

Agenda Item No:	<b>9</b>	
Committee:	<b>Cabinet</b>	
Date:	<b>17th November 2020</b>	
Report Title:	<b>Fenland Stations Project - Funding Agreements</b>	

**This item comprises EXEMPT INFORMATION at Schedule 4 which is not for publication by virtue of Paragraphs 3 of Part 1 of Schedule 12A of the Local Government Act, 1972 (as amended).**

**Cover sheet:**

**1 Purpose / Summary**

1.1 This report seeks approval of the funding agreements required to facilitate the improvement works for Manea, March and Whittlesea railway stations (the "Fenland Stations Project"). Specifically:

A - To seek authority to sign the funding agreement between CPCA and FDC in the sum of £2.2m at Schedule 1 of this Report ("the First CPCA Agreement").

B - To seek delegated authority for the Cabinet Member for Social Mobility and Heritage to sign such further FDC/CPCA funding agreements as may be necessary for the implementation of the Fenland Stations Project up to a further sum of £2.3m ("the Further CPCA Agreements").

C - To seek delegated authority for the Cabinet Member for Social Mobility and Heritage to utilise the funding conferred by the First and Further Funding Agreements to enter into a separate funding agreement between FDC and Great Anglia (GA) for the delivery of a new car park and station building improvements for March railway station up to the sum of £3.6 million ("the GA Agreement").

D – To update the Council’s capital programme to incorporate the schemes of works set out in the Schedules 1, 2,3.

**2 Key Issues**

2.1 In April 2012 FDC Cabinet approved the Fenland Rail Development Strategy 2011 - 2031. This strategy has 3 priorities - More Community Involvement, Better Stations and Railway Service Improvements.

- 2.2 To take forward the Better Stations priority high level work was needed to identify appropriate schemes. In partnership with the Hereward Community Rail Partnership (CRP) masterplans were developed and adopted in 2013 (Whittlesea Station), 2014 (Manea Station) and in 2016/17 (March Station). Full public consultation was included within this approach and high levels of public support were secured for each scheme.
- 2.3 In October 2017 and March 2018, The Cambridgeshire and Peterborough Combined Authority (CPCA) approved £9.5million towards the delivery of the station masterplan projects.
- 2.4 Between March 2018 and October 2020, quick win projects have been implemented such as solar lighting at Whittlesea Station, new and extended cycle parking at March Station and new waiting shelters at Manea and Whittlesea Stations. Feasibility and technical assessment work have also been ongoing for the larger projects. In addition, land is to be purchased near to March station for the future purpose of a car park. This land purchase and works are the subject of the First CPCA Agreement and a schedule of the matters to be funded under this agreement is set out in Schedule 5 to that First CPCA Agreement.
- 2.5 Once the technical assessment work noted above has been completed, it is anticipated that the Further CPCA Agreements will be entered into in order to facilitate further works in connection with the Fenland Stations Project up to a further sum of £4.5m. A schedule of the anticipated matters to be funded under the Further CPCA Agreements are set out at Schedule 2 and it is anticipated that these agreements will be on very similar, if not identical terms to the First CPCA Agreement.
- 2.6 The funding from CPCA to FDC under the First and Further CPCA Funding Agreements will allow FDC to deliver the Fenland Stations Project and in furtherance of this objective, FDC will enter into a separate funding agreement with Greater Anglia.
- 2.7 Greater Anglia are the facility owners of Manea, March and Whittlesea railway stations. As part of their railway franchise that commenced in 2017, the stations were transferred on 99-year leases from Network Rail. For Fenland Stations Project works to be completed on the stations, projects must meet railway industry standards and they also require Greater Anglia approval (the "Approvals").
- 2.8 To facilitate the smooth delivery of the Fenland Station Project works and in order to ensure compliance with the Approvals, a procurement exemption in accordance with FDC's Code of Procurement was granted to Greater Anglia for them to deliver the work on Fenland District Council's behalf.

- 2.9 FDC's Code of Procurement permits exemptions from the Code in certain circumstances. Paragraph 13.2. states that in respect of Category "B" or "C" exemptions (Category "C" includes works of between £100,001 and £4,733,252.00 ) Purchasers may apply an exemption from steps 3 (identifying suppliers) and 5 (evaluation of tenders and quotations) when: g) a decision is taken by the Corporate Director and Chief Finance Officer, which is supported by the relevant Portfolio Holder, to suspend formal tendering procedures. The reasoning surrounding this decision has been clearly minuted and copied to the Procurement Manager as required by the Code.
- 2.10 GA will apply the funding from FDC directly on Fenland Station Project works or will appoint sub-contractors to deliver those works. Subject to the Approvals, GA operates a procurement process substantially similar to an OJEU compliant process based upon the general principles of proportionality, equality, fairness and transparency.
- 2.11 In July 2019, FDC Cabinet approved the establishment of three Project Boards (one for each of our three stations) to work with CPCA and other key partners to oversee the governance and delivery of all the Fenland Station Project works.

### **3 Recommendations**

- 3.1 That Cabinet authorises entry into the First CPCA Agreement for £2.2million and for delegated authority to be given to the Cabinet Member for Social Mobility and Heritage, in consultation with CMT, to enter into all necessary legal and financial arrangements required to conclude the works set out within it.
- 3.2 That Cabinet delegate authority to the Cabinet Member for Social Mobility and Heritage, in consultation with CMT, to approve entry into the Future CPCA Agreements on terms to be negotiated and all necessary legal and financial arrangements required to facilitate the anticipated works described in Schedule 2.
- 3.3 That Cabinet delegate authority to the Cabinet Member for Social Mobility and Heritage, in consultation with CMT, to approve entry into the GA Agreement on terms to be negotiated and all necessary legal and financial arrangements required to facilitate the anticipated works described in Schedule 3.
- 3.4 That Cabinet approve updating the Council's Capital Programme to incorporate the schemes of work set out in Schedules, 1, 2 and 3.

Wards Affected	All
Forward Plan Reference	
Portfolio Holder(s)	Cllr Seaton, Portfolio Holder for Social Mobility and Heritage
Report Originator(s)	Wendy Otter
Contact Officer(s)	Wendy Otter Simon Machen
Background Paper	N/A

## Report:

### **1 Reasons for Exemption**

- 1.1 Schedule 4 of this Report is NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of the Local Government Act 1972 in that it contains information relating to the financial and business affairs of Fenland District Council and 3rd party organisations. The public interest test has been applied to the information contained within this exempt report and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.

### **2 Facilitating Delivery of the Fenland Station Project**

- 2.1 The CPCA relies on the authority of the CPCA Board Decision of 28 March 2018, Article 11 of the Cambridgeshire and Peterborough Combined Authority Order 2017 (SI 2017 No.251) (the general power of competence referred to paragraph 2.2) and section 113A of the Local Democracy, Economic Development and Construction Act 2009 to make funding available to FDC.
- 2.2 In order both to accept the funding provided under the First and Further CPCA Agreements and also to grant funding to GA under the GA Agreement, FDC relies upon section 1 of the Localism Act 2011, also known as the general power of competence, which states that a local authority has power to do anything that individuals generally may do subject to any specific legislative prohibiting this.
- 2.3 The First and Further CPCA Agreements and the GA Agreement will provide the contractual framework and set out the responsibilities and liabilities of the parties.

- 2.4 The terms of the First CPCA Funding Agreement have been agreed in principle with the CPCA but the terms of the GA Agreement are still being negotiated. It is anticipated however that the terms of all of the agreements will be substantially the same so far as is commercially possible.
- 2.5 The CPCA requires FDC to supply information relating to the operational and financial progress of the Fenland Stations Project in order to trigger payment of the funding in respect of the various project elements. Cabinet is therefore asked to authorise entry into the First CPCA Agreement and for delegated authority to be given to the Cabinet Member for Social Mobility and Heritage in consultation with CMT to enter into all necessary legal and financial arrangements to facilitate the works set out in Schedule 5 of that agreement.
- 2.6 In addition and in order to ensure that the any further associated works can be completed, Cabinet is also asked to delegate authority to the Cabinet Member for Social Mobility and Heritage, in consultation with CMT, to approve the Further CPCA Agreements (to include any amendments to the terms set out in the First CPCA Agreement) and to enter into all necessary legal and financial arrangements to facilitate the anticipated works described in Schedule 2.
- 2.7 The GA Agreement is in the process of being concluded and will enable the detailed design and construction of the March Railway Station projects in accordance with the procurement exemption. Cabinet is therefore also asked to delegate authority to the Cabinet Member for Social Mobility and Heritage, in consultation with CMT, to finalise the terms of the GA Agreement (to include any amendments to the terms set out in the First CPCA Agreement) and to enter into all necessary legal and financial arrangements required to facilitate the anticipated works described in Schedule 3.

### **3 Legal Implications**

- 3.1 The legal implications are as set out in Schedule 1 of this Report in so far as they comprise the terms of the agreement save to the extent that they relate to future contractual negotiations, the specific advice in respect of which is set out in Schedule 4 of this Report for which an exemption has been proposed.

### **4 Financial Implications**

- 4.1 The Funding Agreements between the Council and the CPCA referred to in this report enable the Council to undertake capital works which will significantly improve the local transport infrastructure without requiring new sources of capital finance to be identified. The works described will be principally funded from CPCA grant, which will be drawn down over the life of the project, alongside the utilisation of S106 money previously received by the Council and currently reflected in the Council's Balance Sheet.
- 4.2 The car park to be constructed in the vicinity of Manea station will be a Council asset once works are completed. It is proposed that the Council will enter into

a 25-year lease agreement with Manea Parish Council whereby the Parish council will manage and maintain the car park. This mitigates the implications for the revenue budget which would otherwise arise from constructing the car park. It is understood that proposed car parks in March and Whittlesey will form part of the railway estate and responsibility for managing and maintain the car parks will not pass to FDC.

- 4.3 All other works referred to in the funding agreement concern transport infrastructure which is the responsibility of Greater Anglia under the terms of its lease with Network Rail. There are no expected revenue implications associated with undertaking these capital works
- 4.3 The CPCA have asserted that the funding of £4.5m which has been allocated for the programme works referred to in Schedules, 1, 2 and 3 is a final sum which will not be increased even if the cost of undertaking the works set out in the aforementioned schedules were to increase. At the present time it is felt that the funding allocated will be sufficient. However, in the event of any overspend on a particular project, future works would need to be scaled back to reflect the funding available. Priority would need to be given to those projects involving the use of land acquired by the Council as it is felt that there would be limited alternative uses for any land acquired.

DATED

2020

**CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY**

**AND**

**FENLAND DISTRICT COUNCIL**

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**COMMERCIAL FUNDING AGREEMENT**

**in respect of**

**WORKS FOR FENLAND STATIONS REGENERATION PROJECT**

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**THIS AGREEMENT** is made on

2020

**BETWEEN:-**

- (1) **CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY** having its principal place of business at The Incubator 2 First Floor Alconbury Weald Enterprise Campus Huntingdon PE28 4XA (the "**CPCA**"); and
- (2) **FENLAND DISTRICT COUNCIL** of Fenland Hall, County Road, March PE15 8NQ (the "**Applicant**");

together the "**Parties**".

**BACKGROUND:-**

- A. The CPCA has agreed to make the Funding available to the Applicant on the terms of this Agreement to fund the Works for the Project, known as Fenland Stations Regeneration.
- B. The Fenland Stations Regeneration Business Case will assess a range of short, medium and long-term projects designed to improve Manea, March and Whittlesea Stations.
- C. The CPCA is authorised to enter into this Commercial Funding Agreement by way of the CPCA Board Decision of 28 March 2018 and empowered to enter into this Commercial Funding Agreement by way of Article 11 of the Cambridgeshire and Peterborough Combined Authority Order 2017 (SI 2017 No.251, section 111 Local Government Act 1972 and section 1 Local Government (Contracts) Act 1997 and all other powers enabling.

**IT IS AGREED** as follows:-

## **1. INTERPRETATION**

- 1.1 In this Agreement (including in the Background and Schedules) the following words and expressions have the following meanings:-

<b>"Agreed Form"</b>	means in a form produced by the Applicant and approved by the CPCA
<b>"Annual Qualifying Expenditure Statement"</b>	means an annual report on Qualifying Expenditure in the format set out in Schedule 4
<b>"Applicant's Auditor"</b>	means the Applicant's external independent auditor
<b>"Applicant Representative"</b>	means Simon Machen, Director of Growth and Infrastructure who shall be the Applicant Representative nominated or any other person from time to time appointed by the Applicant in writing
<b>"Audited Accounts"</b>	means accounts on the Project in the Agreed Form certified by the Applicant's Auditor

<b>"Base Interest Rate"</b>	means the base rate of 0.75% or such other rate as the CPCA determines (acting reasonably) from April 6 <sup>th</sup> on an annual basis
<b>"Best Practice"</b>	means intellectual property industry standards
<b>"Business Plan"</b>	means the Combined Authority Business Plan 2019-20 which includes an overview of the Project and which may be found at <a href="https://cambridgeshirepeterborough-ca.gov.uk/assets/Uploads/CPCA-Business-Plan-2019-20-dps2.pdf">https://cambridgeshirepeterborough-ca.gov.uk/assets/Uploads/CPCA-Business-Plan-2019-20-dps2.pdf</a>
<b>"Business Case"</b>	means the Applicant's business case or cases relating to the Project, which term may include the stages of a Business Case including Strategic Outline Business Case, Outline Business Case and Final Business Case and which is subject to the approval of the CPCA from time to time
<b>"Certificate of Practical Completion"</b>	means any certificate or statement to be issued in accordance with a Contract certifying that Practical Completion has taken place in respect of all or part of the Works
<b>"Chief Finance Officer"</b>	means an officer appointed under section 73 of the Local Government Act 1985 or other delegated officer approved by the Parties
<b>"Claim"</b>	means an application for Funding on a Claim Form
<b>"Claim Form"</b>	means the form set out in Schedule 2 or such other form as the CPCA will notify the Applicant from time to time
<b>"Confidential Information"</b>	means any information (however it is conveyed or on whatever media it is stored) which relates to the business, affairs, developments, trade secrets, know-how, personnel, customers and Contractors of either Party, including Intellectual Property Rights, together with information derived from the above, any other information clearly designated as being confidential (whether or not is marked as "confidential") or which ought reasonably to be considered to be confidential
<b>"Consents"</b>	includes any necessary approval, authorisation, consent, exemption, licence, permit, permission or registration by or from any governmental or other authority, the local planning authority, landlords, funders, adjoining land owners or any other person in relation to the Project or otherwise required to enable the Project to proceed
<b>"Contract"</b>	An agreement entered into for or in connection with the delivery of the Works
<b>"Contractor"</b>	means a contractor (including a consultancy contractor or sub-contractor appointed by a Contractor) appointed for or in connection with the delivery of Works
<b>"CPCA's Representative"</b>	means Rowland Potter Head of Transport (or such other person as notified)
<b>"Date of Practical Completion"</b>	means the date certified in any Certificate of Practical Completion as the date when Practical Completion of all or part of the Works was achieved

<b>"Default Interest Rate"</b>	means interest calculated at a rate per annum equal to 2% above the Base Interest Rate (compounded at such intervals as the CPCA shall determine)
<b>"Data Protection Laws"</b>	the Data Protection Act 2018 ( <b>DPA</b> ), the General Data Protection Regulation ( <b>GDPR</b> ) (Regulation (EU) 2016/679), the Law Enforcement Directive (LED) (Directive (EU) 2016/680) the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner
<b>"EIRs"</b>	means the Environmental Information Regulations 2004 and any guidance and/or codes of practice relating to them
<b>"Event of Default"</b>	means the events set out in Schedule 6
<b>"Excluded Expenditure"</b>	means any expenditure which is not Qualifying Expenditure
<b>"Expert"</b>	means:- <ul style="list-style-type: none"><li>(a) where a dispute or difference hereunder is on a point of law or legal drafting, a Queen's Counsel practising in English real property law or construction law or partnership law or banking law (as applicable) being such Counsel as may be appointed by the Parties (acting unanimously) or, failing agreement, such Counsel as shall be appointed at the request of either or both of the Parties by or on behalf of the President for the time being (or the next most senior available officer) of the Law Society or</li><li>(b) where a matter concerns a planning matter, a Queen's Counsel practising at the planning bar being such Counsel as may be appointed by the Parties (acting unanimously) or, failing agreement, such Counsel as shall be appointed at the request of either or both of the Parties by or on behalf of the President for the time being (or the next most senior available officer) of the Law Society or</li><li>(c) where a matter concerns a financial dispute or difference, a qualified accountant from the Institute of Chartered Accountants in England and Wales may be jointly appointed by the Parties (acting unanimously) or, failing agreement, such accountant as shall be appointed at the request of either or both of the Parties by or on behalf of the President of the ICAEW or CIPFA</li><li>(d) in the case of any other matter, a senior Chartered Surveyor having at least 10 years' post-qualification experience in the development and/or management of premises in the north east region of England as may be jointly appointed by the Parties (acting unanimously) or, failing agreement, such surveyor as</li></ul>

shall be appointed at the request of either or both of the Parties by or on behalf of the President for the time being (or the next most senior available officer) of the Royal Institution of Chartered Surveyors, such experience to be in relation to dealing with disputes of a kind of those which may be referred to him or her hereunder,

and "**failing agreement**" shall for these purposes mean failing any such joint appointment by the Parties of an Expert within 5 Working Days of notice by one Parties to the other that the dispute or difference is to be referred to an Expert

"FA"	means the Finance Act 2004
"FA Legislation"	means Chapter 3 of Part 3 of the FA and the Income Tax (Construction Industry Scheme) Regulations 2005 (SI 2005/2045) each as amended from time to time
"Final Report"	means a report on the Project in the format set out in Schedule 4 and delivered no later than three months following the Works Long-Stop Date
"Finance Reports"	means a monthly report in the form set out in Schedule 4
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under it and any guidance and/or codes of practice issued relating to it
"Force Majeure"	means any matter which would entitle a Contractor to an extension of time under the relevant Works Contract other than any matter arising from the default of the Applicant under the terms of that Works Contract
"Funding"	means the funds made available by the CPCA to the Applicant under this Agreement up to the Maximum Sum for the purposes of funding the Works for the Project.
"Good Industry Practice"	means that degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced person (engaged in the same type of undertaking as that of the Applicant and/or any Contractors (as applicable)) under the same or similar circumstances
"Highlight Report"	means a monthly report prepared by the Project Manager to record the Project's progress, Qualifying Expenditure, any emerging risks and the achievement of outputs as identified in the Business Case.
"HMRC"	means Her Majesty's Revenue & Customs
"Information"	means: (a) In relation to FOIA the meaning given under section 84 of FOIA and (b) In relation to EIRs the meaning given under the definition of "environmental information" in section 2 of the EIRs
"Intellectual Property Rights"	shall include without limitation all rights to, and any interests in, any patents, designs, trade marks, copyright, know-how, trade secrets and any other proprietary rights or forms of

intellectual property (protectable by registration or not) whether registered or unregistered and all applications (or rights to apply) for, and for renewals and extensions of, such rights as may now or in the future exist anywhere in the United Kingdom in respect of any technology, concept, idea, data, program or other software (including source and object codes), specification, plan, drawing, schedule, minutes, correspondence, scheme, formula, programme, design, system, process logo, mark, style, or other matter or thing, existing or conceived, used, developed or produced by any person

<b>"Insolvent"</b>	means that a Party is unable to pay its debts as they fall due or being otherwise insolvent (within the meaning of s.123(1) of the Insolvency Act 1986 in the case of a company, or s.268 of the Insolvency Act 1986 in the case of an individual) or entering into any arrangement with creditors, or having a liquidator, trustee in bankruptcy, receiver, administrator, administrative receiver or similar appointed, or having a possession or enforcement or any other similar process taken against it or any of its assets and Insolvency shall be interpreted accordingly
<b>"Material Adverse Effect"</b>	means any present or future event or circumstances which could:- <ul style="list-style-type: none"><li>(a) have a material adverse effect on the ability of the Applicant to perform and comply with its obligations under this Agreement; or</li><li>(b) have a material adverse effect on the business, assets or financial condition of the Applicant</li></ul>
<b>"Material Breach"</b>	means a breach that is significant in the sense that it would have a significant effect on the benefit the CPCA would otherwise derive from a substantial portion of this Agreement including but not limited to an Event of Default.
<b>"Maximum Sum"</b>	(subject to Clause 9) means Two Million, Two Hundred Thousand Pounds (£2,200,000.00)
<b>"Personal Data"</b>	has the meaning given to that expression under the Data Protection Laws
<b>"Practical Completion"</b>	means the date as defined in a Contract for Works
<b>"Process"</b>	has the meaning given to that expression under the Data Protection Laws and <b>"Processing"</b> will be construed accordingly
<b>"Procurement Policy"</b>	means the Applicant's procurement policy approved by the CPCA which states how all goods, works and services will be procured in the delivery of the Project and which shall be in accordance with the principles of best consideration, value for money, transparency and best practice
<b>"Prohibited Act"</b>	means any one or more of the following:- <ul style="list-style-type: none"><li>(a) offering, giving, agreeing to give or attempting to give to the CPCA (or any employee, agent or other representative of the CPCA) any gift or consideration of any kind as an inducement or reward:-</li></ul>

- i. for himself or the CPCA (as applicable) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement and/or
  - ii. for himself or the CPCA (as applicable) showing or not showing favour or disfavour to any person in relation to this Agreement
- (b) entering into this Agreement in connection with which commission (or equivalent) has been paid or has been agreed to be paid by the Applicant or on its behalf, or to its knowledge, unless before the relevant agreement is entered into particulars of any such commission (or equivalent) including but not limited to the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the CPCA and the CPCA has approved the same in writing and/or
- (c) committing any offence:-
  - i. under the Bribery Act 2010
  - ii. under Statutory Requirements creating offences in respect of fraudulent acts
- (d) at common law in respect of fraudulent acts in relation to any this Agreement and/or
- (e) defrauding or attempting to defraud or conspiring to defraud the CPCA

<b>"Project"</b>	means the regeneration of Fenland railway stations at Manea, March and Whittlesea known as Fenland Stations Regeneration more particularly set out in the Business Case
<b>"Project Know-how"</b>	shall have the meaning set out in Clause 10.1
<b>"Project Manager"</b>	Means the individual with responsibility for managing the Project
<b>"Qualifying Expenditure"</b>	means the costs of procurement and of the study and all associated work and Works as described in the Business Case and which does not include Excluded Expenditure
<b>"Quality Standards"</b>	means the CPCA's quality requirements for the Works set out in Schedule 1
<b>"Regulatory Body"</b>	means any UK or EU Government department or agency or any other regulatory body having jurisdiction whether regional, national or local and including, but not limited to, the National Audit Office, UK central Government, the European Commission or any successor such department, agency or regulatory body which, whether under statute, rules, regulations, codes of practice or otherwise, is entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the CPCA
<b>"Representative"</b>	means both of the Applicant Representative and CPCA Representative
<b>"Request for Information"</b>	has the meaning in the FOIA or the EIRs or any apparent request for information under the FOIA or the EIRs or the

	Code of Practice on Access to Government Information (Second Edition)
"Required Standards"	means the requirements of this Agreement, the Quality Standards, Good Industry Practice, all applicable Consents and all applicable Statutory Requirements
"Section 151 Officer"	means an officer appointed under section 151 of the Local Government Act 1972 or other delegated officer approved by either of the Parties
"Statutory Deduction"	means the deduction referred to in section 61(1) FA or such other deduction as may be in force at the relevant time
"Statutory Requirements"	means all or any of the following:- (a) Acts of Parliament and any statutory instruments rules orders regulations notices directions bye laws and permissions for the time being made under or deriving validity from an Act of Parliament (b) European directives or regulations and rules having the force of law in the United Kingdom and (c) Regulations orders bye laws or codes of practice of any local or statutory authority having jurisdiction over or otherwise applicable to the Works
"Tax"	means any tax, levy, impost, duty or other charge or withholdings and any charges of a similar nature, together with interest thereon and penalties with respect thereto, if any, and any payments made on or in respect thereof and " <b>Taxation</b> " and " <b>Taxes</b> " shall be construed accordingly
"Working Day"	means 9:00am to 5:00pm any day (other than a Saturday or Sunday) on which banks are open in London for normal banking business and excluding public holidays
"Works"	means the Business Case and physical works undertaken in connection with the Project.
"Works Long-Stop Date"	means the date that all the Works are required to be fully completed and which is 31 October 2021, subject to Force Majeure
"Works Start Date"	means the dates on which work commenced in respect of each of the Business Case and each element of the Works.

1.2 In this Agreement, save where the context requires otherwise, the following words, terms and expressions have the meanings given to them below:-

- 1.2.1 any reference to this "**Agreement**" includes any subsequent variations and any supplemental agreement made from time to time by agreement between the Parties;
- 1.2.2 any reference to the "**CPCA**" and/or the "**Applicant**" includes reference to any statutory successors;
- 1.2.3 words importing any gender include any other gender;
- 1.2.4 words in the singular include the plural and words in the plural include the singular;
- 1.2.5 the term "**person**" includes any individual, partnership, firm, trust, body corporate, government, governmental body, authority, agency or

- unincorporated body of persons or association;
- 1.2.6 the words "**including**" and "**in particular**" will be construed so as not to limit the generality of any words or expressions in connection with which they are used;
- 1.2.7 headings and the contents table are inserted for convenience only and will have no legal effect;
- 1.2.8 references in this Agreement to any Clause or Schedule without further designation will be construed as a reference to a Clause of or Schedule to this Agreement;
- 1.2.9 the Schedules to this Agreement are an integral part of this Agreement and reference to this Agreement includes reference to the Schedules;
- 1.2.10 in the event of a conflict the Clauses set out in the main body of this Agreement will take priority over the Schedules;
- 1.2.11 references to any statute or statutory provision in this Agreement will be deemed to refer to those provisions as replaced, amended, extended or re-enacted from time to time whether by instruments, orders, bye laws, statute or by directive or regulation (which is, in the case of a directive or regulation, intended to have direct application within the United Kingdom and has been adopted by the Council of the European Communities) and all statutory instruments or orders made pursuant to it;
- 1.2.12 where consent or approval of any Party is required for any purpose under or in connection with this Agreement it will be given in writing and within a reasonable time following receipt of a written request for such consent or approval;
- 1.2.13 any decision, act or thing which either Party is required or authorised to take or do under the Agreement may be taken or done by any person authorised either generally or specially by that Party to take or do that decision, act or thing, provided that both Parties will provide each other with the name of any person so authorised on receipt of a written request.

## **2. PROVISION OF FUNDING**

The CPCA will provide the Funding to the Applicant on and subject to the terms of this Agreement.

## **3. THE APPLICANT'S REPRESENTATIONS AND WARRANTIES AND DUE DILIGENCE**

- 3.1 As at the date of this Agreement, the date of each Claim and the date of delivery of each Highlight Report and the Final Report (by reference to the facts and circumstances then pertaining) the Applicant makes the representations and warranties set out in Clauses 3.2 to 3.5.

### **3.2 Powers, vires and consents**

- 3.2.1 The Applicant is a local authority (where appropriate) or otherwise validly exists under the laws of England and Wales and has the power to own its assets and to carry on the business and activities which it conducts or proposes to conduct (including but not limited to the business and activities envisaged under this Agreement).
- 3.2.2 The Applicant has the power to enter into and to exercise its rights and perform its obligations under this Agreement and the execution on behalf of the Applicant of this Agreement has been validly authorised and the obligations expressed as being assumed by the Applicant under this Agreement constitutes valid legal and binding obligations of the Applicant enforceable



against the Applicant.

- 3.2.3 All consents, required by the Applicant in connection with the execution, delivery, issue, validity or enforceability of this Agreement have been obtained and have not been withdrawn.
- 3.2.4 Neither the execution of this Agreement by the Applicant nor the performance or observation of any of its obligations hereunder will:-
- (a) conflict with or result in any breach of any Statutory Requirement (either in force or enacted but yet to be in force) or any deed, agreement or other instrument, obligation or duty (including any order or decree of any court or arbitrator) to which the Applicant is bound; or
  - (b) cause any limitation on any of the powers whatsoever of the Applicant or on the right or ability of the officers of the Applicant to exercise such powers to be exceeded or otherwise contravene or conflict with its pertaining constitutional documents.
- 3.2.5 The Applicant has not committed any Prohibited Act.
- 3.2.6 The Applicant is not subject to any other obligation (whether resulting from a breach by it of any other agreement or otherwise) compliance with which will or is likely to have a Material Adverse Effect and/or affect adversely its ability to perform its obligations under this Agreement.

### **3.3 Project success**

- 3.3.1 The Applicant has and shall deliver the Works and the Project at all times in accordance with the Business Case and in accordance with Good Industry Practice.
- 3.3.2 The Applicant has and shall at all times use all reasonable skill and care in delivering the Project, the Works, the requirements of this Agreement and the Business Case.
- 3.3.3 The Applicant is not in default under any law or enactment or under any deed, agreement or other instrument or obligation to an extent that may affect adversely its ability to perform its obligations under this Agreement.
- 3.3.4 All Consents required for the Works to be commenced have been or will be obtained and not withdrawn prior to the commencement of any Works.
- 3.3.5 The Applicant is not aware, after due enquiry, of anything which materially threatens the success of the Project or the completion of this Agreement.
- 3.3.6 The Applicant shall ensure (and shall take all reasonable steps to satisfy the CPCA) that its employees and all Contractors employed or engaged in connection with the Project are suitable and competent in all respects to allow the proper performance of the Project and to achieve Practical Completion of all or part of the Works in accordance with this Agreement and the Business Case.

### **3.4 Operational issues**

- 3.4.1 No Event of Default has occurred and is continuing or is anticipated to result from the provision of any Funding.
- 3.4.2 The Applicant shall ensure that each Contractor is procured in accordance with the Procurement Policy or as set out in the Business Case and will ensure that the procurement of all works, goods and/or services by the Applicant or a Contractor relating to the Works and/or the Project shall be in compliance with the Procurement Policy or such Business Case.

### **3.5 Information**

- 3.5.1 The Applicant hereby confirms that subject to any changes the Applicant has notified to and been approved by the CPCA are unchanged no change has occurred since the date on which information, documents and accounts of the Applicant submitted to the CPCA for its appraisal of the Project was supplied in accordance with the terms of this Agreement, which renders the same untrue or misleading in any respect.
- 3.5.2 The Applicant will promptly provide to the CPCA any information which the CPCA or any Regulatory Body may reasonably request in order to satisfy itself that it has complied with the provisions of this Clause 3.

#### **4. PAYMENT OF FUNDING**

##### **4.1 Pre Conditions of a Claim**

- 4.1.1 The Applicant will not make any Claim and the CPCA will not be liable to make available any Funding unless:-
- (a) no Event of Default is continuing or would result from the provision of any Funding in respect of that Claim;
  - (b) the Applicant's Section 151 Officer provides to the Chief Finance Officer of the CPCA for its reasonable consideration (which shall not be delayed or withheld unreasonably) a warranted statement of the applicable Works carried out and completed as detailed in Schedule 5, completed ; and
  - (c) In relation to the payments made to a Contractor the Applicant shall ensure:-
    - (i) A Contract(s) will have been entered into with that Contractor before payment to such Contractor is made;
    - (ii) That the Contractor(s) is of sufficient financial standing to complete the Works within the time frame set out in the Business Case;the Applicant has developed a programme to complete the Works as set out in the Business Case.
- 4.1.2 The CPCA may agree to pay Funding to the Applicant before the conditions in Clause 4.1.1 have been met (with the exception of Clause 4.1.1(a) which for the avoidance of doubt must always be satisfied) without prejudice to its rights to refuse to pay any further Funding until those conditions are met.
- 4.1.3 The CPCA may agree to pay Funding to the Applicant in respect of item 17 in the table set out in Schedule 5 subject to Clause 4.1.2 and in advance of Qualifying Expenditure being incurred.
- 4.1.4 The Parties agree that CPCA the Funding is a capital grant and the Applicant confirms that it will expend the Funding on capital expenditure only.
- 4.1.5 The Applicant agrees that it will inform the CPCA of the cost of any Works and the identity of its selected Contractors to carry out those Works within 5 Working Days of appointment and in any event before submitting any Claim Form. The Applicant acknowledges and agrees that the total cost of the Works shall not exceed the Maximum Sum and, subject to Clause 4.1.6, where the total cost of the Works is a figure below the Maximum Sum the Applicant shall not be entitled to request or receive any further Funding in excess of the value of the Works.
- 4.1.6 Where the total cost of the Works is a figure below the Maximum Sum the CPCA and the Applicant may agree that any shortfall may be applied to construction or other Project related activity.

##### **4.2 Mechanics and Payment of Funding**

- 4.2.1 Any Claim for Funding by the Applicant must:-

- (a) be submitted on a Claim Form (forming part of the Council's composite claim signed by the Applicant's Section 151 Officer);
- (b) relate to Qualifying Expenditure for which the Applicant has not submitted any other Claim or received any other funding;
- (c) accord with the Business Case or be accompanied by evidence to the satisfaction of the CPCA to justify any deviation (not unreasonably delayed or denied); and
- (d) not be for an amount which (if paid) would make the amount of Funding exceed the Maximum Sum.

4.2.2 The CPCA will pay Funding up to the Maximum Sum.

4.2.3 The CPCA will pay Funding to the Applicant in respect of Qualifying Expenditure within 30 days of receipt of a valid Claim.

### **4.3 Use of Funding**

The Funding will be the sole property of the Applicant and will be used by the Applicant for Qualifying Expenditure only.

### **4.4 Overpayments and Repayments**

4.4.1 If the CPCA determines at any time that any amount of Funding was not expended by the Applicant on Qualifying Expenditure the Applicant will within 21 days of receipt of written demand repay to the CPCA such amount.

4.4.2 Subject to Force Majeure, if any amount of Funding has not been expended by the Applicant on Qualifying Expenditure by 30 November 2020 the Applicant will immediately on written demand repay to the CPCA such amount.

4.4.3 The CPCA may vary or withhold any or all of the payments of Funding under this Agreement to the extent that:-

- (a) repayment or recovery is required under or by virtue of any European Union State aid laws (including without limitation under Article 107 of the Treaty on the Functioning of the European Union and/or any applicable judgement, court order, statute, statutory instrument, regulation, directive or decision (insofar as legally binding) ("**State Aid Law**"); and/or
- (b) the CPCA is otherwise required to repay or recover such Funding in whole or in part by or to any Regulatory Body.

4.4.4 Any Funding required to be repaid in accordance with this Clause 4.4 will bear interest at a rate of 3% per annum from the date of the CPCA's notice requiring repayment to the date of repayment (both before and after judgement) or such other period as may be required under or by virtue of any Statutory Requirement.

### **4.5 Final Reconciliation**

4.5.1 The Applicant shall provide the Final Report to the CPCA together with all reasonable supporting evidence.

4.5.2 Where the information provided pursuant to Clause 4.5.1 shows that the total cost of the Project was less than the anticipated total cost of the Project as set out in the Business Case then CPCA shall be entitled to recover any Funding paid to the Applicant which has not been spent and which is not committed to Qualifying Expenditure within three months of a written request in accordance with Clause 4.4.2.

## **5. THE APPLICANT'S DELIVERY OBLIGATIONS**

## **5.1 Project Commencement and Completion**

- 5.1.1 The Applicant will procure that the Project is carried out and completed in a good and workmanlike manner and in accordance with:-
- (a) the Business Case; and
  - (b) the Required Standards; and
  - (c) the agreed timescale.
- 5.1.2 The Applicant will procure that (subject to Force Majeure and any delay caused in part or whole by the CPCA) Practical Completion in respect of all Works is achieved by the Works Long-Stop Date.
- 5.1.3 The Applicant will notify the CPCA of each Works Start Date and the Date of Practical Completion of any Works within 21 days of such dates.

## **5.2 Applicant's Contractors**

- 5.2.1 The Applicant will procure that each Contractor complies with its Works Contract(s) and the Applicant will enforce or otherwise ensure the enforcement of the terms of the Works Contracts at all times.
- 5.2.2 The Applicant will take all reasonable steps to satisfy the CPCA (following any written request by the CPCA) that its procurement policies and procedures in relation to employees, suppliers and sub-contractors (including, but not limited to, the Contractors) are suitable and competent in all respects to allow the proper performance of all work or tasks in relation to the Project as evidenced in the Procurement Policy.

## **5.3 Reporting and Outcomes**

The Applicant will procure a Contractor to complete the Works and will meet the Quality Standard thereby and achieve the Outcomes and will provide evidence of this through the monthly Highlight Reports to the CPCA.

## **5.4 Material Alterations to the Project or Works Programme**

The Applicant will not and will procure that no Contractor will, without the prior written consent of the CPCA, make a significant alteration to the Project, the Business Case or any Works Contract which includes any change having any impact on the costs of the Project and/or the outcomes.

## **6. APPLICANT'S REGULATORY OBLIGATIONS**

### **6.1 Consents**

The Applicant will procure that no Works are commenced and/or continued without all necessary Consents being received and will provide such documents as the CPCA reasonably requires to demonstrate compliance with this Clause.

### **6.2 Insurance**

The Applicant shall:-

- 6.2.1 procure that each Contractor shall at all times during the Project maintain or procure full and proper insurance policies covering the usual risks in respect this type of Project;
- 6.2.2 supply evidence on request (to the reasonable satisfaction of the CPCA) of each such insurance policy referred to in Clause 6.2.1;
- 6.2.3 not do or permit or suffer to be done anything which may render any policy or policies of insurance void or voidable.

## **7. APPLICANT NOTIFICATION OBLIGATIONS**

The Applicant will comply with its obligations set out in Schedule 7.

## 8. PROJECT MONITORING

### 8.1 Provision of information by the Applicant

8.1.1 From the date of this Agreement until the later of the last Date of Practical Completion and the Works Long-Stop Date the Applicant will:-

- (a) provide the CPCA with monthly Highlight Reports;
- (b) provide the CPCA with monthly Finance Reports;
- (c) provide the CPCA with monthly Claim Forms from the Applicant's Section 151 Officer to satisfy itself that a Claim relates to Qualifying Expenditure and that Qualifying Expenditure has been incurred subject to Clause 4.1.3;
- (d) provide the CPCA with such other information as the CPCA may reasonably require in connection with the Works;
- (e) procure that the Applicant Representative and/or any other officers of the Applicant as may reasonably be requested by the CPCA will attend such meetings as the CPCA may reasonably request with the CPCA and any third parties invited by the CPCA to review progress in relation to the Works;
- (f) keep the CPCA informed of any events arising under Schedule 3 and 6; and
- (g) provide a Final Report in accordance with Clause 4.

### 8.2 Inspection and audit facilities

8.2.1 The Applicant will upon reasonable notice allow or procure access to its premises for the CPCA, its internal auditors or its other duly authorised staff or agents and any Regulatory Body and subject to Data Protection Laws will allow such persons to inspect and take copies of documents relating to the Project.

8.2.2 The Applicant will provide the CPCA, in writing, with any such information about the Funding and/or the Project as it requires for the conduct of its statutory functions or which may be required by any Regulatory Body in respect of its regulatory and / or compliance functions.

8.2.3 The Applicant will at all times retain documentary evidence to support each Claim and will maintain full and accurate accounts for the Project in accordance with all applicable law and accounting standards and (to the extent that no accounting standard is applicable) use generally accepted accounting principles and practices of the United Kingdom then in force.

8.2.4 For the purpose of this Clause 8.2.3 "**Accounting Standards**" means the statements of standard accounting practice referred to in section 464 of the Companies Act 2006 issued by the Accounting Standards Board.

## 9. EVENTS OF DEFAULT

9.1 Where an Event of Default has occurred the CPCA may by notice in writing to the Applicant:-

9.1.1 require the Applicant to provide the CPCA with a plan to remediate and/or mitigate the effects of the Event of Default in which case the Applicant will submit the plan to the CPCA for approval within 14 Working Days of the request;

- 9.1.2 suspend or alter the timing of the payment of Funding for such period as the CPCA may reasonably determine; and/or
  - 9.1.3 vary the Maximum Sum; and/or
  - 9.1.4 require the Applicant to repay all or part of the Funding previously paid to the Applicant in which case the Applicant will within seven (7) days of receipt of a notice requesting repayment repay the sums required; and/or
  - 9.1.5 where the nature, type and extent of the Event of Default merits it or if the CPCA is not satisfied with any plan provided under Clause 9.1.1 above (as reasonably determined by the CPCA) terminate this Agreement in which case the CPCA will have no obligation to provide any further Funding and will be entitled to require the Applicant to repay all or part of the Funding previously paid to the Applicant and the Applicant will within seven (7) days of receipt of a notice requesting repayment repay the sums required.
- 9.2 In relation to the exercise by the CPCA of its rights in this Clause 9:-
- 9.2.1 the exercise by the CPCA of its rights under Clause 9 will be without prejudice to any other right of action or remedy of the CPCA (including any claim for damage) in respect of the Event of Default; and
  - 9.2.2 if the CPCA suspends the payment of Funding which is, in the sole opinion of the CPCA, due to an Event of Default capable of remedy and the Applicant, after notice in writing from the CPCA, remedies the Event of Default to the CPCA's reasonable satisfaction within such period as the CPCA will reasonably determine, the CPCA will not continue such suspension.
- 9.3 If the Applicant does not pay any sum it is obliged to pay under this Agreement when it is due, the Applicant shall pay interest at the Default Interest Rate on such outstanding amount from the due date until the date of actual payment (both before and after judgment).

## 10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Subject to Clause 10.3, the Applicant hereby grants to the CPCA a perpetual, transferable, non- exclusive, royalty-free licence (carrying the right to grant sub-licences) (the "**Licence**") to copy, use (from computer disk or otherwise) and to make publicly available all and any Intellectual Property Rights, drawings, reports, specifications, calculations and other documents and information which relate to the Project or which are derived from the Project (including the methods by which the Works were conducted) ("**Project Know-how**"), for any purpose either relating to this Agreement or to the dissemination by the CPCA of Best Practice and to enable the CPCA to amend the Project Know how or to combine with any other know-how as it thinks fit when compiling and publishing what it regards as Best Practice.
- 10.2 Subject to Clause 10.3, to the extent that any Project Know-how is generated by or maintained on a computer or in any other machine readable format, the Applicant shall, if requested by the CPCA, attempt to procure for the benefit of the CPCA at the cost of the Applicant the grant of a licence or sub-licence for the term of this Agreement and subject to any external or regulatory consents and approvals provide access to any relevant software and/or database to ensure the CPCA has the full benefit of the Licence and the CPCA shall at all times comply with the terms of such Licence.
- 10.3 The CPCA acknowledges that it does not intend to use the Licence to make commercially sensitive information publicly available.
- 10.4 The Applicant will provide the CPCA with complete copies of and access to all Project Know-how. The Applicant will provide all reasonable assistance and explanation requested by the CPCA to enable it to disseminate Best Practice.
- 10.5 Subject to clause 10.6, the Applicant agrees to indemnify the CPCA and keep it

indemnified at all times against all or any costs, claims, damages or expenses incurred by the CPCA, or for which the CPCA may become liable, in relation to:-

10.5.1 any intellectual property infringement claim or alleged infringement claim or other claim relating to the CPCA's use of the Project Know-How licensed (or purported to be licensed) under the Licence (including but not limited to all costs and damages of any kind which the CPCA may incur in connection with any actual or threatened proceedings before any court or adjudication body);

10.5.2 any breach by the Applicant of this Clause 10; and

the CPCA may at its option satisfy such indemnity (in whole or in part) by reducing the Maximum Sum.

10.6 The indemnity in clause 10.5 shall not cover the CPCA to the extent that a claim under it is determined by a court (and all avenues of appeal exhausted) to results from the CPCA's negligence or wilful misconduct or breach of the terms of use of any Licence.

## 11. FREEDOM OF INFORMATION

### 11.1 Freedom of Information

11.1.1 The Parties acknowledge that they are subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) and shall assist and co-operate with each other to enable the other to comply with their information disclosure requirements.

11.1.2 Each Party shall provide all necessary assistance and cooperation which is reasonably requested by the other Party (the "**Requesting Party**") for the purposes of complying with its obligations under the FOIA and EIRs. If a Requesting Party requires the other party (the "**Assisting Party**") to supply information to a FOIA/EIR request, the Assisting Party shall supply all such information which is within its possession or control within 5 Working Days (or such other period as is reasonably required.)

11.1.3 Each Party acknowledges that the other party (the "**Disclosing Party**") may be required under the FOIA and EIRs to disclose information without consulting or obtaining consent from the other. In such circumstances, the Disclosing Party shall take reasonable steps to notify the other Party of a request for information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Disclosing Party shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and/or the EIRs:-

## 12. DATA PROTECTION

12.1 Each Party warrants and represents that it:-

12.1.1 has all appropriate regulations, licenses and authorities required under Data Protection Laws to enable it to perform its obligations under this Agreement; and

12.1.2 obtains and Processes Personal Data (within the meaning of the Data Protection Laws) in accordance with the Data Protection Laws.

12.2 Each Party shall indemnify the other against all claims and proceedings and all liability, losses, costs and expenses incurred in connection therewith as a result of the its failure to comply with any Data Protection Laws.

12.3 Each Party shall, and the Applicant will procure that each Contractor shall, appoint and

identify an individual within its organisation authorised to respond to enquiries from the other Party concerning its compliance with this Clause 12, including those from the Information Commissioner and will to the extent as reasonably necessary co-operate with and assist in ensuring compliance with any Data Protection Laws including rights of data access, correction, blocking, suppression or deletion relating of data and in the defence or management of any enforcement action or assessment by the Information Commissioner or any other competent authority in relation thereto.

- 12.4 The Applicant undertakes to include obligations no less onerous than those set out in this Clause 12, in all contractual arrangements with Contractors engaged by it to deliver the Project and the Works.

## **12A CONFIDENTIALITY**

- 12A.1 The Parties shall keep confidential all information shared between them which may be designated as confidential obtained under or in connection with this Agreement and shall not divulge the same to any third party without the written consent of the Party in whom the ownership of the confidential information is vested.
- 12A.2 The provisions of this Clause shall not apply to:
- 12A.2.1 any information in the public domain otherwise than by breach of this Agreement;
  - 12A.2.2 information obtained from a third party who is free to divulge the same;
  - 12A.2.3 any information which is personally developed;
  - 12A.2.4 any information required to be disclosed by law.
- 12A.3 The Parties shall divulge confidential information only to those persons who are directly involved in providing the Works under this Agreement and shall ensure that such persons are aware of and comply with these obligations as to confidentiality.
- 12A.4 The provisions of this Clause shall continue in perpetuity.

## **13. FURTHER ASSURANCE**

On the written request of the CPCA the Applicant will promptly execute and deliver or procure the execution and delivery of any further documents reasonably necessary to obtain for the CPCA the full benefit of this Agreement.

## **14. GOOD FAITH**

Both Parties will at all times act with the utmost good faith when dealing with each other, the Contractors and any other person or entity involved on the Project.

## **15. INDEMNITY**

The Applicant will be liable for and will indemnify the CPCA in full for any expense, liability, loss, claim or proceedings arising under statute, tort (including negligence), contract and/or at common law in respect of personal injury to or death of any person or loss of or damage to property (whether belonging to the CPCA or otherwise) or any claim by any third party arising directly or indirectly out of or caused or contributed to by the Project and/or the performance or non-performance or delay in performance by the Applicant of any of its obligations under this Agreement except to the extent that the same is due to any act or neglect of the CPCA.

## **16. REPRESENTATIVES**

### **16.1 Authority of the Applicant Representative**

The Applicant Representative has full authority to act on behalf of the Applicant for all purposes of this Agreement. The CPCA and the CPCA Representative are entitled to treat any act of the



Applicant Representative in connection with this Agreement as being expressly authorised by the Applicant (save where the Applicant has notified the CPCA in writing that such authority has been revoked) and the CPCA will not be required to determine whether any express authority has in fact been given.

#### **16.2 Authority of CPCA Representative**

The CPCA Representative has full authority to act on behalf of the CPCA for all purposes of this Agreement. The Applicant and the Applicant Representative are entitled to treat any act of the CPCA Representative in connection with this Agreement as being expressly authorised by the CPCA (save where the CPCA has notified the Applicant in writing that such authority has been revoked) and the Applicant will not be required to determine whether any express authority has in fact been given.

#### **16.3 Notices**

Subject to Clause 21, any notice, information, instructions or public communication given in writing to the CPCA Representative or the Applicant Representative will be deemed to have been given to their respective appointing Party.

#### **16.4 Successor Representatives**

Either Party may change the identity of their Representative and will appoint a successor following (as far as practicable) consultation with the other Party.

### **17. ASSIGNMENT AND SUB CONTRACTING**

17.1 Either Party may assign or novate its rights and/or obligations under this Agreement to a statutory successor body or where a Statutory Requirement dictates this and in such circumstances the affected Party will give the other Party notice of the anticipated statutory assignment or novation (as applicable) as soon as possible after the affected Party has become aware of it and will also notify the other Party within 5 Working Days of the completion of the statutory assignment/novation.

17.2 Except as expressly permitted in this Agreement, no Party will, without the prior written consent of the other Party, novate, assign, sub license, sub contract, transfer or charge this Agreement or any part of it.

### **18. VALUE ADDED TAX**

18.1 The Parties understand and agree that the Funding by the CPCA under this Agreement is not consideration for any supply for Value Added Tax ("VAT") purposes whether by the Applicant or otherwise.

18.2 If, notwithstanding the agreement and understanding of the Parties as set out in Clause 18.1 above, it is determined that the Funding is consideration for a supply for VAT purposes, the Funding shall be treated as inclusive of any VAT.

18.3 All sums or other consideration payable to or provided by the Applicant to the CPCA at any time will be deemed to be exclusive of all VAT payable and where any such sums become payable or due or other consideration is provided the Applicant will pay to the CPCA all the VAT payable upon the receipt of a valid VAT invoice.

### **19. NO FETTERING OF DISCRETION/STATUTORY POWERS**

Nothing contained in or carried out pursuant to this Agreement and no consents given by the CPCA or the Applicant will unlawfully prejudice the CPCA's or the Applicant's (as appropriate) rights, powers or duties and/or obligations in the exercise of its functions or under any statutes, byelaws, instruments, orders or regulations.

### **20. NOTICES**

- 20.1 Any demand, notice, agreement or other communication given or made under or in connection with this Agreement shall be in accordance with this Clause 20.
- 20.2 Subject to Clause 20.3, any communication between CPCA and the Applicant in the performance of this Agreement shall be made electronically. All such electronic communication shall be sent to the electronic mail address of the other Party's Representative. Where either Party so requires it any such electronic correspondence shall be followed with non-electronic paper copies which shall be posted to the receiving Party.
- 20.3 Where any notices or demands are to be served in accordance with this Agreement which are more formal than day to day correspondence and communication, then such notices or demands shall be made in writing, served in non-electronic format and duplicated electronically to a Party's Representative. In these circumstances, notice will be deemed to have been duly given or made:-
- 20.3.1 if sent by prepaid first class post, on the second Working Day after the date of posting; or
- 20.3.2 if delivered by hand, upon delivery at the address provided for in Clause 20.4, provided however that, if it is delivered by hand on a day which is not a Working Day or after 4:00pm on a Working Day, it will instead be deemed to have been given or made on the next Working Day.
- 20.4 Any such demand, notice or other communication will be addressed, in the case of service by post or delivery by hand, to the recipient's address set out in this Agreement (or at such other address as may from time to time be notified in writing by the recipient to the sender as being the recipient's address for service):-

CPCA	Attention: Rowland Potter Head of Transport
The Applicant	Attention: Simon Machen, Director of Growth and Infrastructure

- 20.5 For the avoidance of doubt, where proceedings have been issued in the Courts of England, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

## 21. DISPUTE RESOLUTION

### 21.1 Use of Senior Officers

If any dispute arises between the Parties relating to or arising out of this Agreement either Party involved will in the first instance notify the other that the dispute is to be referred to Senior Officers in order to seek a resolution. The Senior Officer for the CPCA will be the Head of Legal Services and Monitoring Officer, and for the Applicant will be the Monitoring Officer or Principal Solicitor. Either Party may change the details of such Senior Officers by written notice to the other.

### 21.2 Referral to Expert

- 21.2.1 If there has been no resolution of the dispute within 30 days of the referral to Senior Officers either Party may give to the other written notice referring the dispute to a suitably qualified independent Expert for determination in accordance with this Clause.
- 21.2.2 The Expert shall be required to prepare a written decision and give notice (including a copy) of the decision to the Parties within a maximum of three months of the matter being referred to the Expert.
- 21.2.3 If the Expert dies or becomes unwilling or incapable of acting, or does not

deliver the decision within the time required by this clause then:-

- (a) either Party may apply to the professional body/association to discharge the Expert and to appoint a replacement Expert with the required expertise; and
- (b) this Clause shall apply in relation to the new Expert as if he were the first Expert appointed.

- 21.2.4 The Parties shall be entitled to make submissions to the Expert (including oral submissions) and shall provide (or procure the provision to) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 21.2.5 Each Party shall (with reasonable promptness) supply each other with all information and give each other access to all documentation and personnel as the other Party reasonably requires to make a submission under this Clause.
- 21.2.6 The Expert shall act as an expert and not as an arbitrator. The Expert shall determine the matter in dispute (which may include any issue involving the interpretation of any provision of this Agreement, his jurisdiction to determine the matters and issues referred to him or his terms of reference). The Expert's written decision on the matters referred to him shall be final and binding on the Parties in the absence of manifest error or fraud.
- 21.2.7 Each Party shall bear its own costs in relation to the reference to the Expert. The Expert's fees and any costs properly incurred by him in arriving at his determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the Parties equally or in such other proportions as the Expert shall direct.

### **21.3 Matters of law**

Matters of law will be referred to Senior Officers or mediation but if not resolved within 30 days may be referred to and become subject to the jurisdiction of the courts.

## **22. RIGHTS OF THIRD PARTIES**

Nothing in this Agreement will confer any rights or obligations on any person who has not executed this Agreement nor will the consent of any person who has not so executed this Agreement be needed to make any modification, amendment, variation or release of its terms. The Parties agree for the purposes of the Contracts (Rights of Third Parties) Act 1999 that they do not intend any person other than a Party to be able to enforce any term of this Agreement.

## **23. ENTIRE AGREEMENT**

This Agreement and the documents referred to in it 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.

## **24. SEVERANCE**

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 or enforceability of the remaining provisions of this Agreement will be in any way affected or impaired as a result.

## **25. DISCLAIMER**

The CPCA will not be liable to the other Party for any advice given by a representative of the CPCA. In addition, the CPCA gives no assurance as to the suitability or viability of the Project

and no endorsement of the same.

**26. GOVERNING LAW**

This Agreement will be governed by and construed in accordance with the laws of England & Wales.

**27. MISCELLANEOUS**

27.1 This Agreement confers no permission, consent or approval.

27.2 The CPCA will act reasonably in deciding whether to give any consent, agreement, determination or approval or express its satisfaction and whether to give any such consent agreement, determination or approval or express its satisfaction subject to restrictions, terms or conditions unless in each case to do so would fetter its statutory powers, rights or obligations.

27.3 No variation or modification to this Agreement is valid unless it is in writing and signed by the Parties.

IN WITNESS of which this Agreement has been duly executed on the date written at the beginning of this Agreement.

**Executed as a Deed by the** )  
**CAMBRIDGESHIRE AND** )  
**PETERBOROUGH** )  
**COMBINED** )  
**AUTHORITY acting by**

Authorised Signatory

**Monitoring Officer**

Signature of witness .....

Name (in BLOCK CAPITALS) .....

Address .....

.....

**Executed as a Deed by FENLAND  
DISTRICT COUNCIL by affixing its  
COMMON SEAL in the presence of:**

.....  
Authorised Signatory

**SCHEDULE 1**  
**QUALITY STANDARDS FOR THE WORKS**

The Quality Standards for the Works shall comprise:

- the Business Case and associated design and physical works. This phase of the Project which relates to the Funding must assess the benefits and costs of the various options to identify a preferred option, provide a more detailed cost estimate and benefit for the preferred option, and provide sufficient information to produce a further business case allow the CPCA to make a decision as to whether or not to progress to the next phase of the Project;
- To be developed in conjunction with the Department for Transport Analysis Guidance (TAG) and Network Rail GRIP, a process to assess value for money and the local economic impacts, it must be structured as per the HM Treasury 5-case model and should not conflict with the CPCA Assurance Framework;
- A costed programme should be included in the Business Plan as amended from time to time and kept up to date through the lifetime of the Project;
- Develop an evaluation plan prior to commencement of any Works to monitor the success of the Project and the achievement of the desired outputs;
- Undertake road safety audits at designated stages, and address issues raised either by incorporating recommendations into the design or responding to the audit team. Where recommendations are not adopted, the reasons given should be accepted by the FDC client Project Manager;
- Identify how the Applicant will undertake its responsibilities as set out in the Construction (Design and Management) Regulations 2015;
- Identify the strategy for land acquisition if required, whether by agreement or compulsory purchase and identify key decision points;
- Highlight and Financial Reports must be developed by the Project Manager and sent to CPCA within the set timescales, along with or including information on financials, RAG status, milestones and risks.

**SCHEDULE 2 CLAIM FORM**

**COMBINED AUTHORITY  
CLAIM AND MONITORING FORM**

**1. CLAIM DETAILS**

Programme / Project Title	
Quarter /Month this claim refers to (unless otherwise agreed)	
Funding Recipient Organisation	
Address: Postcode: Email: Telephone Number:	
Date of Partnership Agreement	
Programme / Project Start Date	
Programme / Project End Date	
Maximum amount of grant/loan approved	
Total expected programme / project cost	
Total grant / loan received to date (current agreement)	
Programme / Project claim number	
Forecast spend this period (as per Partnership Agreement)	
Actual spend this period	
Forecast spend next period & attach expenditure forecast unless same as per funding agreement.	

**2. Project Budget and Funding Statement**

Please provide the following information as part of this claim:

- Summary of costs claimed as part of this claim in spreadsheet format, including summary lines for different types of spending relevant to the project.
- Current programme / project profile – restated if progress requires it. This should align with monitoring information provided to CPCA.
- Transactional listing from the Finance System used to record spending, confirming the details of vendor / costs incurred and claimed, summarised on the same basis as the summary spreadsheet at 1. Above – this replaces the need to submit invoices / primary evidence of spending and is validated/assured in total by the s151 sign off below.

**3. Declaration by s151 Officer**

<b>I believe the above information to be accurate. I claim a grant drawdown of £xxx and certify that this amount is not more than is payable in accordance with the provisions of the Partnership Agreement and accurately reflects reimbursement of costs incurred in delivery of the agreed programme / projects</b>	
Name	
Signature	
Date	
Position	
Telephone	
Email	

Parts 1 to 3 must be completed and signed off by the same person who signed the project funding agreement. When completed please forward to:

Head of Transport – Rowland Potter  
**Cambridgeshire and Peterborough Combined Authority**  
**Alconbury Weald Enterprise Campus**  
**Alconbury Weald**  
**Huntingdon**  
**PE28 4WX**

E: [rowland.potter@cambridgeshirepeterborough-ca.gov.uk](mailto:rowland.potter@cambridgeshirepeterborough-ca.gov.uk)

Claims can be emailed providing they include an authorised signature from the s151 officer.





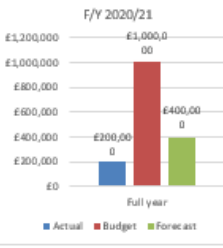
**SCHEDULE 3**

**EVENTS THAT INCREASE RISK DURING THE PROJECT LIFE AND MAY GIVE RISE TO THE CPCA SUSPENDING TERMINATING OR RECLAIMING FUNDING.**

- a) Whether through delay, poor project management or otherwise, the costs of the Project are escalating to an extent that, in the CPCA's reasonable opinion, is unacceptable;
- b) Circumstances have arisen or events have occurred which have affected the Applicant's ability to manage and complete the Project in accordance with the terms of this Agreement;
- c) Making any significant change (meaning any change which increases cost by more than five per cent (5%) or extends the duration of the Works by two (2) months) to the Project without the approval of CPCA or, where an unapproved change can be reversed, fails to reverse it if asked to do so by CPCA;
- d) In support of the application for funding or in a claim for payment or other communication concerning this funding, the Applicant or anyone on their behalf has provided, or provided information that is in any material respect incorrect, incomplete or otherwise misleading;
- e) A report from an external auditor is unsatisfactory because it contains an adverse opinion, a qualified opinion or a disclaimer of opinion;
- f) The Applicant fails to take adequate measures to investigate and resolve any reported irregularity.

**SCHEDULE 4 - REPORTS**

**HIGHLIGHT MONITORING REPORTS (MONTHLY)**

Date									
<b>CPCA - Project Highlight Report</b>									
									
<b>Project Name</b>				<b>Previous Status</b>		<b>Current Status</b>			
<b>Project Number</b>		<b>Project Stage</b>		<b>Project description</b>					
<b>Project Manager</b>		<b>Director</b>							
<b>Project Start Date</b>		<b>Cost Benefit Ratio/YfM number (last reviewed)</b>		<b>Project update and rationale for current</b>					
<b>Agreed Completion Date</b>		<b>Forecast Completion Date</b>							
<b>Financials</b>					<b>Monitoring and Evaluation</b>				
<b>Financial Year 2020/21</b>	<b>Actual spend - year to date</b>	£200,000				<b>Key outputs/deliverables</b>			
	<b>Year to date</b>	<b>Full year</b>							
<b>Budget (Approved to spend)</b>	£400,000	£1,000,000				<b>Expected impacts (Delete point if not applicable)</b>		<ul style="list-style-type: none"> <li>• GYA:</li> <li>• Housing:</li> <li>• Employment:</li> <li>• Other Metrics:</li> </ul>	
<b>Forecast</b>	£400,000	£400,000							
<b>Financial commentary</b>									
<b>This Period Activities</b>					<b>Next Period Activities</b>				
<b>Project Milestone Progress (Key Milestones/Tasks)</b>									
Task #	Milestones/tasks		Milestone/task risk	Original agreed start date	Original agreed end date	Revised end date (if different)	% Progress (% complete - 0 to 100)	RAG status	
1									
2									
3									
4									
5									
<b>Key Risks and Issues (Top 5)</b>									
Risk ID	Last updated	Risk type	Description/summary	Impact	Likelihood	RAG (impact x likelihood)	Mitigation		
1	00 January 1900	0	0	0	0	0	0		
2	00 January 1900	0	0	0	0	0	0		
3	00 January 1900	0	0	0	0	0	0		

**SCHEDULE 1 -  
FIRST CPCA FUNDING AGREEMENT**

**FINANCIAL MANAGEMENT REPORTS (MONTHLY)**

Project Name:	<input type="text" value="Please Select"/>	Period:	<input type="text" value="Feb"/>	Y/Ending;			
CPCA Project Number:	<input type="text" value="Autofill"/>	CPCA Programme Manager:	<input type="text" value=""/>	Year 0	Year 1	Year 2	Previous
CPCA Cost Centre:	<input type="text" value="Autofill"/>	Backup attached?	<input type="text" value="Select"/>	2017	2018	2019	Years Total
CPCA Finance Service Area:	<input type="text" value="Autofill"/>	CPCA Agresso Comments:	<input type="text" value="Complete"/>	Actual	Actual	Actual	Actual
				CA Actual	-	-	-
				PM Actual:	-	-	-

Year 3	2019-20	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
	CPCA Total	-	-	-	-	-	-	-	-	-	-	-	-	-
	Claim or Period Number													n/a
<b>Actual</b>	Invoiced													-
	Accruals													-
	<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Approved Budget</b>	Baseline													-
Variations:	Timing													-
	Efficiencies	-	-	-	-	-	-	-	-	-	-	-	-	-
	Additional Activity	-	-	-	-	-	-	-	-	-	-	-	-	-
	Scope Change	-	-	-	-	-	-	-	-	-	-	-	-	-
	Other	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Forecast</b>	[Auto calc]	-	-	-	-	-	-	-	-	-	-	-	-	-

Period Var:       YTD Var:       Full Yr Var:

Please provide comments on the financial performance, particularly on variances to Budget;

Year 4	2020-21	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
	CPCA Agresso Financials [Info]	-	-	-	-	-	-	-	-	-	-	-	-	-
	Claim / Period Number													n/a
<b>Actual</b>	Invoiced	-	-	-	-	-	-	-	-	-	-	-	-	-
	Accruals	-	-	-	-	-	-	-	-	-	-	-	-	-
	<b>Total</b>	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Approved Budget</b>	Baseline	-	-	-	-	-	-	-	-	-	-	-	-	-
Variations:	Timing	-	-	-	-	-	-	-	-	-	-	-	-	-
	Efficiencies	-	-	-	-	-	-	-	-	-	-	-	-	-
	Additional Activity	-	-	-	-	-	-	-	-	-	-	-	-	-
	Scope Change	-	-	-	-	-	-	-	-	-	-	-	-	-
	Other	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Forecast</b>		-	-	-	-	-	-	-	-	-	-	-	-	-

Please provide comments on the financial performance, particularly on variances to Budget;

CLOSURE REPORT

Project Details						
Project Number:		Project Name:				
Internal Project Manager:			External Project Manager			
Project Start Date:		Agreed Project Completion Date:				
Original Project Scope:						
What has been delivered:						
Project Outcomes						
Project Outcomes:	Including future projected outcomes					
	YYYY	YYYY	YYYY	YYYY	YYYY	YYYY
GVA						
Housing Units Facilitated						
Jobs Created (fte)						
Jobs Safeguarded (fte)						
Temporary Jobs Created (fte)						
Improved journey times						
Reduced congestion						
New Transport Infrastructure (km)						
Other						
Finance						
	Year 1	Year 2	Year 3	Year 4	Year 5	
Actual Years e.g. 2019/2020:						
Original Budget:						
Completed Budget:						
Variances:	£ -	£ -	£ -	£ -	£ -	
Explanation of Variances						
Explanation of Variances						
Grant Funding Contractual Obligations						
Grant Funding Contractual Obligations						
Legal / Procurement						
Is there an original signed contract(s)?						
Has the original signed contract(s) been sent to the legal team?						
Have all legal and procurement documents been saved to SharePoint?						
Are there any outstanding disputes?						
Additional Information						
Has a final highlight report been submitted for this project? All milestones for that stage at 100%						
Has an agreed monitoring and evaluation plan been agreed with the team / Project Board?						
Has a post project meeting take place with agreement on next steps?						

ANNUAL QUALIFYING EXPENDITURE STATEMENT

This statement is given in respect of Cambridgeshire and Peterborough Combined Authority's (CPCA)'s 2019/2020 final accounts and on the state of my organisation's operations up to the date on which my signature has been appended below.

The information provided in this section of the document is given to the best of my knowledge in connection with the areas for which I have responsibility.

I have made appropriate enquiries with other officials of the organisation and of information systems and records maintained and can confirm the following statements as detailed in the column below headed 'Area of Responsibility'. However, where I am aware of such circumstances, I am able to provide further relevant information in the column headed 'Details and Action Plan':

Ref	Area of Responsibility	Confirmed		Details (and Action Plan)
		Yes	No	
1	In my Organisation there are:			
1.1	No provisions or contingent liabilities that are likely to have a significant effect on CPCA finances or operations.			
1.2	No instances of non-compliance with laws or regulations that are likely to have a significant effect on CPCA finances or operations.			
1.3	No pending claims, proceedings or litigation that are likely to have a significant effect on CPCA finances or operations.			
1.4	No other significant transactions with related parties other than those already disclosed.			
1.5	No instances of known error, irregularity, including fraud, which are likely to have a significant effect on CPCA finances or operations.			
1.6	No financial guarantee agreement has been entered into which leads to a potential future liability for CPCA.			
1.7	No other events or conditions exist that may cast doubt on the CPCA's ability to continue as a going concern.			

**Expenditure incurred by the directorate on behalf of the Combined Authority for the year to 31st March 2020 – Outstanding Balances at year end.**

Please:

- confirm the amounts incurred by your organisation on behalf of Cambridgeshire and Peterborough Combined Authority for the period to 31st March 2020, for which no invoice or claim has been raised to the Combined Authority as at 31st March 2020.
- provide details of the breakdown of charges against each project or budget area on a separate schedule. To include details of payments to external suppliers and amounts in respect of your organisation's staff recharges.

SCHEDULE 1 -  
FIRST CPCA FUNDING AGREEMENT

- confirm that the amounts incurred were in respect of purchases and charges that had been approved in advance with the Combined Authority and for which there had been Board approved budget allocation.

**Certified By:**

**Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post Title:** \_\_\_\_\_

## SCHEDULE 5

### THE PROJECT WORKS

The Project Works must deliver the decision as detailed in the CPCA Board Paper of the 28 March 2018

The Works include a mixture of both Business Case and physical works.

The Business Case must provide in summary:

- A long, medium and short list of options
- An outline business Case as per the HM Treasury 5-case mode
- Value for money assessments
- Outline engagement with stakeholders and have stakeholder input into the report where required.
- Land assessment and purchase
- It shall provide sufficient information to allow the Cambridgeshire and Peterborough Combined Authority Board to make a decision as to whether or not to progress to the next stage.

The following table provides a summary of the deliverables for each station improvement;

Item no	Item in the Programme
1	Waiting Shelters (1 for Manea and 2 for Whittlesea)
2	Stud lighting at Whittlesea Station
3	Cycle Parking at March Station – local contribution only
4	Second ticket machine at Whittlesea Station
5	March Stn feasibility and outline design work – all projects except the canopy
6	March Stn feasibility and outline design work – canopy only
7	Manea Car Park feasibility and outline design work
8	Whittlesea Car Park & Entrance feasibility and outline design work
9	Other technical studies associated with the outline design and feasibility work for Manea and Whittlesea car park projects – ecology, drainage, Road Safety Audit etc
10	March Stn – GA fee for the D & B Procurement
11	March Stn - Detailed Design for the Platform 1 building
12	March Stn – Detailed Design for the existing car park with an extension
13	Manea Stn – Detailed Design for Manea Car Park
14	Whittlesea Stn – Detailed Design for Whittlesea Car Park phase 1
15	Business Case work – SOBC, OBC and FBC
16	Project Management & Salaries
17	Land Purchase – Manea Station Car Park

It is intended by the Parties that unused Funding from the Maximum Sum will be used for construction in accordance with Clause 4.1.6.

**SCHEDULE 6**  
**EVENTS OF DEFAULT**

An Event of Default occurs where :

1. any pre-conditions listed in Clause 4.1 are not met (or waived by the CPCA);
2. any breach of any representation or warranty (when made or repeated) by the Applicant pursuant to this Agreement;
3. the Works and/or the Project have not been carried out :-
  - 3.1 in compliance with all relevant Statutory Requirements;
  - 3.2 in accordance with the Business Case;
  - 3.3 in a good and workmanlike manner and in accordance with Good Industry Practice; and/or
  - 3.4 Subject to Force Majeure, the works have not been achieved in the timescale set out in the Business Case in accordance with clause 5.1 of this Agreement.
4. the Applicant and/or any Contractor does not have sufficient funds or resources available to complete the Project or the Works (in respect of the Applicant) in accordance with this Agreement. Any enforcement action is taken or other right is enforced by the Regulatory Body in relation to the Applicant, any Contractor, any Works and/or the Project; or
5. there is a Material Breach of this Agreement which, if capable of remedy, has not been remedied within 30 days of the CPCA notifying the Applicant of the breach and requesting remedy; and/or
6. the Applicant has committed any default (however described) or any other event entitling the CPCA to terminate or demand repayment of any amount advanced to the Applicant by CPCA under any other agreement.



## **SCHEDULE 7 NOTIFIABLE EVENTS**

### **1. PROJECT COSTS**

The Applicant will notify the CPCA in writing:-

- 1.1 on an increase in the anticipated or actual costs of the Works (where it is likely to exceed the Maximum Sum);
- 1.2 on becoming aware of any event or circumstance which might have any Material Adverse Effect;
- 1.3 on becoming aware of any event or circumstance which may attract adverse publicity to the Project and / or the CPCA;
- 1.4 on becoming aware of any claim brought against the Applicant and/or any Contractor relating to the Works and/or the Funding; and
- 1.5 on there being a proposed change to the project design and/or the Works Contracts that increases cost by more than 5% or more or extends the duration of the Works.

### **2. EVENTS OF DEFAULT AND STATUTORY REQUIREMENTS**

The Applicant will notify the CPCA immediately in writing:-

- 2.1 on becoming aware of any breach of any health and safety law or regulation including, but not limited to:-
  - 2.1.1 a fatal accident to any worker or a member of the public;
  - 2.1.2 any injury to a member of the public requiring reporting under RIDDOR;
  - 2.1.3 any dangerous occurrence, as defined by RIDDOR;
  - 2.1.4 the service of any improvement or prohibition notice under the Health and Safety at Work etc. Act 1974;
  - 2.1.5 any incident having health & safety implications which attracts the attention of the police and/or the media, by the Applicant and/or any Contractor directly or indirectly related to the Works;
- 2.2 on becoming aware of any investigations undertaken or sanctions imposed by the Environment Agency or any local authority relating to environmental incidents and/or any environmental incident occurring directly or indirectly relating to the Works (or any part of them) which may be a breach of any environmental law or regulation in force at the time of the incident whether the Applicant and/or any Contractor and/or any other third party is responsible for the incident or is the subject of such investigations and/or sanctions (as appropriate) and on such notification form as the CPCA may provide from time to time;
- 2.3 on becoming aware of investigations into or findings of any breach of any equality or anti- discrimination legislation or regulations directly or indirectly related to the Works (or any part of them) whether the Applicant and/or any Contractor and/or any other third party is responsible for the breach or is the subject of the investigation (as appropriate); and
- 2.4 on the occurrence of an Event of Default.

### **3. RESOLUTION**

In the event of notification by the Applicant under this Schedule, if applicable and if requested by the CPCA, the Applicant will provide, together with such notification, a proposal for resolution or mitigation of the event and will take into account all reasonable representations of the CPCA on such proposals.

**SCHEDULE 2  
PROPOSED WORKS TO BE COMPLETED UNDER  
THE FURTHER CPCA AGREEMENTS**

The following table provides a summary of the deliverables for each station improvement;

Item no	Item in the Programme
1	A car park for Manea Station
2	A car park for Whittlesea Station
3	To upgrade and extend the current March Station car park - a possible longer term second phase extension is under consideration for which land would need to be purchased.
4	To re-design the platform one building at March Station - this includes changes to the ticket office, waiting room, shop area and toilets
5	Completion of feasibility and technical studies including outline design work for the platform extensions at Manea Station
6	Completion of feasibility and technical studies including outline design work for the platform extensions at Whittlesea Station
7	Completion of feasibility and technical studies including outline design work for a pedestrian bridge at Whittlesea Station
8	Detailed design and build for the platform extensions at Manea Station
9	Detailed design and build for the platform extensions at Whittlesea Station
10	Detailed design and build for the pedestrian bridge at Whittlesea Station
11	Project Management & Salaries

### SCHEDULE 3 - PROPOSED WORKS TO BE COMPLETED UNDER THE GA AGREEMENT

The following table provides a summary of the deliverables for each station improvement;

Item no	Item in the Programme
1	Waiting Shelters (1 for Manea and 2 for Whittlesea)
2	Stud lighting at Whittlesea Station
3	Cycle Parking at March Station – local contribution only
4	Second ticket machine at Whittlesea Station
5	March Stn feasibility and outline design work for the car park and platform one building
6	March Stn feasibility and outline design work – canopy
7	Manea Car Park feasibility and outline design work
8	Whittlesea Car Park & Entrance feasibility and outline design work
9	Other technical studies associated with the outline design and feasibility work for Manea and Whittlesea car park projects – ecology, drainage, Road Safety Audit etc
10	March Stn – detailed design and build procurement
11	March Stn - Detailed Design and build for the Platform 1 building
12	March Stn – Detailed Design and build for the existing car park with an extension
13	Whittlesea Stn – Detailed Design for Whittlesea Car Park phases 1 and 2