Norwich Growth Board. This borrowing will be undertaken to finance a programme of strategic projects. Individual projects will be assessed by the Greater Norwich Growth Board (GNGB) and unless otherwise agreed by all partners, the Lead Authority named in the Business Case will be required to enter into a legal contract with Norfolk County Council, as the Accountable Body for the borrowing.

Due to the strategic nature of the projects, the progress through the decision-making process is likely to be an iterative and collaborative process and therefore may be developed over an extended period of time.

The allocation of money to successful projects together with the ongoing oversight of the SIF will be delegated to the GNGB in agreement with Norfolk County Council as their Accountable Body. However, the responsibility for securing repayments and enforcing the terms of the borrowing agreement will rest with the respective Lead Authority.

## Process

A suite of fund management processes will be developed and agreed by all partners. This will include:

Fund rules

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Rejection Letter

Project Highlight Report

## Roles & Responsibilities

**Accountable Body-** Norfolk County Council as the accountable body for the GNGB will action any loan drawn down from the PWLB. They will also direct the GNPT in the monitoring of the SIF.

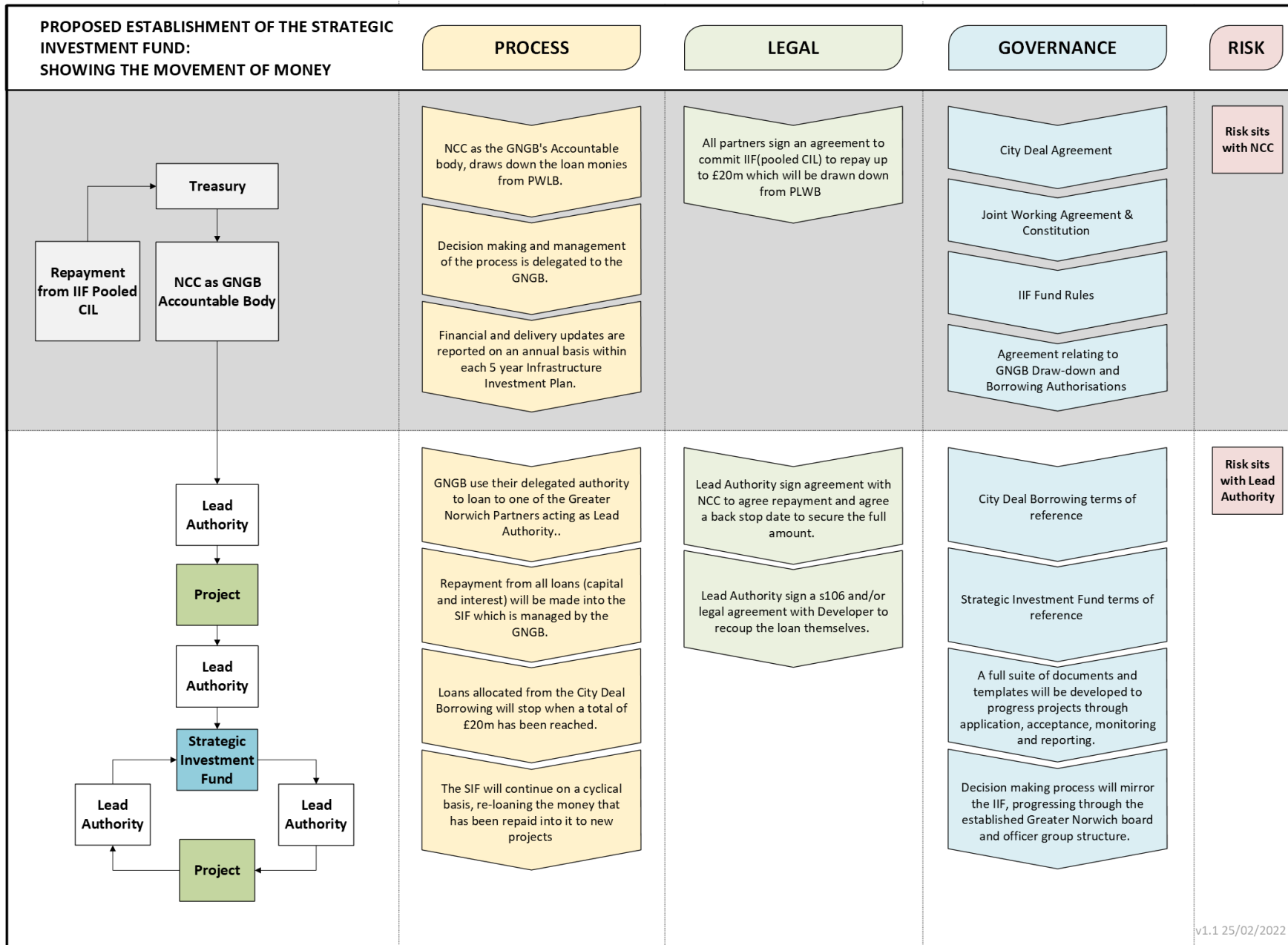
**Lead Authority-** each project application will be sponsored by one of the Greater Norwich partners as the Lead Authority (LA). The LA is responsible for progressing the application through the agreed decision-making procedure and will adhere to the agreed fund reporting processes.

**Greater Norwich Growth Board-** will continue to work in accordance with [their Joint Working Agreement and Constitution](#) as signed by all parties in September 2014, and under the delegated powers as granted to them by each authorities Cabinet and Full Councils.

**Infrastructure Delivery Board-** will oversee the management of the SIF and the delivery of its project programme, providing annual updates to the GNGB.

**Greater Norwich Project Team-** will monitor the SIF and provide biannual updates to the IDB.





Dated \_\_\_\_\_ 20[ ]

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**PROJECT SCHEDULE**

Pursuant to Agreement Relating to GNGB Partner Draw-down and Borrowing  
Authorisations of 21st October 2015

Relating to GNGB Partner Draw-down and Borrowing Authorisations for the  
[Construction of .....]

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**BROADLAND DISTRICT COUNCIL**

**NORWICH CITY COUNCIL**

**SOUTH NORFOLK DISTRICT COUNCIL**

**&**

**NORFOLK COUNTY COUNCIL**

nplaw  
Norfolk County Council  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH

Dated \_\_\_\_\_ 20[ ]

## **Background**

- This Project Schedule sets out agreed obligations in relation to Partner Draw-down and Borrowing Authorisations for the [Construction of xxx ] and has been prepared in accordance with clause 5 of the Agreement Relating to GNGB Partner Draw-down and Borrowing Authorisations dated 21st October 2015 between Broadland District Council, Norwich City Council, South Norfolk District Council and Norfolk County Council (“the Agreement”).
- Accordingly this Project Schedule forms part of the Agreement.

### **1 Project**

- [Construction of .....] and related measures “the Project”.

### **2 Project Description**

- [ xxx ]
- [ xxx ]

### **3 Project Period**

- The Project is due to mobilize in [ xxx ].
- Construction is programmed to begin in [ xxx ] with a majority of the works completed by [ xxx ].

### **4 Background**

- The adopted Joint Core Strategy for Broadland, Norwich and South Norfolk identifies [ xxx ] as a key location for growth and proposes the development of [ xxx ].

### **5 Agreed terms**

- Loan funding would be repaid over a 20 year period

### **6 Additional Terms & Conditions**

- In accordance with paragraph 5.4 of the Agreement, Liabilities in respect of any overspend or delay in respect of Project Schedule timeframes and milestones shall be shared as follows:

Partner	Share of overspend risk	Share of timeframes and milestones risk
[ xxx ] Council	100%	100%

## 7 Fees and expenses

- The County Council shall borrow funds from various sources as they are identified to assist with the delivery of the Growth Programme. The County Council shall ensure that the cost of any additional borrowing (up to £ [xxx ]m) for this purpose will be undertaken at the equivalent of the prevailing PWLB project rate discount as set out in the City Deal dated 12 December 2013.
- Funding from the Infrastructure Investment Fund for the purposes of the Project shall be capped at £[xxx ] million plus any associated borrowing costs incurred by the County Council as provided for herein.

## 8 Repayment and review

- In accordance with paragraph 3.4 of the Agreement, the County Council shall use the Infrastructure Investment Fund to fund the costs of borrowing costs in accordance with the following schedule.

Illustrative costs of borrowing to be funded from Infrastructure Investment Fund:

*DRAFTING NOTE: This table to be updated after the final funds drawdown.*

Year	Principal start	Repayment	Interest	Balance
2023/24				
2024/25				
2025/26				

2026/27				
2027/28				
2028/29				
2029/30				
2030/31				
2031/32				
2032/33				
2033/34				
2034/35				
2035/36				
2036/37				
2037/38				
2038/39				
2039/40				
2040/41				
2041/42				
2042/43				
2046/47				
2047/48				
Totals				

## 9 VOLUNTARY PREPAYMENTS

If the Parties agree to make additional repayments over and above those listed above, a new schedule will be produced based on the remaining outstanding debt, including interest, in accordance with clause 16 (Variation) of the Agreement.

Signed by [ ] .....  
Section 151 Officer  
for and on behalf of **NORFOLK  
COUNTY COUNCIL**

Signed by [ ] .....  
Section 151 Officer  
for and on behalf of **BROADLAND  
DISTRICT COUNCIL**

Signed by [ ] .....  
Section 151 Officer  
for and on behalf of **NORWICH CITY  
COUNCIL**

Signed by [ ] .....  
Section 151 Officer  
for and on behalf of **SOUTH  
NORFOLK DISTRICT COUNCIL**

Dated \_\_\_\_\_ 2015

**BROADLAND DISTRICT COUNCIL**

**NORWICH CITY COUNCIL**

**SOUTH NORFOLK DISTRICT COUNCIL**

and

**NORFOLK COUNTY COUNCIL**

---

**AGREEMENT**

Relating to GNGB Partner Draw-down and Borrowing Authorisations

---

nplaw  
Norfolk County Council  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH

**THIS AGREEMENT** is made on the \_\_\_\_\_ day of \_\_\_\_\_ 2015

BETWEEN

- (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, 1 Yarmouth Road, Norwich, Norfolk, NR7 0DU ("**Broadland**")
- (2) **NORWICH CITY COUNCIL** of City Hall, St Peter Street, Norwich, NR2 1NH ("**Norwich**")
- (4) **SOUTH NORFOLK DISTRICT COUNCIL** of South Norfolk House, Swan Lane, Long Stratton, Norfolk, NR15 2XE ("**South Norfolk**")
- (4) **NORFOLK COUNTY COUNCIL** of County Hall, Martineau Lane, Norwich, NR1 2DH ("**County Council**")

(together "the Parties"; Broadland, Norwich and South Norfolk together the "District Councils")

#### **Recitals**

- (i) The Parties have with the New Anglia Local Enterprise Partnership established the Greater Norwich Growth Board to oversee the delivery of the Greater Norwich Growth Programme as more particularly set out in the Joint Working Agreement dated 26 September 2014.
- (ii) The Greater Norwich Growth Board has agreed the Infrastructure Investment Fund Programme Governance (as appended to the Joint Working Agreement), the purpose of which is to deliver the capital programme of infrastructure projects identified in the Joint Core Strategy and the Greater Norwich Infrastructure Plan (formerly the Local Investment Plan and Programme).
- (iii) The Parties agree that the County Council shall borrow funds from various sources as they are identified to assist with the delivery of the Growth Programme. The County Council shall ensure that the cost of any



borrowing (up to £60m) for this purpose will be undertaken at the equivalent of the prevailing Public Works Loan Board project rate discount as set out in the City Deal dated 12 December 2013.

- (iv) The Parties acknowledge the collective and individual benefits of delivering the Growth Programme to each of them. Furthermore the Parties have agreed to enter into this Agreement to formalise their commitment and their financial obligations in respect of any borrowing undertaken for the purpose of funding schemes and projects approved in the Growth Programme by the Greater Norwich Growth Board.
- (v) More particularly this Agreement is intended to give assurance to the County Council, as the accountable body, of the District Councils' agreement that their Community Infrastructure Levy will be made available to the County Council (or other accountable bodies if different to Norfolk County Council) for purposes of meeting the County Council's liabilities in respect of borrowing undertaken by the County Council on behalf of the Greater Norwich Growth Board for the delivery of the Growth Programme.
- (vi) In agreeing to work together in relation to these matters the Parties accordingly wish to record the basis on which they will collaborate with each other. This Agreement sets out the terms of financial arrangements, the principles of collaboration and respective roles and responsibilities of the Parties.

THE PARTIES AGREE as follows:

### 1.1 Interpretation

"Annual Growth Programme" means the programme of capital projects developed by the GNGB and approved annually by the Parties in accordance with clause 5, more particularly set out in Schedule 1;

"CIL Revenues" means all that party's Community Infrastructure Levy revenues less an administration deduction to the extent permitted by the Regulations but not to exceed a deduction of 5%, and a further deduction of 15% or 25% neighbourhood contribution as applicable;

“Commencement Date” means 1<sup>st</sup> October 2015;

“Community Infrastructure Levy” means the Community Infrastructure Levy pursuant to the Planning Act 2008 and Community Infrastructure Levy Regulations 2010 or equivalent or replacement developer tax or levy as implemented from time to time;

“Continuing CIL Payments” means payments to the County Council of such proportion of a District Council’s CIL Revenues to enable the County Council to meet from such payments its obligations to meet repayment and associated interest liabilities pursuant to any Loans in relation to those Projects;

“Event of Default” means any event or circumstance specified in this definition:-

- (a) the Party fails to perform and/or observe any provision of this Agreement;
- (b) the Greater Norwich Growth Board is dissolved;
- (c) the Party terminates its participation in or is discharged from the Greater Norwich Growth Board;
- (d) any fraud on the part of the Party;
- (e) any representation or warranty made or repeated by the Party pursuant to this Agreement, is incorrect when made or repeated;

“FOIA” means the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and any subordinate legislation made thereunder and any guidance and codes of practice issued under such legislation;

“GNGB” means the Greater Norwich Growth Board established pursuant to the Joint Working Agreement;

“Greater Norwich Infrastructure Plan” means the plan supporting the delivery of infrastructure identified in the Joint Core Strategy for the Greater Norwich area.

“Joint Core Strategy” means the overarching strategy for growth across the Greater Norwich area.

“Joint Working Agreement” means the agreement between the Parties and New Anglia Local Enterprise Partnership establishing the Greater Norwich Growth Board for the joint management of the Greater Norwich Growth Programme dated 26 September 2014;

“Loan” means any loan, or other form of finance accessed by the County Council for the purpose of funding strategic projects as may be agreed by the GNGB from time to time. Furthermore it is understood that any finance accessed by the County Council up to £60m on behalf of the GNGB will be on terms equal to the equivalent prevailing Public Works Loan Board project rate discount and terms;

“PWLB” means Public Works Loan Board;

“Project” means a capital project agreed by the GNGB in accordance with clause 5 in relation to which the parties will collaborate in accordance with this Agreement, as further described in a particular Project Schedule;

“Project Period” means subject to earlier termination in accordance with this Agreement, the period from the start date to the end date for a Project, as set out in a Project Schedule;

“Project Schedule” means a document specifying particulars in relation to a particular Project, agreed by the parties in accordance with clause 5 and attached to this Agreement as a Schedule;

“Regulations” means the Community Infrastructure Levy Regulations 2010;

“Infrastructure Investment Fund” means the pooled fund comprising the CIL Revenues out of which payments may be made by the County Council towards its liabilities in respect of any Loan drawn down for the purposes of funding the Annual Growth Programme; and

“Termination Date” means 31<sup>st</sup> March 2026.

## 1.2 In this Agreement:

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement;

- (b) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (c) a reference to a party shall include that party's successors, permitted assigns and permitted transferees;
- (d) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (e) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (f) a reference to this Agreement (or any provision of it) or to any other agreement or document referred to in this Agreement is a reference to this Agreement that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Agreement) from time to time;
- (g) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this Agreement and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (h) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (i) a reference to an amendment includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly);
- (j) a reference to continuing in relation to an Event of Default means an Event of Default that has not been remedied or waived;
- (k) a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

- (l) references to a document in agreed form are to that document in the form agreed by the parties and initialled by them or on their behalf for identification and
- (m) the Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

## 2. **Status of this Agreement**

- 2.1 This Agreement shall commence on the Commencement Date and subject to all the Parties' liabilities arising under the Agreement having been settled and subject to the Project Schedules shall continue until the Termination Date ("the Initial Term"), when it shall terminate automatically without notice unless, no later than 12 months before the end of the Initial Term (or any Extended Term agreed under this clause), the Parties agree in writing that the term of the Agreement shall be extended for an agreed period ("the Extended Term"). Unless it is further extended under this clause, and subject to all the Parties' liabilities arising under the Agreement having been settled the Agreement shall terminate automatically without notice at the end of an Extended Term.
- 2.2 The Parties agree that this Agreement shall take the form of a legally binding contractual relationship and shall from the Commencement Date be construed accordingly.
- 2.3 The Parties agree to adopt the following principles when carrying out the Annual Growth Programme ("the Principles"):
  - 2.3.1 collaborate and co-operate in accordance with Joint Working Agreement governance structures to ensure that the Annual Growth Programme is successfully delivered;
  - 2.3.2 be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this Agreement;

- 2.3.3 be open. Communicate openly about major concerns, issues or opportunities relating to the Annual Growth Programme;
- 2.3.4 work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- 2.3.5 adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation.
- 2.3.6 act in a timely manner. Recognise the time-critical nature of the Annual Growth Programme delivery and respond accordingly to requests for support;
- 2.3.7 manage stakeholders effectively;
- 2.3.8 deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this Agreement; and
- 2.3.9 act in good faith to support achievement of these Principles.

### **3. Payment Obligations**

- 3.1 The District Councils agree to the use of a proportion of their future Community Infrastructure Levy revenues as more particularly set out in this Agreement to establish the Infrastructure Investment Fund which shall support the delivery of GNGB priority infrastructure projects (including £40m of investment for the delivery of the Norwich Northern Distributor Road and its related measures).
- 3.2 The District Councils agree to pay on a half yearly basis their respective CIL Revenues to the County Council.
- 3.3 The County Council shall on receipt of the CIL Revenues pursuant to clause 3.2 above promptly allocate the CIL Revenues to the Infrastructure Investment Fund.

- 3.4 The County Council as the accountable body shall manage the Infrastructure Investment Fund on a prudent basis for the purposes of the Annual Growth Programme and in accordance with the terms of this Agreement. This shall include reporting to the GNGB on a twice yearly basis in appropriate terms including advising on the available funding within the Infrastructure Investment Fund and the quantum of works that can be funded.
- 3.5 The County Council shall invest this Fund for treasury management purposes in accordance with the County Council's Treasury Strategy and at the average interest rate achieved by the County Council for such investments. All interest that accrues on the credit balance of the Infrastructure Investment Fund from time to time pursuant to this clause 3.5 shall be credited to the Infrastructure Investment Fund.
- 3.6 In the event that the Infrastructure Investment Fund is in deficit due to a decision by the Parties to operate a deficit as a short term funding approach the Parties will consider whether it is reasonable for the County Council to charge interest. Subject to all Parties' agreement such agreement not to be unreasonably withheld the County Council shall recover interest charges payable in respect of an Infrastructure Investment Fund deficit at a rate in accordance with the County Council Treasury Strategy's average interest rate for investments current at that time and the Infrastructure Investment Fund shall be debited accordingly.
- 3.7 In the event of lower than anticipated CIL Revenues the Parties shall take all reasonable measures to avoid a deficit in the Infrastructure Investment Fund which may include re-phasing existing projects cancelling projects and re-financing loans.
- 3.8 From time to time the County Council will enter into Loan agreements as a borrower on such terms as are approved in writing by the Parties for the purposes of the Annual Growth Programme as more particularly set out in the relevant Project Schedule (appended as a Schedule to this Agreement).

3.9 The County Council shall repay any such Loan as is referred to in clause 3.8 plus any associated borrowing costs as referred to above from the Infrastructure Investment Fund.

3.10 For the avoidance of doubt the District Councils will not be required by this Agreement to contribute any funds (e.g. general revenue or cash reserves) or make any payment other than as provided for in clause 3.2 above.

#### **4. Representations and Warranties**

4.1 At the date of this Agreement each of the Parties represents and warrants to the other Parties that:-

4.1.1 It has full power to enter into and perform this Agreement and the execution of this Agreement has been validly authorised.

4.1.2 Neither the execution of this Agreement by the Party nor the performance of its obligations under it will conflict with or result in any breach of any law or enactment or any deed, agreement or other instrument, obligation or duty to which the Party is bound save that nothing in this Agreement shall operate to unlawfully fetter the exercise of the Party's statutory powers or unlawfully constrain or unlawfully prevent the Party's compliance with its statutory duties; or cause any unlawful limitation on any of the powers whatsoever of the Party or on the right or ability of the officers of the Party to exercise such powers.

4.2 The Parties agree that the terms of this Agreement shall apply when borrowing is required to support the delivery of a Project (or Projects) within the Annual Growth Programme as detailed in the attached Project Schedules.

#### **5. Projects**

5.1 The GNGB will recommend on an annual basis a programme of projects ("the Annual Growth Programme"), including any recommended draw down on borrowing, taking into account each Party's annual business plans.



- 5.2 Projects in the Annual Growth Programme in the majority of cases will be derived from the Greater Norwich Infrastructure Plan.
- 5.3 Upon endorsement by the Parties of the recommendations of the GNGB, the Parties shall within 21 days sign the Project Schedule in the template form appended at Schedule 1. Once signed by the Parties, a Project Schedule becomes part of this Agreement.
- 5.3.1 A Project Schedule that has been signed by all Parties may be amended at any time in accordance with clause 16.
- 5.3.2 Unless terminated earlier in accordance with this Agreement, each Project Schedule has contractual effect during the applicable Project Period.
- 5.3.3 Each Party shall in relation to the obligations allocated to it in a Project Schedule agreed in accordance with this clause:
- 5.3.3.1 perform such obligations, including by providing the Inputs in accordance with timeframes or milestones (if any) specified in the Project Schedule;
- 5.3.3.2 use reasonable care and skill in performing such obligations;
- 5.3.3.3 comply with all laws applicable to it;
- 5.3.3.4 obtain and maintain consents, licences and permissions (statutory, regulatory, contractual or otherwise) that are necessary to enable it to comply with such obligations.
- 5.4 Liabilities in respect of any overspend or delay in respect of Project Schedule timeframes or milestones shall be as set out in the respective Project Schedule.

## 6. **Binding Agreement**

- 6.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. No counterpart shall be effective until each Party has executed at least one counterpart.
- 6.2 No person who is not a party to this Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 6.3 Where any Party withdraws from this Agreement:
- 6.3.1 the rights of that Party in respect of the Agreement shall cease on such withdrawal;
- 6.3.2 the Agreement shall continue in full force in respect of (a) any liabilities which arise out of this Agreement up to the date of withdrawal pursuant to clause 6.4 and (b) those Loan related liabilities referred to in and assumed pursuant to clause 6.5; and
- 6.3.3 the disputes procedure set out in Clause 11 shall remain in force in respect of any of the matters arising from the performance of or withdrawal of a Party under this Agreement.
- 6.4 A Party wishing to withdraw from this Agreement shall give written notice to each of the other Parties such notice to expire at any time and the date of withdrawal of that Party shall be the date 12 months from the date of the receipt of the notice by the other Parties.
- 6.5 In the event of a District Council withdrawing from the Agreement before the Termination Date the withdrawing District Council commits in respect of those Projects to which by means of a Project Schedule it is party and that have been agreed to prior to receipt of notice of the Party's withdrawal in accordance with clause 6.4 to continue to pay to the County Council the Continuing CIL Payments being such proportion of the withdrawing District

Council's CIL Revenues to enable the County Council to meet from such payments its obligations to meet repayment and associated interest liabilities pursuant to any Loans in relation to those Projects. Without prejudice to the obligation of the withdrawing District Council to make such payments all Parties agree to use reasonable endeavours to negotiate a financial settlement in regard to the Continuing CIL Payments and the County Council's liabilities in respect of the Loans that is fair and reasonable to all Parties. Unless specifically set out in Project Schedules in calculating for the purposes of such settlement the withdrawing District Council's Continuing CIL Payments payable to the County Council on the Projects for which borrowing has been undertaken pursuant to this Agreement the Parties shall take into account the following factors:

6.5.1 Past CIL Revenue contributions made pursuant to this Agreement;

6.5.2 Any surplus or deficit in the Infrastructure Investment Fund at the point of withdrawal;

6.5.3 Future CIL Revenue contributions that will need to be made by all Parties to fund any outstanding loans including interest until they are repaid;

6.5.4 The Community Infrastructure Levy projected to arise within the area of the withdrawing District Council over the remaining period of the Loan(s); and

6.5.5 Any other financial obligations/commitments entered into under this Agreement.

6.6 If the Parties cannot agree a financial settlement in regard to the remaining liabilities referred to in clause 6.5 within 9 months of the issuing of notice pursuant to clause 6.4, the dispute resolution procedure in clause 11 shall be invoked.

## **7. Information flow and Project management**

- 7.1 To enable the Parties to maximise the benefits of their collaboration, each Party shall:
  - 7.1.1 engage the others in planning discussions in relation to the Projects and proposed projects from time to time;
  - 7.1.2 keep the other Parties informed about its own progress in relation to each Project; and
  - 7.1.3 facilitate regular discussions between appropriate members of its personnel and those of the other Parties in relation to each Project, including in relation to:
    - 7.1.3.1 repayment and funding aspects
    - 7.1.3.2 performance and issues of concern in relation to each Project;
    - 7.1.3.3 new developments and resource requirements;
    - 7.1.3.4 compliance with deadlines; and
    - 7.1.3.5 such other matters as may be agreed between the Parties from time to time.
  - 7.1.4 Each Party shall:
    - 7.1.4.1 supply to the other Parties information and assistance reasonably requested by them relating to a Project as is necessary to enable other Parties to deliver their own obligations in relation to the Project; and
    - 7.1.4.2 review documentation, including draft specifications or service descriptions or other technical documentation, for use when performing its obligations in relation to a Project (if any), as soon as reasonably practicable at the request of the other party, and notify it of any errors or incorrect assumptions made in any such documents so far as it is aware.

## 8. **Escalation**

- 8.1 If any Party has any issues, concerns or complaints about a Project, or any matter in this Agreement, that Party shall notify the other Parties and the Parties shall then seek to resolve the issue by a process of consultation.
- 8.2 If any Party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier or requests for information made under the Freedom of Information Act 2000) in relation to the Project, the matter shall be promptly referred to the GNGB (or its nominated representatives). No action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Project, without the prior approval of the GNGB (or its nominated representatives).

## 9. **Events of Default**

- 9.1 Where an Event of Default occurs, the County Council may by notice in writing to the defaulting Party require the Party to meet as soon as reasonably practicable and agree, acting reasonably, a repayment plan to repay the outstanding CIL Revenues.
- 9.2 In the event of there being insufficient CIL Revenues in the Infrastructure Investment Fund to meet the Loan repayments including for the avoidance of doubt any interest charges:
- 9.2.1 the County Council, in consultation with and by written notice to the GNGB, may at its sole discretion restructure the Loan or defer further drawdowns from the Infrastructure Investment Fund until such time that sufficient funds become available;
- 9.3 Upon notice by the County Council the Parties always acting in accordance with the Principles will agree the reasonable restructuring and amendment of the Districts' respective CIL Revenues to ensure that where possible the County Council is "no better nor no worse" financially in relation to its

provision and administration of the Loan facility, using 9.2 methodology subject always to clause 3.10.

## **10. Freedom of Information and Environment Information Regulations**

- 10.1 Nothing in this Agreement shall prevent the Parties from disclosing any Information which any Party is required to disclose in order to comply with the FOIA and any other statutory requirements whether or not existing at the date of this Agreement, provided always that the Parties shall, where reasonably practicable, seek to collaborate in relation to Requests for Information with a view to treating such requests in a consistent manner as between the Parties.
- 10.2 The Parties commit to share data and knowledge relevant to the Agreement where appropriate and in accordance with their duties under the Data Protection Act 1998.

## **11. Dispute Resolution Procedure**

- 11.1 The Section 151 officers of the Parties shall attempt in good faith to negotiate a settlement to any dispute arising between them arising out of or in connection to this Agreement. If an agreement cannot be reached the issue will be referred to the Parties' Chief Executive Officers or Managing Directors.
- 11.2 If the Parties are for any reason unable to resolve the dispute within 45 days of it being referred to them, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a Party must serve notice in writing (ADR notice) to the other parties to the dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 30 days after the date of the ADR notice.
- 11.3 The commencement of mediation shall not prevent the Parties commencing or continuing court proceedings in relation to the dispute under clause 19 which clause shall apply at all times.

**12. Effect on Invalidity of any Provision**

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

**13. No Waiver**

13.1 No failure or delay on the part of the Parties in exercising any right or power and no course of dealing between the Parties hereto shall operate as a waiver nor shall any single or partial exercise of any right or power of a Party prevent any other or further exercise thereof or the exercise of any other right or power of the Parties. The rights and remedies of the Parties are cumulative and not exclusive of any rights or remedies which the Parties would otherwise have.

**14. No Fettering of Discretion/Statutory Powers and Novation**

14.1 Nothing contained in or carried out pursuant to this Agreement and no consents given by the Parties shall unlawfully prejudice the Parties' rights powers or duties and/or obligations in the exercise of their functions or under any statutes, byelaws, instruments, orders or regulations.

14.2 The County Council shall be entitled to novate the Agreement to any other body which substantially performs any of the functions that previously had been performed by the County Council.

**15. Entire Agreement**

15.1 This Agreement and the documents referred to in it including for the avoidance of doubt the Joint Working Agreement constitute the entire Agreement between the Parties and supersede and replace any previous Agreement, understanding, representation or arrangement of any nature between the Parties relating to the subject matter of this Agreement.

- 15.2 The Parties shall only represent themselves as being an agent, partner or employee of any other Party to the extent specified by this Agreement and shall not hold themselves out as such nor as having any power or authority to incur any obligation of any nature express or implied on behalf of any other Party except to the extent specified in this Agreement.
- 15.3 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement including clauses 2, 3, 5, 6, 9 and 11 shall remain in full force and effect.
- 15.4 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.
- 15.5 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 15.6 Transmission of the executed signature page of a counterpart of this Agreement by (a) fax or (b) email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Agreement.
- 15.7 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

## 16. **Variation**

- 16.1 This Agreement may only be varied by written agreement of the Parties

## 17. **Set-off**



17.1 All amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

**18. Further assurance**

18.1 At any time upon the written request of the County Council, the Party will promptly execute and deliver or procure the execution and delivery of any and all such further instruments and documents as may be necessary for the purpose of obtaining for the Parties the full benefit of this Agreement and of the rights and powers granted in it.

**19. Governing Law & Jurisdiction**

19.1 This Agreement shall be governed by and construed in accordance with English law and, without affecting the dispute resolution procedure set out in clause 11, each Party agrees to submit to the exclusive jurisdiction of the courts of England.

**IN WITNESS** hereof the parties hereto have executed this Agreement as a Deed the day and year first written

THE COMMON SEAL OF **NORFOLK**  
**COUNTY COUNCIL** was affixed hereto

in the presence of:-

.....

Authorised Signatory

THE COMMON SEAL OF **BROADLAND**

**DISTRICT COUNCIL** was affixed hereto

in the presence of

.....

Authorised Signatory

THE CORPORATE SEAL OF **NORWICH**

**CITY COUNCIL** was affixed hereto

in the presence of:-

.....

Authorised Signatory

THE COMMON SEAL OF **SOUTH NORFOLK**

**DISTRICT COUNCIL** was affixed hereto

in the presence of:-

.....

Authorised Signatory

## **SCHEDULE 1**

### **Annual Growth Programme**

Relating to GNGB Partner Draw-down and Borrowing Authorisations Agreement

Dated \_\_\_\_\_ 20[ ]

**BROADLAND DISTRICT COUNCIL**

**NORWICH CITY COUNCIL**

**SOUTH NORFOLK DISTRICT COUNCIL**

**&**

**NORFOLK COUNTY COUNCIL**

- 
- Project
  - Project Period
  - Background
  - Agreed terms
  - Project period
  - Additional Terms & Conditions
  - Fees and expenses
  - Repayment and review
  - Payment schedule: loan repayment profile to include interest payments

Repayment Date	Repayments (£)	Repayment Date	Repayments (£)

**VOLUNTARY PREPAYMENTS**

Details to be considered/set out.

Signed by [ ] .....  
 Section 151 Officer [ ]  
 for and on behalf of [ ]  
 Signed by [ ] .....  
 Section 151 Officer [ ]  
 for and on behalf of [ ]  
 Signed by [ ] .....  
 Section 151 Officer [ ]  
 for and on behalf of [ ]  
 Signed by [ ] .....  
 Section 151 Officer [ ]  
 for and on behalf of [ ]

## **SCHEDULE 2**

### **Annual Growth Programme Project re Construction of the Norwich Northern Distributor Road**

Relating to GNGB Partner Draw-down and Borrowing Authorisations  
Agreement

Dated \_\_\_\_\_ 20[ ]

**BROADLAND DISTRICT COUNCIL**

**NORWICH CITY COUNCIL**

**SOUTH NORFOLK DISTRICT COUNCIL**

**&**

**NORFOLK COUNTY COUNCIL**

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#### **1 Project**

- Construction of the Norwich Northern Distributor Road (the 'NDR')

#### **2 Project Description**

- The NDR is a dual carriageway all-purpose strategic distributor road, which will link the A1067 Fakenham Road near Attlebridge to the A47 Trunk Road (T) at Postwick. This will be over a length of approximately 20.4km. The NDR will improve connectivity and accessibility across both the northern part of the Norwich urban area and areas of the county in an arc from the northwest to the east of this main urban area. Such improvement will ease the relative

disadvantage of the peripheral location of these areas and provide the basis of the transport infrastructure required to address existing and future problems, and to achieve the growth objectives which have been identified for Norwich and its surrounding area.

- The NDR is an essential piece of transport infrastructure that releases an estimated £1bn of economic benefits for Norwich and Norfolk by reducing congestion and offering new access to key strategic employment and growth locations.

### **3 Project Period**

- The project is due to mobilize in autumn 2015 with essential ground clearance work to be carried out before ground nesting season commencing late October 2015. Should this be achieved, full mobilization and construction will begin in March 2016 with a majority of the works completed by autumn 2017.

### **4 Background**

- As part of the consultation on a revised Norwich Area Transportation Strategy (NATS) undertaken in 2003, the public were asked if they supported a NDR. The consultation indicated strong local support for the NDR with 78% of respondents being in favour.
- The overall strategy for the revised NATS was agreed in 2004. It recognised the Norwich Area as a centre where growth would be focussed and therefore the strategy looked to provide the essential infrastructure needed to accommodate this growth, including a Northern Distribution Road.
- The NDR is of national significance pursuant to a direction made by the Secretary of State for Transport under section 35 of the Planning Act 2008.
- Following public consultation in 2013 and examination in public during summer 2014 the panel of inspectors from the Planning Inspectorates report recommended the NDR for development. SoS Patrick McLoughlin MP signed a Development Consent Order (DCO) giving permission for the NDR to be constructed

## 5 Agreed terms

- Loan funding would be repaid over a 25 year period

## 6 Additional Terms & Conditions

- In accordance with paragraph 5.4 of the Agreement, Liabilities in respect of any overspend or delay in respect of Project Schedule timeframes and milestones shall be shared as follows:

Partner	Share of overspend risk	Share of timeframes and milestones risk
Norfolk County Council	100%	100%

## 7 Fees and expenses

- The County Council shall borrow funds from various sources as they are identified to assist with the delivery of the Growth Programme. The County Council shall ensure that the cost of any borrowing (up to £40m) for this purpose will be undertaken at the equivalent of the prevailing Public Works Loan Board project rate discount as set out in the City Deal dated 12 December 2013.
- Funding from the Infrastructure Investment Fund for the purposes of the NDR shall be capped at £40 million plus any associated borrowing costs incurred by the County Council as provided for herein.

## 8 Repayment and review

- In accordance with paragraph 3.4 of the Agreement, Norfolk County Council shall use the Infrastructure Investment Fund to fund the costs of borrowing costs in accordance with the following schedule.

Illustrative costs of borrowing to be funded from Infrastructure Investment Fund:

*DRAFTING NOTE: The interest rate incorporated within this costs of borrowing table is that applicable at the end of June 2015 and will be updated by the County Council at the date of funds drawdown.*

Financial year	Borrowing requirement	Re-payment	Annual costs of borrowing to be funded	Cumulative costs of borrowing to be funded
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		year	from Infrastructure Investment Fund	from Infrastructure Investment Fund
	£		£	£
2015/16	7,623,953			
2016/17	19,100,380			
2017/18	10,075,949	1	1,913,679	1,913,679
2018/19	2,749,718	2	2,066,707	3,980,386
2019/20	450,000	3	2,229,269	6,209,655
2020/21		4	2,256,747	8,466,402
2021/22		5	2,256,747	10,723,149
2022/23		6	2,256,747	12,979,896
2023/24		7	2,256,747	15,236,643
2024/25		8	2,256,747	17,493,390
2025/26		9	2,256,747	19,750,137
2026/27		10	2,256,747	22,006,884
2027/28		11	2,256,747	24,263,631
2028/29		12	2,256,747	26,520,378
2029/30		13	2,256,747	28,777,125
2030/31		14	2,256,747	31,033,872
2031/32		15	2,256,747	33,290,619
2032/33		16	2,256,747	35,547,366
2033/34		17	2,256,747	37,804,113
2034/35		18	2,256,747	40,060,860
2035/36		19	2,256,747	42,317,607
2036/37		20	2,256,747	44,574,354
2037/38		21	2,256,747	46,831,101
2038/39		22	2,256,747	49,087,848
2039/40		23	2,256,747	51,344,595
2040/41		24	2,256,747	53,601,342
2041/42		25	1,831,986	55,433,328
<b>Total</b>	<b>£40,000,000</b>		<b>£55,433,328</b>	

## 9 VOLUNTARY PREPAYMENTS



If the Parties agree to make additional repayments over and above those listed above, a new schedule will be produced based on the remaining outstanding debt, including interest, in accordance with paragraph 16 of the Agreement "Variation".

Signed by [ ] Section 151 Officer .....

for and on behalf of [ ] [ ]

Signed by [ ] Section 151 Officer .....

for and on behalf of [ ] [ ]

Signed by [ ] Section 151 Officer .....

for and on behalf of [ ] [ ]

Signed by [ ] Section 151 Officer .....

for and on behalf of [ ] [ ]