

# **Governance and Assurance Framework**

## **Section F: Accountable Body Agreement**

**June 2021**

Dated 15 December 2020

**STAFFORDSHIRE COUNTY COUNCIL  
AND  
MIDLANDS ENGINE PARTNERSHIP**

**ACCOUNTABLE BODY AGREEMENT**

This Agreement is made on 1<sup>st</sup> October 2020

BETWEEN:

**STAFFORDSHIRE COUNTY COUNCIL** of Staffordshire Place 1, Tipping Street,  
Stafford, ST16 2DH (**SCC**)

**THE MIDLANDS ENGINE PARTNERSHIP (ME)**

hereinafter individually referred to as a “Party” and collectively referred to as the “Parties” in this Agreement.

## **BACKGROUND**

- A. The ME was established in 2016 with the aim of stimulating growth in the economy across the Midlands area.
- B. The Ministry of Housing, Communities and Local Government requires that the ME develops a single assurance framework to cover all devolved Government funding received by the ME. The ME has been allocated monies from Central Government which can only be paid to a local authority nominated as an Accountable Body. SCC has agreed that it will act as the Accountable Body in respect of funding received by the ME.
- C. The purpose of this Accountable Body Agreement is to set out the respective roles and responsibilities of SCC acting as the accountable body for the ME and associated matters in relation to the application and allocation of the devolved Government funding to relevant projects and programmes.
- D. SCC is empowered under Section 1(1) Localism Act 2011.
- E. SCC has agreed to be the Accountable Body for the ME at its Cabinet meeting on 16th September 2020.

## **IT IS AGREED AS FOLLOWS:**

### **Definitions**

1. In this Agreement the following terms shall have the following meanings:

**Accountable Body** means SCC;

**Additional Costs** means the costs reasonably incurred (as decided by the ME acting reasonably) by the Accountable Body for any Additional Services up to a maximum annual amount pre-agreed in writing by both Parties;

**Additional Services** means any services not listed in Schedule 2 to the Agreement which are undertaken by the Accountable Body in its role acting on behalf of the ME and which the Accountable Body is not reimbursed for via the Annual Fee;

**Agreement** means this Accountable Body Agreement and any schedules;

**Chief Executive** means the Chief Executive of SCC;

**Confidential Information** means any and all information, whether disclosed orally or in writing or in any other form, and disclosed on or after the date of this Agreement, owned or controlled by one Party and disclosed by the other Party;

**Data Protection Legislation** means the Data Protection Act 2018, the GDPR 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.

**EIR** means the Environmental Information Regulations 2004;

**Effective Date** means 1<sup>st</sup> October 2020.

**FOIA** means the Freedom of Information Act 2000;

**Financial Year** means during the continuance of the Agreement any period commencing on 1 April and ending on 31 March or part thereof;

**Funding** means all and any devolved Government funding held by SCC as Accountable Body and to be allocated by the Midlands Engine Partnership pursuant to the Assurance Framework;

**GDPR** means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing directive 95/46/EC;

**Projects/Programmes** the schemes allocated through the Midlands Engine Scheme of Delegation and in accordance with The ME Assurance Framework;

**Scheme Promoter** means an organisation which supports and promotes any of the Projects or Programmes, which may also include SCC;

**Senior Representatives** means the Chief Executive and a representative nominated by the ME to act on behalf of the ME;

**The ME Assurance Framework** means the ME Assurance Framework

2. In this Agreement except where the context otherwise requires:
  - 2.1 words importing the masculine also include the feminine and vice versa;
  - 2.2 words importing the singular also include the plural and vice versa;
  - 2.3 a reference in this Agreement to any clause, sub-clause, paragraph or schedule is, except where it is expressly stated to the contrary, a reference to such clause, sub-clause, paragraph or schedule of this Agreement;
  - 2.4 any reference in this Agreement to this Agreement or to any other document shall include any permitted variation, amendment or supplement to such document;
  - 2.5 any reference to any enactment, order, regulation, code, guidance or other similar instrument shall be construed as a reference to the enactment, order, regulation,

code, guidance or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;

2.6 a reference to a person shall, where the context so requires or admits, include individuals, firms, partnerships, trusts, corporations, governments, governmental bodies, authorities, agencies, unincorporated bodies or persons or associations and any organisations having legal capacity;

2.7 headings are for convenience of reference only and should not be incorporated into this Agreement and shall not be deemed to be any indication of the meaning of the clauses to which they relate;

2.8 words preceding “include”, “includes”, “including” and “included” shall be construed without limitation by the words which follow those words;

2.9 the Schedules to this Agreement form part of this Agreement and any reference to this Agreement includes reference to the Schedules;

2.10 references to “the Parties” shall be to the Parties to this Agreement;

2.11 References to any Law are to be construed as references to that Law as from time to time amended or to any Law from time to time replacing, extending, consolidating or amended the same;

2.12 The words in this Agreement shall bear their natural meaning. The Parties have had the opportunity to take legal advice on this Agreement and accordingly it should not be construed strictly against either Party;

2.13 Where this Agreement states that an obligation shall be performed “no later than” or “within” or “by” a prescribed number of Working Days, or a stipulated date or event which is a prescribed number of Working Days after a stipulated date or event, the latest time for performance shall be noon on the last Working Day for performance of the obligations concerned.

## **Duration and Review**

3. This Agreement shall commence on the Effective Date and shall continue in effect until SCC terminates the Agreement in accordance with Clause 29 of this Agreement.
4. The Services provided by the Accountable Body shall be reviewed annually by the Midlands Engine Partnership, or at other times as necessary in accordance with best practice advice for Governance arrangements applicable or as needed to support operations. For the avoidance of doubt the Midlands Engine is a partnership, not a Local Enterprise Partnership (LEP).

## **Roles and responsibilities**

5. It is the overriding responsibility of the Midlands Engine Partnership to ensure that Midlands Engine Partnership allocates, or otherwise, deals with the Funding in such a way which does not breach the terms and conditions upon which SCC as Accountable Body has received the Funding for the purposes of the Midlands Engine and is in accordance with the Midlands Engine Scheme of Delegation and complies in accordance with the grant determination from Government.
6. The overall roles and responsibilities of the Parties are set out in the Schedule 1 to this Agreement, and the list of services provided by the Accountable Body in Schedule 2.

## **Governance and decision making**

7. The governance and working arrangements between the Parties shall be in accordance with the ME Scheme of Delegation and in accordance with the ME Assurance Framework

## **Financial Arrangements**

8. Unless otherwise agreed, SCC is not responsible for Projects or Programmes for which it is not the Scheme Promoter and in respect thereof for compliance with any grant conditions which shall include the obligation to repay in whole or part the Funding in the event of non-compliance with any grant conditions.
9. As the Accountable Body, SCC will enter into any required grant funding and/or loan agreement with a Scheme Promoter in relation to any part of the Funding allocated to such Scheme Promoter which shall substantially be in the form of contract or collaboration agreement and paid for through the allocated funds to the Midlands Engine.
10. In the event that a Scheme Promoter who is a recipient of any part of the Funding granted by ME fails to comply with the terms and conditions in the contract/collaboration agreement and/or any other aspect of the same, SCC as the Accountable Body will use reasonable endeavors to recover such sums as may be due and to enforce such terms.
11. SCC as the Accountable Body shall:
  - 11.1 establish and maintain a financial system to account for all monies received and disbursed on behalf of ME;
  - 11.2 transfer, subject to due diligence, the Funding for the Projects/Programmes on behalf of the ME;
  - 11.3 receive income and make timely payments for and on behalf of ME;
  - 11.4 maintain proper records of all monies received and disbursed for ME and make such records available for inspection by both internal and external regulators;
  - 11.5 arrange regular audit examination of ME activities with regards to use of public resources and, following each audit, present a report to ME with recommendations to strengthen their governance and management practices;
  - 11.6 supply, as necessary, completed statements of income, expenditure and disbursement to ME, funding organisations, central government and external auditor.

12. Interest shall accrue on the Funding which shall be held by SCC and as agreed between the Parties distributed, taking into account the reasonable costs of SCC for acting as the Accountable Body. The Parties will agree a more detailed procedure in relation to such interest within (3 months) of the Effective Date of this Agreement.
13. ME shall:
  - 13.1 Co-operate with and assist SCC acting in its role as Accountable Body in undertaking the day to day responsibility for financial matters;
  - 13.2 Co-operate with and assist SCC in regular audit examinations of all operating systems;
  - 13.3 Report any financial irregularity or suspected irregularity in the use of any of the Funding to SCC as soon as reasonably practicable.

### **Record Keeping and Communication**

14. The Parties shall ensure that a proper record is kept of the proceedings of the ME.
15. A communication protocol in relation to publicity and disclosure of information shall be agreed between the Parties including the management and timing of such communications.

### **Freedom of Information**

16. ME acknowledges that SCC as Accountable Body is subject to the requirements of the FOIA and the EIR and shall:
  - 16.1 provide all necessary assistance and cooperation as reasonably requested by SCC to enable SCC to comply with its obligations under the FOIA and the EIR; and
  - 16.2 provide SCC with a copy of all information belonging to SCC requested in the Request for Information which is in its possession or control in the form that SCC requires within 7 Working Days (or such other period as SCC may reasonably specify) of SCC's request for such information; and
  - 16.3 not respond directly to a Request for Information unless authorised in writing to do so by SCC.
17. ME acknowledges that SCC may be required under the FOIA and the EIR to disclose Information concerning this Agreement without consulting or obtaining consent from the ME. In these circumstances SCC shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the ME advance notice, or failing that, to draw the disclosure to the ME attention after any such disclosure.
18. The Parties acknowledge that where any of them receives a Request for Information not relating to SCC as Accountable Body but otherwise in relation to Projects and Programmes, such a Request for Information will be dealt with by the recipient in consultation with the Parties, in accordance with the provisions of the FOIA.

## **Data Protection**

19. The Parties shall comply with their obligations under the Data Protection Legislation in the performance of their obligations under this Agreement.
20. The Parties shall notify each other of any breach of the Data Protection Legislation that they become aware of and that occurred in their meeting the obligations under this Agreement. Each Party will be liable for their own act and/or omission in respect of the Data Protection Legislation.
21. The provisions of this clause shall apply during the continuance of the Agreement and up to three years after its expiry or termination.

## **Confidentiality**

22. Neither Party will use or disclose any confidential information provided by the other pursuant to this Agreement otherwise than for the performance of their obligations under this Agreement, save as may be otherwise agreed or required by law.
23. For the avoidance of doubt, confidential information shall not include:
  - 23.1 any information obtained from a third party who is free to divulge such information;
  - 23.2 any information which is already in the public domain otherwise than as a breach of this Agreement;
  - 23.3 any information which was rightfully in the possession of a Party prior to the disclosure by the other Party and lawfully acquired from sources other than the other Party; or
  - 23.4 any information which the Parties are obliged to disclose by law or to meet the order or requirements of any competent court of law, governmental or statutory regulatory authority, or stock exchange, to which the Recipient is subject from time to time.
24. Neither Parties shall not make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the agreement of both Parties.
25. The obligations of the Parties under Clause 21 and Clause 22 will cease to have effect on the third anniversary of the date of this Agreement which is effective from the 01 October 2020. Such cessation shall not, however, prejudice any then accrued rights in respect of any breaches of this Agreement.

## **Equality**

26. The Parties shall perform their obligations under this Agreement in accordance with:
  - 26.1 all applicable equality Law being the Equality Act 2010 as amended from time to time, and all other Law enacted (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
  - 26.2 any applicable equality and diversity policy of the Parties from time to time; and

- 26.3 take all necessary steps, and inform each other of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

### **Social Value**

27. In performing their obligations in pursuance of these this Agreement the Parties shall comply with the requirements of Public Services (Social Value) Act 2012.

### **Environmental**

28. In performing their obligations in pursuance of this Agreement the Parties shall at all times co-operate with each other to improve environmental performance where it is not detrimental to the interests of any Party to do so.

### **Termination on notice**

29. This Agreement shall continue in full force and effect unless or until Staffordshire County Council or the Midlands Engine serves at least twelve months' written notice to terminate or by mutual agreement between the Parties at any time.

### **Disputes**

30. Prior to action under The ME Assurance Framework complaints procedure, if any Party has any issues, concerns or complaints about any matter relating to this Agreement that Party shall notify the other Party/Parties and the Parties shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the Senior Representatives who shall endeavor to resolve such dispute negotiating on the basis of good faith.
31. The ME Assurance Framework has a complaints procedure, if any Party receives any formal inquiry, complaint, claim or threat of action from a third party they shall notify the other Parties and co-operate with each other to respond, or take such action, as is appropriate and/or necessary in accordance with The ME Assurance Framework.

### **General**

32. Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licenses and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
33. The Agreement cannot be varied except in writing signed by a duly authorised representative of the Parties.
34. The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.

- 35. Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver.
- 36. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 37. If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

**Notices**

- 38. Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or e-mail to the address of the relevant Party set out below, or such other address as that Party may from time to time notify to the other Party in accordance with this clause.
- 39. In accordance with clause 36, the email addresses of the relevant Party are:  
ME: Rachael.Greenwood@midlandsengine.org  
SCC: rob.salmon@staffordshire.gov.uk

SIGNED BY:

STAFFORDSHIRE COUNTY COUNCIL



.....

Authorised Signatory



.....

Signed for and on behalf of  
MIDLANDS ENGINE PARTNERSHIP

## **Schedule 1**

### **Roles and Responsibilities**

#### **SCC shall:**

1. Ensure that the decisions and activities of the ME conform with legal requirements with regard to freedom of information, equalities, the environment and other matters.
2. Ensure (through the Section 151 officer or Deputy Section 151) that funds are used appropriately using the same checks that SCC would of its own funds and in line with any grant conditions in the grant condition letter through a Section 31 Grant Determination (and not for its own purposes or without consent of the ME).
3. Ensure that the Midlands Engine Scheme of Delegation and the ME Assurance Framework is being adhered to.
4. Take responsibility for the decisions of the ME in approving schemes (e.g. if subjected to legal challenge) as per the Legal Frameworks and Agreements between the Accountable Body, ME and Scheme Promoters.
5. Manage and maintain financial records on behalf of the ME.
6. Provide financial advice and support to the ME, including regular reporting to the ME Executive Board and Operating Board on the financial position of the ME.
7. Act as host employer for staff working directly for the ME as requested by the ME.
8. Escalate concerns around delivery and / or mismanagement of funds to the ME Executive Board
9. Attend Boards and other groups as required, including the Annual Performance Review.
10. Provide an Annual Assurance statement as part of the Annual Performance Review process.
11. Ensure that there are arrangements for local audit of funding allocated by the ME comparable to SCC's own arrangements for local authority spend, and that the ME has the appropriate audit and scrutiny arrangements in place.
12. The Accountable Body will not follow the direction of the ME where the ME:-
  - Has committed funds which are not available
  - Has not followed its own internal governance arrangements
  - Has contravened its Scheme of Delegation
  - Has contravened its Local Assurance Framework
  - Has and / or is contravening any terms or conditions of funding
  - Would be awarding funding which is illegal e.g. contravenes state aid rules

- In the event of a dispute between the Accountable Body and the ME in respect of the above, it would be referred to the Department for Business Energy and Industrial Strategy, whose decision would be binding on both parties.

**ME shall:**

13. Comply and act in accordance with the ME Scheme of Delegation and Local Assurance Framework.
14. Ensure the official record of ME proceedings is maintained and is accessible by the Accountable Body.
15. Utilise funding in accordance with the relevant grant conditions that may apply.
16. Identify a prioritised list of schemes within the available budget including under / over programming to enable prudent management.
17. Make decisions based on the scrutiny of individual scheme business cases.
18. Approve the release and allocation of funding in consultation with the Accountable Body Section 151 Officer or Deputy 151 Officer and in accordance with the Accountable Body Legal Agreement to the relevant Scheme Promoter in line with any grant conditions in the grant condition letter through a Section 31 Grant Determination.
19. Use reasonable endeavors to ensure value for money is achieved.
20. Monitor progress of scheme delivery and spend and maintain a programme risk register that is reviewed as appropriate.
21. Use reasonable endeavors to ensure on-time delivery of schemes to the programme.
22. Actively manage the devolved budget and programme to respond to changed circumstances.
23. Meet the full employment costs of staff hosted by the Accountable Body on behalf of the ME, including any exit costs should they arise.
24. Ensure the Accountable Body is reimbursed for all Additional costs.

**Funding**

25. The Accountable Body and the ME will agree a fee annually in advance for the provision of the services set out in Schedule 2 below, and ad hoc variations as required by the ME (**Annual Fee**).
26. The Annual Fee will be charged via journal transfer against the relevant ME codes held within the Accountable Body finance system.

## **Schedule 2**

### List of Services and Accountable Body Functions **(subject to agreed variations)**

#### **1. S151 Officer / Deputy S151 Officer**

- Act as the key senior interface with the Midlands Engine in accordance with LEP Governance Guidelines.
- Provide annual Assurance Statements and information to support the Annual Review/conversation.
- Meet (as a minimum) quarterly with the Programme Director to discuss matters of finance and governance or at other times as needed.
- Provide Accountable Body reports Quarterly for Midlands Engine Executive Board meetings

#### **2. AB Manager**

- To oversee delivery of all AB functions, ensuring they are delivered in accordance of the Agreement
- To oversee the production of the AB report for board three times annually

#### **3. Finance Officer / Admin support**

- Work closely with the ME Team on a day to day basis in respect of financial activities.
- Make arrangements to secure income from partnership contributions and agreed allocations from Government.
- Process financial transactions, (including raising PO's), and making payments in accordance with ME decisions
- Process monthly purchase card expenses from ME staff.
- To work with the ME Executive Director to set annual budget, ensuring it's loaded into the financial system.
- To undertake monthly monitoring of expenditure and work with the Senior Executive Officer to carry out monthly forecasting.
- To provide monthly financial report to the Senior Executive Office and other financial statements as and when required.
- To produce AB report for ME Executive and Operating boards (for agreement by AB Manager)
- To ensure appropriate delegated decisions are in place, writing and managing the decision process as required.
- Provide finance training for ME staff as required.
- Support the production of contracts for consultants, contractors etc. as required.

#### **4. HR Business Partner**

- Provide support on all HR practices relating to the ME
- Recruitment and selection (note – this is advice on process only, end to end management of recruitment campaigns can be provided but would be at addition cost to be agreed)
- Casework and occupational health

- Service redesign and job evaluation
- Payroll, pension and employee contract provision etc.

## **5. Legal Business Partner**

- Legal drafting of funding agreements and contracts.
- Compliance advice – in relation to accountability, transparency and probity.
- Complaint handling advice.
- Other advice such as statutory, employment law, public law, scrutiny.
- Administration of a scrutiny function.

## **6. Procurement**

- Provide ad-hoc procurement support in line with the ME Scheme of Delegation and SCC internal procurement regulations and manage e - tendering processes on behalf of the ME.