

NORTH SOMERSET COUNCIL DECISION

DECISION OF THE CHIEF EXECUTIVE

**IN CONSULTATION WITH: THE LEADER OF THE COUNCIL AND THE DEPUTY LEADER
THE EXECUTIVE MEMBER FOR PLANNING AND TRANSPORT AND THE EXECUTIVE
MEMBER FOR FINANCE AND PERFORMANCE**

**WITH ADVICE FROM: THE DIRECTOR OF DEVELOPMENT AND
ENVIRONMENT, THE INTERIM HEAD OF FINANCE AND THE HEAD
OF LEGAL AND DEMOCRATIC SERVICES**



DECISION NO: 19/20 DE133

**SUBJECT: MetroWest Phase 1 – Initial Promotion Agreement version 3 with the
West of England Combined Authority**

KEY DECISION: Yes

REASON: The decision relates to expenditure above £500,000 and affects more than one ward.

BACKGROUND:

The background to this decision is set out in the report to the Council on 19th February 2019 MetroWest Phase 1 Progress on the Submission of Development Consent Order Application and Associated Approvals and also reference in a subsequent report to Council on 25th June 2019: MetroWest Phase 1 Submission of Development Consent Order Application and Associated Approvals.

DECISION:

To finalise and enter into the Initial Promotion Agreement version 3 (IPA3) with the West of England Combined Authority (WECA) to formalise joint working arrangements between the Council and WECA for the technical development of the project up to the completion of the Final Approval Business Case, including progressing the Development Consent Order.

To confirm that the role of project s151 officer required by the IPA3 will be undertaken by the council's s151 officer, Director of Finance and Property.

REASONS:

The report to Council on 19th February 2019, gave an update on progress with completing the Development Consent Order application, the project funding position and the need to formalise joint working arrangements with WECA for the technical development of the project up to the completion of the Final Approval Business Case, through Initial Promotion Agreement version 3.

All the report recommendations were agreed by the Council. This decision relates to recommendation 1) of the report. At the meeting the decision maker was changed from the Leader of the Council to the Chief Executive and this is recorded in the formal notes of the meeting. The agreed resolution was as follows:

- 1) that authority be delegated to the Chief Executive, in consultation with the Leader of the Council, the Deputy Leader, the Interim Head of Finance and the Head of Legal and Democratic Services to finalise the Initial Promotion Agreement (IPA) version 3 with the West of England Combined Authority (WECA);*

Since the 19th February 2019 Council meeting the technical work on the DCO application has progressed and additional funding for the project has been allocated by the Department for Transport. The WoE Joint Committee authorised the West of England Combined Authority (WECA) to enter into the Initial Promotion Agreement version 3 with North Somerset Council (NSC) on 14th June 2019. It is now necessary to finalise the Initial Promotion Agreement version 3 before the DCO application can be submitted. A draft version of the agreement was attached to the February report to Council. The final version of the Agreement is attached to this decision notice.

Why Initial Promotion Agreement version 3 is Needed

The WoE Joint Committee agreed some changes to the project governance in November 2018 such that WECA became joint promoter of the project (on behalf of Bath & North East Somerset, Bristol City and South Gloucestershire Councils). This now means that WECA and North Somerset Council are joint promoters of MetroWest Phase 1 and each party has a 50% share of the project risks and liabilities.

The current Initial Promotion Agreement version 2 expires shortly. It is now necessary to update to reflect the changes to project governance and extend the remit of the agreement to cover the next phase of technical work. The next version (IPA version 3) sets out the joint working arrangements to progress the project up to the completion of the Full & Final Approval Business Case, including the completion of major processes, planning and environmental consents (including the Development Consent Order), undertaking detailed design (GRIP 5) and the procurement of project construction. The IPA version 3 will not commit the authorities to implement the project. A separate key decision will need to be made on the basis of the completed Full & Final Approval Business Case in late 2021 to implement the project.

Details of the Initial Promotion Agreement version 3

A draft version of the agreement was appended to the report to Council on 19th February 2019. The key themes of the agreement include:

- Scheme objectives for the Third Initial Stage of the project
- Principles of collaboration
- Project governance and the WoE Joint Committee
- Strategic Rail Board
- Lead Authority
- Accountable Body
- Project Team
- Roles and responsibilities
- Promoting the Project

- Financial Arrangements
- Third Party Liaison
- Liabilities & Indemnities

The final version of the agreement is attached to this decision notice. Whilst much of IPA3 deals with working arrangements and roles and responsibilities attention is drawn to the financial arrangements set out in clause 14 and the liabilities and indemnities between the parties set out in clause 16. The latter sets out those circumstances where either WECA or the council may limit its liability to the other.

It is now necessary to enter into the agreement before the DCO application can be submitted.

OPTIONS CONSIDERED:

Refer to the report to Council on 19th February 2019 and the report to Council on 25th June 2019, for details of the options considered.

FINANCIAL IMPLICATIONS:

Costs

The estimated capital out-turn cost of the project is £116.4M, as set out in detail in the project Outline Business Case in December 2017, of which £16.167M has been spent to date, up to the end of 2018-19 financial year. The estimated cost of proceeding with the DCO application, including the cost of an examination in public in parallel with proceeding with GRIP 5 and other technical work during 2019-20 is £4.491M. Refer to the 25th June 2019 report to Council, for further details of the estimated costs.

Funding

The estimated cost of £4.491M for 2019-20 has been approved by Full Council and added into the capital programme for 2019-20. This is to be funded from Local Growth Funding approved by the WoE Joint Committee on 19th July 2019.

The project budget sources are set out in the table below.

Sub-total	£22,696,149	
Future LGF drawdown for enabling works 20-21*	£4,624,281	
LGF Total	£27,320,430	
* approx a further £305,891 for the enabling works will be needed from EDF		
Project Budget		
Item		Total Funding
LGF (Prep Costs Award 2015)		£8,846,000
LGF (Prep Costs Award 2018)		£1,700,000
LGF (Prep Costs Award 2018)		£500,000
LGF (Devolved Major Project)		£16,274,430
Total LGF		£27,320,430
EDF (Swapped with LGF)		£26,079,000

Refer to the 25th June 2019 report to Council, for further details of the estimated costs.

LEGAL POWERS AND IMPLICATIONS

Refer to the report to Council on 19th February 2019 and the report to Council on 25th June 2019, for details of the legal powers and implications.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

MetroWest Phase 1 requires an Environmental Statement to support the Development Consent Order (DCO) application. Climate change and environmental impacts have been assessed in the Environmental Statement, which is currently being finalised. The Environmental Statement will be published along with all the DCO application documents on the Planning Inspectorates DCO website:

<https://infrastructure.planninginspectorate.gov.uk/> after the application has been submitted. Also refer to the report to Council on 19th February 2019 and the report to Council on 25th June 2019, for further details.

CONSULTATION

Refer to the report to Council on 19th February 2019 and the report to Council on 25th June 2019, for details of the extensive formal and informal consultation and engagement undertaken by the project team.

RISK MANAGEMENT

Refer to the report to Council on 19th February 2019 and the report to Council on 25th June 2019, for details of the risk management arrangements.

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? Yes

Refer to the report to Council on 19th February 2019 and the report to Council on 25th June 2019, for details of the Equality Impact Assessment.

CORPORATE IMPLICATIONS

Refer to the report to Council on 19th February 2019 and the report to Council on 25th June 2019, for details of the Corporate Implications.

APPENDICES


Initial Promotion Agreement version 3 with WECA

BACKGROUND PAPERS

Report to Council 19th February 2019 MetroWest Phase 1 Progress on the Submission of the Development Consent Order Application and Associated Approvals, and
Report to Council on 25th June 2019: MetroWest Phase 1 Submission of Development Consent Order Application and Associated Approvals

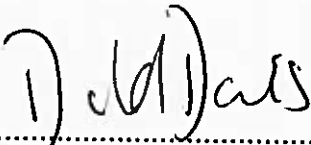
SIGNATORIES:

DECISION MAKER(S):

Signed: Chief Executive

Date: 20/09/19

Consultees:

Signed: Cllr Donald Davies the Leader of North Somerset Council

Date: 20/09/19

Signed:  Cllr Mike Bell Deputy Leader of North Somerset Council

Date: 20/09/19

Signed: Cllr James Tonkin Executive Member for Highways and Planning

Date: 20/09/19

Signed: Cllr Ashley Cartman Executive Member for Finance and Performance

Date: 20/09/19

Signed: *Shay Shamali*Director of Development & Environment

Date: *20/09/19*

Signed: *R. Perste*Interim Head of Finance

Date: *20/09/19*

Signed: *W.P. Sam*Head of Legal & Democratic Services

Date: *20/09/19*

DATED

THIRD

INITIAL PROMOTION AGREEMENT

**Relating to MetroWest
(Phase 1)**

between

**NORTH SOMERSET DISTRICT COUNCIL (1)
and**

WEST OF ENGLAND COMBINED AUTHORITY (2)

**K GIBBS
WOMBLE BOND DICKINSON (UK) LLP
3 TEMPLE QUAY
TEMPLE BACK EAST
BRISTOL, BS1 6DZ
(KJG1/381278.1)**

CONTENTS

CLAUSE

1.	Background	1
2.	Definitions	3
3.	Commencement and Duration	7
4.	Scheme objectives for the Third Initial Stage of the project	8
5.	Principles of collaboration.....	8
6.	Project governance	9
7.	the Joint Committee and WECA Committee.....	10
8.	SRPB and Regional Capital Board.....	10
9.	Lead Authority	12
10.	Accountable Body	12
11.	Project Team	12
12.	Roles and responsibilities	15
13.	Promoting the Project.....	16
14.	Financial Arrangements.....	16
15.	Third Party Liaison.....	17
16.	Liabilities & Indemnities	18
17.	Termination	19
18.	Disputes.....	20
19.	Dispute Resolution	21
20.	Intellectual Property	22
21.	Confidential information	23
22.	Publicity	24
23.	Compliance with Laws & Data Protection	24
24.	FOI & EIR.....	25
25.	Assignment.....	26
26.	Variation.....	26
27.	Charges and liabilities	26
28.	Status	27
29.	Waiver	27
30.	Severance	27
31.	Governing law and jurisdiction	27
32.	General	28

ANNEX

ANNEX A.	THE METROWEST GOVERNANCE ARRANGEMENT CHART	30
ANNEX B.	THE OUTLINE BUSINESS CASE	31
ANNEX C.	METROWEST PHASE 1 PROJECT.....	32
ANNEX D.	WECA CONSTITUTION.....	34

THIS AGREEMENT is dated

AUTHORITIES

The Authorities to this Initial Promotion Agreement (“IPA”) are:

- (1) **NORTH SOMERSET DISTRICT COUNCIL** of Town Hall, Weston-super-Mare, Somerset, BS23 1UJ (“NSDC”).
- (2) **WEST OF ENGLAND COMBINED AUTHORITY** of 3 Rivergate, Temple Quay, Bristol BS1 6ER (“WECA”)

Together referred to as “The Authorities”.

1. BACKGROUND

- 1.1 NSDC, South Gloucestershire District Council (“SGDC”), Bristol City Council (“BCC”) and Bath and North East Somerset Council (“BANES”) entered into an Initial Promotion Agreement dated 13 March 2014 (“IPA 1”) and a further Initial Promotion Agreement dated 13 February 2015 (“IPA 2”). Both IPA 1 and IPA 2 were entered into pursuant to a Joint Working Agreement (“the JWA”) dated 12 March 2013 for the creation of a Local Transport Body (“LTB”) to oversee the delivery of a programme of major transport schemes in the region.
- 1.2 Subsequently SGDC, BCC and BANES agreed to form WECA in accordance with the West of England Combined Authority Order 2017 inter alia to oversee certain functions relating to transport matters in the areas of South Gloucestershire, Bristol and Bath and North East Somerset. As a result WECA is entering into this Agreement with NSDC. Moreover, the governance arrangements to oversee the delivery of major transport schemes in the region have changed. The arrangements agreed in the JWA no longer apply and are substituted by the MetroWest Governance arrangements dated March 2018 annexed to this Agreement at Annex A.
- 1.3 The Authorities are jointly promoting a programme of rail enhancement projects, known as the MetroWest Programme. The MetroWest Programme aims to uplift the local rail network in terms of service provision and access to the network, through the delivery of specific projects. The MetroWest Programme includes:

- MetroWest Phase 1 – involving the re-opening of the Portishead rail line and stations and re-introduction of passenger train services, together with other infrastructure enhancements to provide enhanced half-hourly passenger train services for the Severn Beach line and the Bath line.
- MetroWest Phase 2 – involving re-opening the Henbury rail line and stations and re-introduction of passenger train services, together with other infrastructure enhancements to provide enhanced passenger train services for Yate line.

In accordance with the stated aims set out in the Outline Business Case (see page 1-22) annexed to this Agreement at Annex B and the governance arrangements set out in Annex A the Authorities have agreed to work together on the project (“the **Project**”) as - is more particularly defined in Annex C - and to make further arrangements for the promotion and implementation of the Project by applying for and obtaining the necessary Orders and by procuring completion of GRIP 5 detailed design and associated technical work to take the Project to the completion of full business case.

- (a) The passenger train services for the MetroWest Phase 1 Project will be procured by the Authorities in association with the Department for Transport (DfT). Under the DfT rules current at the date hereof the Authorities will need to meet the revenue liability (subsidy) for the first three years of the operation of passenger train services, after which the liability transfers to the DfT in perpetuity subject to meeting value for money tests. All aspects of the Project value for money will be laid out in the Project full business case and this will be scrutinised by the Joint Committee prior to final sign off of funding.

The Purpose of this Agreement

- 1.4 The purpose of this Third Initial Promotion Agreement is to set out the working arrangements between the Authorities for the Third Stage of the Project including applying for/obtaining the necessary Order(s) and completion of the GRIP 5 detailed design and associated technical work to take the Project up to the completion and submission of the full business case (“Third Initial Stage”).

1.5 Upon completion of the full business case and its approval by the Joint Committee, WECA Committee and NSDC (or other governance arrangements in place at the time), a further agreement referred to as a Joint Promotion Agreement ("JPA") will need to be entered into between NSDC and WECA for the implementation of the Project, including the arrangements for the construction and operation of the Project.

1.6 The Authorities wish to record the basis on which they will collaborate with each other on the Third Initial Stage. This Agreement sets out:

- (a) the key objectives of the Third Initial Stage and the Project as a whole;
- (b) the principles of collaboration;
- (c) the governance structures the Authorities will put in place; and
- (d) the respective roles and responsibilities the Authorities will have during the Third Initial Stage.

1.7 On or before the completion of the Third Initial Stage the Authorities intend to replace this Agreement with the JPA.

2. DEFINITIONS

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

Word or Phrase	Meaning
“Accountable Body”	WECA.
“Agreement”	This agreement
“Commencement Date”	The date of this Agreement
“Constitution”	The Constitution of WECA the current version of which can be found at Annex D
“DfT”	Department for Transport
“Expiry Date”	90 days from and including the date of endorsement of the full business case by the Joint Committee unless

	earlier terminated by the Parties in accordance with Clause 3
“The Joint Committee”	Means the West of England Joint Committee established under Section 101(5) of the Local Government Act 1972, as applied by Section 20 of the Local Government Act 2000 and Regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 by the Executives of BANES, BCC, SGDC, NSDC and the Mayor of the WECA.
“Laws”	Means:- <ul style="list-style-type: none"> • Any applicable statute or proclamation or any delegated or sub-ordinate law; • Any enforceable community right within the meaning of Section 2(1) of the European Communities Act 1972; and • Any applicable judgment of a relevant court of law which is a binding precedent in England and Wales
“LEP”	The West of England Local Enterprise Partnership
“Lead Authority”	North Somerset District Council
“MetroWest Programme”	MetroWest Phase 1, MetroWest Phase 2 and a range of new station/station re-opening projects.
"MetroWest Governance Arrangements"	The governance arrangements for the delivery of the MetroWest Programme adopted by the Joint Committee at Committee Meeting dated 30 November 2018 annexed to this Agreement at Annex A
“Order”	An order or order(s) necessary to implement the Project including Transport and Works Act Order(s), Development Consent Order(s), Compulsory Purchase Order(s) as appropriate

“Outline Business Case”	The MetroWest Phase 1 Outline Business Case dated December 2017 annexed to this Agreement at Annex B
“Project”	The project for the acquisition of land for and the procurement of the construction of the railway and associated works as described in the Outline Business Case more particularly defined at Annex C .
“Programme Section 151 Officer”	shall mean for the purposes of this Agreement the WECA officer with responsibility for the financial affairs of the MetroWest Programme from time to time appointed by the SRPB in accordance with clause 8.4 and Section 151 of the Local Government Act 1972 as it may be amended from time to time.
“Project Section 151 Officer”	shall mean for the purposes of this Agreement the NSDC officer with responsibility for the Project’s financial affairs from time to time appointed by the Lead Authority and Section 151 of the Local Government Act 1972 as it may be amended from time to time.
“Project Team”	The project team established for this Project in accordance with clause 11
“Project Manager”	Means NSDC’s MetroWest Phase 1 Project Manager or such other senior officer of the Lead Authority from time to time engaged in the management of the Project as the Authorities shall agree to appoint from time to time to the role
“Regional Capital Board”	The Regional Capital Board established to oversee the programme budget for capital schemes across the West of England. The Regional Capital Board will operate as per the Terms of Reference contained within the Constitution

“SRPB”	The Strategic Rail Programme Board established for this and other projects in accordance with clause 8 .
“The Programme SRO”	Means Head of Highways & Transport or such other senior officer of the Lead Authority from time to time engaged in the management of the West of England rail schemes as the Regional Capital Board or Joint Committee shall agree to appoint from time to time to the role.
“The Project SRO”	Means Head of Highways & Transport or such other senior officer of the Lead Authority from time to time engaged in the management of the Project as the SRPB shall agree to appoint from time to time to the role.
“Standard Proportions”	The proportions, contributions and liability splits agreed and set out in Clause 14
“The Train Services”	The provision of a functioning passenger train service along the MetroWest Programme Phase 1 routes.
“WECA Committee”	Established in accordance with the West of England Combined Authority Order 2017 and chaired by the Regional Mayor and is made up of the leaders and Mayor from the three councils in the region BANES, BCC and SGDC with attendance by the Chair of the LEP

- 2.2 Anything defined in the Constitution shall have the same meaning in this Agreement unless the context clearly indicates otherwise.
- 2.3 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.

- 2.4 Words importing the singular include the plural, words importing any gender include every gender, the words importing persons include bodies corporate and unincorporated; and (in each case) vice versa.
- 2.5 Reference to Clauses and Schedules are references to clauses and schedules of this Agreement and any reference to a sub provision is unless otherwise stated a reference to a sub provision of the provision in which the reference appears.
- 2.6 The Clause and paragraph headings and titles appearing in this Agreement are for reference only and shall not affect its construction or interpretation.
- 2.7 No Party shall be required to do anything in the promotion or implementation of the Project that breaches its statutory duties or unlawfully fetters its discretion.
- 2.8 References to the Authorities save where otherwise stated (as for example in respect of Planning provisions) shall mean the Authorities in their capacity as joint promoters of the Project and shall not refer to their other statutory functions, responsibilities or duties in any other capacity.

3. COMMENCEMENT AND DURATION

- 3.1 This Agreement shall come into force on the Commencement Date and shall continue in force until:
- (a) It is terminated in accordance with the termination provisions at **Clause 17**; or
 - (b) The Authorities enter into an agreement that replaces this Agreement, or
 - (c) The Joint Committee agrees and confirms in writing that the Project is abandoned or terminated; or
 - (d) The Expiry Date.

4. SCHEME OBJECTIVES FOR THE THIRD INITIAL STAGE OF THE PROJECT

- 4.1 The Authorities shall undertake the Third Initial Stage of the Project to achieve the scheme objectives up to the end of the Third Initial Stage as set out in paragraph 1.3.4 of the Outline Business Case (**Scheme Objectives**) which are referred to in Annex B.

5. PRINCIPLES OF COLLABORATION

The Authorities agree to adopt the following principles when carrying out the Third Initial Stage (**Principles**):

- (a) collaborate and co-operate. Establish and adhere to the governance structure set out in this Agreement to ensure that activities are delivered and actions taken as required;
- (b) be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this Agreement;
- (c) be open. Communicate openly about major concerns, issues or opportunities relating to the Project and commit to sharing data and knowledge relevant to the Project where appropriate;
- (d) learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) adopt a positive outlook. Behave in a positive, proactive manner;
- (f) adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, data protection and freedom of information legislation;
- (g) act in a timely manner. Recognise the time-critical nature of the Project and respond accordingly to requests for support;
- (h) manage stakeholders effectively;

- (i) deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this Agreement. In particular the Authorities agree to make the contributions in the Standard Proportions. Moreover the Authorities agree that in principle Phase 1B revenues from the operation of the Train Services will where possible be used to cross subsidise Phase 1A in return for WECA providing additional capital funding to support the delivery of Phase 1B. Any cross subsidy will be further provided for in the JPA.
- (j) work together to secure external funding from the DfT, the LEP and any other available source in respect of the Project; and
- (k) act in good faith to support achievement of the Scheme Objectives and compliance with these Principles.

6. PROJECT GOVERNANCE

6.1 Overview

The governance structure defined below in clauses 7 to 12 provide a structure for the development and delivery of the Third Initial Stage of the Project in accordance with the MetroWest Governance Arrangements.

6.2 Guiding principles

The following guiding principles are agreed. The Third Initial Stage of the Project's governance will:

- (a) provide strategic oversight and direction;
- (b) be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
- (c) align decision-making authority with the criticality of the decisions required;
- (d) be aligned with Project scope and each Project stage (and may therefore require changes over time);

- (e) leverage existing organisational, group and user interfaces;
- (f) provide coherent, timely and efficient decision-making; and
- (g) correspond with the key features of the Project governance arrangements set out in this Agreement.

7. THE JOINT COMMITTEE AND WECA COMMITTEE

7.1 The Joint Committee provides overall strategic oversight and direction to the Project. Working with and subject to prior agreement of WECA it shall decide on the allocation of all Local Growth Fund funding and devolved DfT capital funding.

7.2 All decision making in relation to the Investment Fund contribution to the scheme will be via the WECA Committee. The Investment Fund is a fund distinct from the Local Growth Fund.

7.3 The Joint Committee and WECA shall also review and approve the revenue liabilities of transport projects across the Authorities' sub-region, and in relation to this Project shall review and approve the revenue liabilities of the Train Service.

7.4 The Joint Committee shall be managed in accordance with the terms of reference set out in the Constitution.

8. SRPB AND REGIONAL CAPITAL BOARD

8.1 The Joint Committee has appointed a SRPB and a Regional Capital Board (RCB)

8.2 The RCB has representatives from NSDC, WECA and the LEP and provides high-level challenge and independent assessment to the Joint Committee. It receives high-level reports on all rail schemes across the West of England. The RCB has a particular emphasis of overseeing the programme budget. The RCB is responsible for:

- (a) Ensuring programme priorities are met and cross-scheme actions are delivered
- (b) Providing critical review, monitoring of progress and performance, and oversight of joint actions
- (c) Overseeing the integrated programme plan
- (d) Ensuring strategic programme-level risks are effectively managed
- (e) Overseeing strategic relationships with LEP and other key stakeholders
- (f) Reporting high-level progress to the LEP

8.3 The Programme SRO is responsible for ensuring that the SRPB'S Rail Programme objectives are met.

8.4 The SRPB consists of board members and representatives from each of the Authorities. The overall rail programme is made up of a number of projects including the Project. The SRPB directs, steers and oversees the direction of each project and authorises project plans to be delivered by the project managers and authorise strategic decisions, or seeks authority for key strategic decisions from the SRPB, RCB, the Joint Committee and the Programme Section 151 Officer augmented by specialists from related areas. The SRPB shall have responsibility for:

- (a) Appointments such as the appointment of the Project SRO, the Lead Authority, and the Programme Section 151 Officer,
- (b) the creation and execution of the project plan and deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the SRPB .

8.5 The core SRPB comprises individuals with the job titles from the organisations set out below]:

Job Title	Organisation	Role
Director of Infrastructure	WECA	Chair
Head of Capital Delivery	WECA	Board Member
Director of Development & Environment	NSC	Board Member
Head of Major Projects	NSC	Board Member
Executive Director for Growth & Regeneration	BCC	Board Member
Corporate Director	BANES	Board Member

Director of Environment & Community Services	SGC	Board Member
Regional Development Manager – Central	GWR	Board Member (non-voting)
Business Development Manager	Network Rail	Board Member

9. LEAD AUTHORITY

- 9.1 WECA appoints, with effect from the Commencement Date, NSDC to be the Lead Authority for the carrying out of the Project which shall be carried out for and on behalf of the Authorities and NSDC agrees to act in that capacity subject to and in accordance with the terms and conditions of this Agreement.
- 9.2 The scope of the Lead Authority is on the basis that it is only authorised to act as Lead Authority so far as it is clearly authorised to do so and the Lead Authority shall act under the direction of the SRPB.
- 9.3 Where the Lead Authority incurs any costs or liability in discharging its duties under this **Clause 9**, the Lead Authority shall from time to time inform the SRPB promptly of that cost or liability and such cost or liability shall be apportioned between the Authorities pursuant to the **Standard Proportions**.

10. ACCOUNTABLE BODY

- 10.1 WECA has agreed with the DfT to act as the Accountable Body for the purposes of devolved major scheme funding and it will provide the Programme Section 151 Officer.

11. PROJECT TEAM

- 11.1 The Project Team will provide day to day management of the Third Initial Stage of the Project and work streams. It will provide assurance to the SRPB that the Project is being delivered within the boundaries set by the SRPB.
- 11.2 The Project Team consists of the Project SRO, representatives from each of NSDC and WECA the Project Manager, the Programme Section 151 Officer, the Project Section 151 Officer and representatives from specialist external

consultants as required. The Project Team shall have responsibility for the creation and execution of the project plan and deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the Project Team. The Authorities may recharge the cost of employee time to the Project where the employee has been tasked with delivering specific outputs for the Project, subject to the prior written approval of the Project Manager or Project SRO. The Authorities will provide sufficient staff and resources at their own cost to enable the Project Team and any working Authorities and groups established under them to function adequately and effectively. The Authorities may not recharge the cost of employee time to attend meetings or to fulfil in-house (i.e. for their employer Authority) functions, for example writing Council committee reports. The costs of any external consultants or significant internal staff costs shall only be chargeable to the Project if previously approved in writing by the Project Manager or Project SRO in accordance with **clause 11.7**.

- 11.3 The Project Team shall meet not less than bi-monthly and the minutes and actions will be recorded for each Project Team meeting. Any additional reporting requirement shall be at the discretion of the SRPB and include regular reporting to the Joint Committee.
- 11.4 For the avoidance of doubt, among the matters for which the Project Team shall be responsible are the following:-
- (a) What authority it reserves to itself and what authority it delegates to the Project Team or the Project SRO and the Project Section 151 Officer;
 - (b) The appointment and instruction of consultants and other advisors and delegation of authority in respect of this;
 - (c) The management of its own roles and the roles of those that report to it;
 - (d) Approval of agreements with third parties in respect of the Project carried out by the Project Team in accordance with **clause 15**; and

- (e) Day to day financial and risk management of the Project.
- 11.5 The Project Team shall not have authority to do or agree anything or go beyond the budgeted expenditure as approved by the Programme Section 151 Officer in writing in accordance with this clause and:
- (a) The Project Section 151 Officer in consultation with the Project Manager shall prepare detailed annual budget which shall be approved with the SRPB (“the Approved Budget”);
 - (b) The Project Section 151 Officer shall with the approval of the SRPB submit all financial claims to the LEP and any other funders on behalf of both Authorities;
- 11.6 All commitments, orders and payments under the Approved Budget shall be submitted to the Project SRO for approval. Agreement to any change that would be outside the scope of the Project or the budgeted expenditure for the Project as confirmed by the Programme Section 151 Officer shall be referred to the Joint Committee.
- 11.7 Every 3 months the Project Section 151 Officer shall prepare and submit to WECA and NSDC an invoice of each of the relevant Authority's Standard Proportion of the costs incurred for the Project, including a detailed breakdown of such costs. If the Project Team agrees to allow the recharge of internal staff costs to the Project (in accordance with **clause 11.2**) the recharge rate inclusive of any overheads must be agreed in advance by the SRPB.

Powers Outside the Scope of the Project Team

- 11.8 Neither the SRPB nor the Project Team shall have power to commit an Authority to expenditure or any other commitment that is outside the scope of the Project, the Joint Transport Strategy or beyond its own budgeted expenditure on the Project without the agreement of the Joint Committee
- 11.9 The Project Team will endeavour to make decisions by consensus. Where this is not possible then the procedure outlined in Clause 11.10 below shall apply

prior to the matter being referred for Dispute Resolution in accordance with Clause 19.

- 11.10 The Project Team shall ultimately report to the Joint Committee (in respect of devolved DfT capital funding and Local Growth Fund funding) and in the event that the representatives of the Project Team do not agree with each other they will refer it to SRPB for a decision and if the Authorities are not satisfied with such decision any Authority may refer the matter to the Joint Committee and if the Authorities are still not satisfied with such decision any Authority may refer the matter for Dispute Resolution in accordance with **clause 19**.
- 11.11 Unless or until the Project Team decides otherwise, the Project shall use the Managing Successful Program (MSP) system of project management.

12. ROLES AND RESPONSIBILITIES

- 12.1 The Authorities shall undertake the following roles and responsibilities to deliver the Project:
- (a) Each Authority will nominate a Lead Officer with senior management responsibilities for transport functions in their area. The Lead Officer shall ensure that his / her Council provides the support necessary to secure the effective achievement of the Project. In this context, “support” shall include the involvement and time of capable officers, the provision of information and the prompt consideration of matters referred to his / her Authority for determination. The Authorities’ respective Lead Officers at the Commencement Date are:
 - (i) WECA – Head of Capital Delivery
 - (ii) NSDC – Head of Highways & Transport
 - (b) Each Authority shall ensure that whenever its Lead Officer is on leave or otherwise unavailable, it appoints an alternative person to act in his or her place with full power to do anything he or she would be able to do, and who will be their Lead Officer.

- (C) Each Authority will authorise its Lead Officer and the Project SRO will authorise the Project Team to take any steps necessary to ensure the efficient promotion of the Project whether in response to any objection or requests by the Inspector at any Public Inquiry or for any other reason relating to the effective promotion of the Project provided the steps are within the scope of Project.

13. PROMOTING THE PROJECT

- 13.1 The Authorities will jointly promote the Project in accordance with the decision of the Joint Committee at Committee Meeting dated 30 November 2018 annexed to this Agreement at **Annex A** and the terms of this Agreement.
- 13.2 Each Authority will keep the other fully informed in relation to matters that relate to the progress of any Order and the Project so as to promote timely and well-informed decision-making.

14. FINANCIAL ARRANGEMENTS

- 14.1 The Authorities will assume joint and several liability to perform their non-financial obligations under any Order and any agreements that may be reached with third parties, including any agreements or concessions to implement the Third Initial Stage of the Project.
- 14.2 All financial liabilities under the Third Initial Stage of the Project during the term of this Agreement will be apportioned between the Authorities according to the following proportions (“**the Standard Proportions**”).:

	Capital liability agreed in the Second Initial Stage based on a scheme estimated out-turn cost of £58m	Capital liability agreed for the Third Initial Stage based on a scheme estimated out-turn cost of £116m, as endorsed by the Joint Committee on 30 th November 2018
WECA	50% of £58M	50% of £116M
NSDC	50% of £58M	50% of £116M
Total	100%	100%

- 14.3 The Authorities agree that and in relation to Project expenditure:-
- (a) each Party shall bear its own costs incurred by them up to but not including the Project Cost Baseline Date (as defined in IPA 1) and such costs shall not be treated as Project costs;
 - (b) From and including the Project Cost Baseline Date until completion of the full business case the costs shall be shared in the Standard Proportions as defined in **clause 14.2**

14.4 The Authorities shall indemnify each other in respect of all costs, expenses, actions, proceedings or other expenditure reasonably incurred under or in connection with a project agreement to the extent that either of them bears, has borne or is exposed to the risk of bearing more than their share of such based on the Standard Proportions.

14.5 Each Authority will make available the necessary funds to ensure that the Authorities and the Project Team can satisfy all liabilities (reasonably incurred and within an approved budget) falling due for payment, without one Authority having to make a payment on behalf of the other.

15. THIRD PARTY LIAISON

15.1 The Project Team shall be responsible for all negotiations with third parties including objectors and potential objectors to the Order(s).

15.2 No Authority shall meet, correspond or negotiate with such third parties without the consent of the Project Team.

15.3 In accordance with **clause 11.4(d)** any agreement which the Project Team makes with any third party must either be within the scope of an express authority delegated to it by the Authorities in writing or subject to ratification by the SRPB and not binding until so ratified.

15.4 Subject to any authorisation required from the Authorities the SRPB is authorised to and may settle the terms of any agreement with an objector, undertaking or revision to the Orders.

- 15.5 The Project Team shall invite an officer from the Authority whose area any objection or third party issue concerns to attend any meeting with that objector or third party.
- 15.6 The representative of an Authority at such meeting shall not publicly disagree with the Project Team's position in respect of the negotiations with the objector or third party and all Authorities shall observe the requirements of **clause 22 (Publicity)**

16. LIABILITIES & INDEMNITIES

- 16.1 Notwithstanding the cost allocation provisions, where a liability under the Project arises out of either where one Authority ("the Indemnifying Party"):
- (a) fails to comply with the terms of this Agreement; or
 - (b) acts deliberately or negligently or commits an omission; or
 - (c) makes a decision which leads to an increase in the costs of the Project;
- the Indemnifying Party will bear the whole cost of the resulting costs and indemnify the other Authority accordingly save that where an Authority acts in accordance with a resolution of the WECA Committee or the Joint Committee no liability shall arise
- 16.2 Each Authority shall ensure that it has on its own account, or co-operates with the other Authority to ensure that the Authorities jointly have, appropriate insurance policies in force at all times to cover all risks the Project is reasonably able to insure against in addition to any standard corporate insurance of each Authority.
- 16.3 For the avoidance of doubt, any disputes as to valuation or the amounts of any claims by one Authority against the Project or the other are within the scope of the provisions on Remediation and Dispute Resolution referred to below.

17. TERMINATION

- 17.1 Each Authority acknowledges that, if it terminates the Project under the terms of this Agreement it is likely to cause loss of income and additional cost to the other Authority, including but not limited to, the loss of funding from the DfT and the loss of any economies resulting from the joint working between the Authorities in the implementation of local transport improvements. Similarly, each Authority acknowledges that if it takes any decision within the powers delegated to the Joint Committee (“an Independent Decision”) such decision may cause loss to the other Authority.
- 17.2 An Authority may terminate this Agreement by giving notice in writing of its intention to terminate the Project to the other Authority. Such notice shall be no less than **3 months’** notice expiring at any time.
- 17.3 Subject to clauses 17.4 and 17.5 each Authority agrees that in the event that it gives notice of termination to the other Authority under clause 17.2 or takes an Independent Decision, it will use its reasonable endeavours to minimise and will indemnify the other Authority against, any loss or additional expense which the other Authority may suffer as a result of its Independent Decision or termination of this Agreement and the Project save that where an Authority acts in accordance with a resolution of the WECA Committee or the Joint Committee no liability shall arise.
- 17.4 Where an Authority takes an Independent Decision, it shall be liable to the other Authority for any loss suffered by the remaining Party as a consequence of the Independent Decision.
- 17.5 Where any Authority terminates the Project:-
- (a) Any obligations which the terminating Authority has entered into with the other Authority in pursuance of any funding provided or to be provided by the Joint Committee shall remain in force;

- (b) The Disputes Procedure set out in **clause 18** shall remain in force in respect of any matters arising from the performance of or withdrawal of either Party under this Agreement;
- (c) **Clause 21 (Confidential Information)** of this Agreement shall continue without limit and shall survive the termination of this Agreement; and
- (d) The remaining Authority will seek to minimise costs arising from the other Authority's terminating the Project.

18. DISPUTES

- 18.1 Where an Authority is of the opinion that another Authority is failing to comply with the provisions of this Agreement in respect of any matter, including the provisions of **Clause 5** to work together in good faith and in an open, co-operative and collaborative manner, the Authorities shall use their reasonable endeavours to resolve any such matter amicably without resort to the formal remediation and dispute resolution procedures set out below.
- 18.2 Notwithstanding **Clause 19**, at any time the Chief Executive of any Authority ("**the first Party**") may serve on the Chief Executive of the other Authority ("**the second Party**") a "**Default Notice**", alleging that the second Authority has failed to comply with its obligations under this Agreement, setting out any suggested remedial action and any damage which the first Authority has or is likely to suffer as a result of the alleged failure.
- 18.3 The second Authority on receipt of a Default Notice shall have 14 days within which to serve on the Chief Executive of the first Party a "**Counter notice**", setting out in respect of every matter contained in the Default Notice, proposals for the remediation of the alleged failure and making good any loss which the first Authority may have suffered or may suffer as a result of the failure, or the reasons why that alleged failure is disputed.
- 18.4 Within 14 days of receipt of a Counter notice, the Chief Executive of the first Authority shall send to the Chief Executive of the second Authority a "**Notice**

of Acceptance” of any proposals contained in the Counter notice in so far as those proposals are accepted by the first Authority, and may send a **“Notice of Dispute”** in so far as no proposal satisfactory to the first Authority is contained in the Counter notice, setting out in respect of each proposal which is not accepted by the first Authority why it is considered to be unacceptable.

18.5 Where any proposal in a Counter notice is accepted in a Notice of Acceptance, the second Party shall implement that proposal.

18.6 Where any matter contained in a Notice of Dispute, cannot be resolved by the procedure in **clauses 18.1 to 18.4** it shall fall to be dealt with under the Disputes Procedure set out in **Clause 19**.

19. DISPUTE RESOLUTION

19.1 In the event of any dispute arising between the Authorities (including the service of a Notice of Dispute), as a matter of urgency, the Authorities will first attempt to settle the issue in dispute by referring the matter as follows:

- (a) Initially to a meeting of the Lead Officers;
- (b) in the event of failure of Lead Officers to agree a resolution, to the Joint Committee;
- (c) In the event of the Joint Committee failing to resolve the matter then Clause 19.2 applies.

19.2 If the dispute is not resolved by such means within 14 days of such reference, the Authorities will attempt to settle the issue in dispute ("Dispute") by mediation in accordance with the Centre for Dispute Resolution ("CEDR") Model Mediation Procedure or any other model mediation procedure as agreed by the Authorities. To initiate a mediation, any Party may give notice in writing (a "Mediation Notice") to any one or more of the others requesting mediation of the Dispute and shall send a copy thereof to CEDR or an equivalent mediation organisation as agreed by the Authorities, asking them to nominate a mediator. The mediation shall commence within twenty (20) Working Days of the

Mediation Notice being served. If there is any point in respect of the conduct of the mediation upon which the Authorities are unable to agree within ten (10) Working Days from the date of the Mediation Notice, CEDR will, at the request of one of the Authorities, decide that point for the Authorities, having consulted with them. The Authorities will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and will pay his costs as he shall determine or, in the absence of such determination, such costs will be shared equally.

19.3 None of the Authorities may commence any court proceedings in relation to any Dispute until they have attempted to settle it by mediation under **Clause 19.1(c)** and/or such mediation has terminated. The Authorities will take no further steps in the court proceedings until any such mediation commenced under **Clause 19.1(c)** has terminated. Nothing in this **Clause** shall prevent an Authority from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or such other provisional judicial relief as it considers necessary to avoid irreparable damage.

19.4 If the Dispute has not been resolved by the mediation procedure detailed in **Clause 19.1(c)** within one (1) month from commencement of mediation the Dispute may be referred to the courts for resolution.

19.5 Copies of all notices issued under **clauses 18 and 19** shall be sent to the other Party's proper officers and/or lead officer (as the case may be).

20. INTELLECTUAL PROPERTY

20.1 All intellectual property in any material created by or on behalf of the Authorities or any of the Authorities in the course of the Project shall be owned jointly by those Authorities which are participating in the Project and shall be available equally to each such Party.

20.2 Each Party warrants that any intellectual property created by its officers for the purposes of the Project does not infringe any third party's intellectual property rights.

- 20.3 Each Authority shall indemnify the other Authority against any loss arising out of any dispute or proceedings brought by a third party alleging infringement of its intellectual property rights by use of the first Authority's intellectual property for the purpose of the Project.
- 20.4 Where existing intellectual property of an Authority has been used for the purpose of the Project that Authority agrees to grant the other Party a non-exclusive perpetual non-transferable and royalty free licence to use, modify, amend and develop the same for the purpose of the Project.
- 20.5 Where the Authorities generate any receipts from the licensing or sale of any intellectual property generated by this Project the net surplus shall be divided between them in the Standard Proportion.

21. CONFIDENTIAL INFORMATION

- 21.1 Subject to **Clause 23.3** and where disclosure of any Confidential Information is required by Laws, the Authorities shall at all times use their reasonable endeavours to keep confidential and ensure that such information is used only for the purpose of the Project (and to procure that their respective employees agents consultants contractors and sub-contractors shall keep confidential and shall use such information only for the purpose of the Project) all Confidential Information concerning the Project or the business and affairs of any other Authority which may now or at any time hereafter be in an Authority's possession and shall not disclose it except with the consent of that other Authority, such consent not to be unreasonably withheld.
- 21.2 For the purpose of this Agreement "Confidential Information" means any information imparted to any of the Authorities or their employees agents consultants contractors or sub-contractors ("the Receiving Party") which was imparted to the Receiving Party on the basis that it is to be kept confidential or would by its nature normally be regarded as being confidential or to the knowledge of the Receiving Party was obtained by the other Authorities on the basis that it was to be kept confidential or is of commercial value in relation to

the Project but shall not include any information which is for the time being in the public domain otherwise than by reason of its wrongful disclosure by the Receiving Party.

22. PUBLICITY

22.1 The Authorities will make such venues available for the provision of information about the Project and such other publicity as the Project Team may reasonably require.

22.2 The Project Team and the Project SRO on its behalf shall: -

- (a) co-ordinate all press releases, advertisements and other publicity material in connection with the Project,
- (b) ensure that it keeps members of the Joint Committee and of the Authorities up to date and briefed on the progress of the Project and establish a protocol for doing so.
- (c) Each Party will refrain from making statements about the application for the Orders and Project other than statements that have been authorised by the Project Team

23. COMPLIANCE WITH LAWS & DATA PROTECTION

23.1 The Authorities shall at all times comply with all Laws including but not limited to the General Data Protection Regulation (GDPR) and will, where appropriate maintain a valid and up to date registration or notification under such Laws.

23.2 Each Authority shall indemnify and keep indemnified the other Authority against all losses, claims, damages, liabilities, costs and expense (including reasonable legal costs) incurred by the other Authority in respect of any breach of this Clause by the Authority and/or any act or omission of any employee, agent, consultant, contractor or sub-contractor.

23.3 Each Authority shall grant to the other Authority the right of reasonable access to all records of Personal Data relevant to the Project, as defined in the GDPR

and shall provide reasonable assistance at all times during the currency of this Agreement to ensure the quality and security of data collected.

24. FOI & EIR

24.1 Each Authority acknowledges that the other Authority is subject to the requirements of the Freedom of Information Act 2000 (“FoIA”) and the Environmental Information Regulations 2004 (“EIR”) and each Authority shall where reasonable assist and co-operate with the other Authority (at their own expense) to enable the other Authority to comply with these information disclosure obligations.

24.2 Where an Authority receives a request for information under either the FoIA or the EIR in relation to information which it is holding on behalf of any of the other Authorities in relation to the Project, it shall (and shall procure that its sub-contractors shall):

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

24.3 Where an Authority receives a request for information under the FoIA or the EIR which relates to this Agreement or the Project, it shall inform the other Authority of the request for information as soon as practicable after receipt and in any event at least two Working Days before disclosure and shall use all reasonable endeavours to consult with the other Authority prior to disclosure

and shall consider all representations made by the other Authority in relation to the decision whether or not to disclose the information requested.

24.4 The Authorities shall be responsible for determining in their absolute discretion whether any information requested under the FoIA or the EIR:

- (a) is exempt from disclosure under the FoIA or the EIR;
- (b) is to be disclosed in response to a request for information.

24.5 Subject to **Clause 24.3** above each Authority acknowledges that the other Authority may be obliged under the FoIA or the EIR to disclose information:

- (a) without consulting with the other Authority where it has not been practicable to achieve such consultation; or
- (b) following consultation with the other Authority and having taken its views into account.

25. ASSIGNMENT

25.1 Save as may be imposed as part of any re-organisation of local government neither Authority may assign, subcontract or transfer its rights or obligations under this Agreement

26. VARIATION

26.1 This Agreement, including the Annexes, may only be varied by written agreement of the Parties

27. CHARGES AND LIABILITIES

27.1 Except as otherwise provided, the Authorities shall each bear their own costs and expenses incurred in complying with their obligations under this Agreement.

27.2 For the avoidance of doubt, in accordance with **Clause 14** the Authorities agree to share the costs and expenses arising in respect of the Third Initial Stage of the Project between them in accordance with the Standard Proportions.

27.3 Each Authority shall remain liable for any losses or liabilities incurred due to its own or its employee's actions and no Authority intends that the others shall be liable for any loss it suffers as a result of this Agreement.

28. STATUS

28.1 This Agreement is intended to be legally binding, and legal obligations or legal rights arising between the Authorities from this Agreement shall from the date of this Agreement be construed accordingly.

29. WAIVER

29.1 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy

30. SEVERANCE

30.1 If any condition, provision or Clause of this Agreement shall become or shall be declared by any court of competent jurisdiction to be void, invalid, illegal or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect

31. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with English law and, without affecting the Dispute Procedure set out in **clause 19**, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

32. GENERAL

- 32.1 Nothing contained or implied herein shall prejudice or affect the Authorities' rights and powers duties and obligations in the exercise of their functions as local authorities and/or in any other capacity and all rights powers discretions duties and obligations of the Authorities under all laws may at all times be fully and effectually exercised as if the Authorities were not party to this Agreement and as if this Agreement had not been made.
- 32.2 The Authorities shall only represent themselves as being an agent partner or employee of the other Authority 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 the other Authority except to the extent specified in this Agreement.
- 32.3 Save as may be imposed as part of any re-organisation of local government, this Agreement is personal to the Authorities and no Authority shall assign transfer or purport to assign or transfer to any other persons any of its rights or sub-contract any of its obligations under this Agreement.
- 32.4 No person other than the Authorities shall be entitled to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 32.5 Any notice required or permitted to be given by an Authority to the other Authority under this Agreement shall be in writing and addressed to the Chief Executive of the other Authorities at their principal office.
- 32.6 This Agreement constitutes the entire agreement and understanding of the Authorities and supersedes any previous agreement between the Authorities relating to the subject matter of this Agreement

Signed for and on behalf of **NORTH
SOMERSET DISTRICT COUNCIL**

Signature:
Name:
Position:
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Signed for and on behalf of **WEST OF
ENGLAND COMBINED AUTHORITY**

Signature:
Name:
Position:
.....

Annex A. The MetroWest Governance Arrangement Chart

See attached document



Annex B. The Outline Business Case

See www.travelwest.info/projects/MetroWest

Annex C. Metrowest Phase 1 Project

The Project is the MetroWest Phase 1 Project which is a joint cross boundary project comprising:

Phase 1A – an enhanced half-hourly passenger train services for the Severn Beach line and the Bath line, with an option under technical development to extend the train service to Westbury, and

Phase 1B - the re-opening of the Portishead rail line and re-commencement of passenger train services, with two new stations, Portishead and Pill. provide

Phase 1A Overview

The infrastructure required to deliver this element of the project is relatively limited compared with Phase 1B. The base scope for the proposed service between Severn Beach and Bath Spa requires a turnback facility at Bathampton. This is a passing loop with a walkway for the train diver to walk to the opposite end of the train for the return service. The option to extend the train service to Westbury is currently under technical development. This work has identified a need to upgrade five pedestrian level crossings east of Bathampton. The estimated capital cost of the base scope to Bath Spa (Bathampton Turnback) is approx. £5M, while the estimated capital cost of the option to extend to Westbury is approx. £4M. Passenger demand modelling feeding into financial profiling (of forecast revenue and estimated operating costs) has forecast that Phase 1A will require significant sums of subsidy during the early years of operation. This is the position for both options, although the Westbury option performs better than the Bathampton option.

Phase 1 B Overview

Substantial infrastructure works are required to re-open the Portishead Line for passenger train services. The infrastructure comprises of three route sections:

- I. Portishead to Pill – comprising of 4.7km of dis-used railway and 750m of double tracking through Pill within the existing operational railway (freight line).
- II. Pill to Ashton Junction – comprising of 9km of existing operational railway (freight line) which requires major asset renewal and enhancement works, in order to upgrade the line for passenger train use.
- III. Parson Street Junction to Bristol Temple Meads – comprising of 3km of existing main line railway which requires the renewal of Parson Street Junction and the reinstatement of 1km of the Down Relief Line at Bedminster, in order to operate passenger train services from the Portishead Branch Line to and from Bristol Temple Meads station.

A Development Consent Order ("DCO") is required to consent the Phase 1 B works. The estimated capital cost of Phase 1B is approximately £111M however passenger demand modelling feeding into financial profiling (of forecast revenue and estimated operating costs) has forecast that Phase 1B will reach a revenue breakeven point in the opening year. This is a

result of the low operating costs (one train set) and the relatively higher train fares for the two new stations reflecting their distance from Bristol Temple Meads.

Upon the completion of construction and commencement of passenger train services, the land forming the track alignment between Portishead and Pill currently owned by NSDC will be transferred to Network Rail at nil consideration. Furthermore all assets delivered by the Project excluding new car parks and footpath / highway links will be transferred to Network Rail and will be accepted into the national rail network. Prior to the DCO application being submitted NSDC will consult with Network Rail to obtain a letter of no objection in relation to the DCO application documents. Subject to a heads of terms being agreed (and subject to a further agreement with WECA referred to at clause 1.7 of this Agreement) NSDC will also enter into an Implementation Agreement (or similar) with Network Rail for the purposes of transfer of assets and securing the construction of the Phase 1 B works ongoing maintenance and preparatory operations to enable the commencement of passenger train services.

Annex D. WECA Constitution

