



Memorandum of Understanding between Lincolnshire County Council

and

Lincolnshire Enterprise Ltd (“Lincolnshire Enterprise”)

Effective from 1 April 2009.

Purpose

The purpose of this document is so set out an understanding for future working arrangements between Lincolnshire County Council and Lincolnshire Enterprise.

This Memorandum of Understanding is not nor is it intended by any of the parties to be legally binding.

Background

Lincolnshire County Council plays a major role in shaping Lincolnshire’s economy. It views economic development as a collaborative endeavour requiring working arrangements with many organisations in order to achieve mutually desirable outcomes and to maximise resources. With reductions in European and national funding streams, the Authority believes that the onus for partners is to maximise the impact of finances available.

The Sub National Review of Economic Development recognised that Local Authorities have a lead role to play in local economic development. In the East Midlands, *emda* issued a prospectus in April 2008 outlining their intention to transfer responsibility for delivery of *emda*’s sub regional activity to Local Authorities, prior to the introduction of Sub-National Review legislation, anticipated in 2010. In Lincolnshire, this responsibility currently rests with Lincolnshire Enterprise.

Lincolnshire Enterprise, a private company limited by guarantee, has also played a pivotal role in developing and strengthening Lincolnshire’s Economy. Since its creation in 2002, Lincolnshire Enterprise has developed a strong and inclusive partnership, which includes representatives from private, public and

voluntary sector organisations. As the sub-regional partnership responsible for the effective placement of *emda* and other funds, it has invested over £70m in Lincolnshire. One of Lincolnshire Enterprise's key strengths is its ability to involve the private sector.

However, the implementation of *emda*'s Prospectus and eventually the Sub-National Review, along with the resulting transfer of Lincolnshire Enterprise staff to Lincolnshire County Council, mean that a revised role needs to be established for Lincolnshire Enterprise.

The Arrangement

Lincolnshire County Council and Lincolnshire Enterprise have agreed to enter into a strategic relationship in order to implement the *emda* Prospectus and eventual Sub-National Review arrangements. The key collective purpose will be to govern and direct economic development and to comment on project proposals in order to achieve mutually desirable outcomes and to maximise resources.

Lincolnshire Enterprise and Lincolnshire County Council wish to work together going forward to achieve the joint aim to develop Lincolnshire's economy. Lincolnshire County Council values Lincolnshire Enterprise's contribution as an independent body, and Lincolnshire Enterprise values Lincolnshire County Council's ability to bring together expertise and resources to deliver economic development across the County.

Understanding

1. The relationship between Lincolnshire Enterprise and Lincolnshire County Council will be built on good faith and trust and will be modelled on the relationship currently enjoyed between Lincolnshire Enterprise and *emda*. When opportunities arise, each will represent the other appropriately and positively.
2. Both parties will operate in a "win-win" manner so that they seek to understand the other's point of view and avoid any potential difficulties as the relationship develops.
3. Lincolnshire Enterprise will continue to appoint members as and when appropriate and directors in accordance with its Constitution.
4. The proceedings of the Board of Directors of Lincolnshire Enterprise will continue to be governed by its Constitution, which will be amended to reflect its revised role.
5. The role of the Lincolnshire Enterprise acting through its Board of Directors will be to act as a key vehicle through which Lincolnshire County Council shall consult and involve interested persons (including District Councils, the private sector and the third sector) within its area.
6. Lincolnshire County Council will consult with Lincolnshire Enterprise and Lincolnshire Enterprise acting through its Board of Directors will advise on the economic development in Lincolnshire in the following areas:

- Formulating strategy and prioritising investment;
 - The operation of its agreement with *emda* (the Declaration);
 - The identification, development, delivery, over-seeing, monitoring, reporting and evaluation of programmes and projects;
 - The preparation of future Investment Plans for Economic Development
7. Lincolnshire County Council commits that its own decision making fully takes into account decisions made after due procedure by the Lincolnshire Enterprise Board of Directors.
 8. Lincolnshire Enterprise acknowledges and respects that *emda* and Lincolnshire County Council are required to comply with the RDA Act and Local Government Acts as well as the terms of the Declaration agreed between them, and will support Lincolnshire County Council in fulfilling its obligations. In particular, it is acknowledged:
 - *emda* is the body which retains overall accountability for the allocation of all funding granted under its Declaration with Lincolnshire County Council
 - Lincolnshire County Council will be accountable for funding provided to it by *emda*. Lincolnshire County Council will be responsible for all reporting to *emda* and acting on all requests made by *emda*
 9. Lincolnshire County Council will support Lincolnshire Enterprise in carrying out its objects as set out in this Memorandum. This will include providing a secretariat function to the Lincolnshire Enterprise Board.
 10. The Lincolnshire Enterprise Board of Directors will be consulted in the appointment of senior staff to the Lincolnshire County Council Enterprise Development team, which is responsible for managing the activities covered by this agreement.
 11. A Strategic Group consisting of the Lincolnshire County Council Director of Development; Assistant Directors for Economic Development; Head of Service, Economic Regeneration Policy; and Head of the Enterprise Development Team will meet regularly to oversee the work which relates to this Memorandum.
 12. The Executive Member for Economic Development for Lincolnshire County Council and the Chair of Lincolnshire Enterprise will meet quarterly to review progress of the business and implementation of this Memorandum.

Financial Arrangements

13. The employees, contracts, and liabilities of Lincolnshire Enterprise shall be novated to Lincolnshire County Council with effect from 1 April 2009 in accordance with the terms of a transfer agreement to be agreed upon between Lincolnshire County Council and Lincolnshire Enterprise ("the Transfer Agreement"). Lincolnshire County Council shall also be granted a Licence to use the Lincolnshire Enterprise brand.
14. The cash reserves of Lincolnshire Enterprise at 31 March 2009 will be retained by Lincolnshire Enterprise for the following purposes:

- To fund its costs of transition to the new arrangements, to run the LE Company following the transition and to maintain a contingency for any liabilities arising from the transfer and future wind up of the Company
 - Any reserves not required to fund Lincolnshire Enterprise's transition costs shall be disposed of in accordance with its Memorandum and Articles of Association and Reserves Policy by investing them into economic development activity which aligns to the Investment Plan for Economic Development and which is appraised in line with the requirements for Single Programme investment.
15. Under the Transfer Agreement Lincolnshire County Council will purchase all other assets of Lincolnshire Enterprise and the proceeds from the purchase shall be retained as an Operating Reserve (which Lincolnshire County Council will top up as necessary) to be used to enable Lincolnshire Enterprise to fulfil its obligations under this Memorandum.
16. All other costs of running the Lincolnshire Enterprise operation after the 1st April 2009 will be borne by Lincolnshire County Council.

Dispute Resolution

17. In the event of any unresolved dispute between Lincolnshire Enterprise and Lincolnshire County Council with regard to either this Memorandum or the Transfer Agreement, the Chairman of Lincolnshire Enterprise shall meet with the Leader of Lincolnshire County Council to agree a resolution, and if agreement cannot be reached the Chairman of *emda* shall be asked to arbitrate
18. Lincolnshire Enterprise and Lincolnshire County Council will revisit this document annually to ensure that it is still fit for purpose. It will be published by each organisation and will also be available to the public on demand.
19. During the transition period, being the period from April 2009 to March 2010:
- The Board of Directors of Lincolnshire Enterprise will stay in place and will ease the transition process, avoiding the need to set up new structures.
 - Both parties are committed to ensuring that Lincolnshire Enterprise Team will transfer to Lincolnshire County Council according to the standing Lincolnshire County Council HR Principles for such transfers.

This understanding has been today agreed between:



Chairman, Lincolnshire Enterprise



Date:



Leader, Lincolnshire County Council



Date: