

**COAST TO CAPITAL**  
**(Company Number: 08166412)**

Minutes of the 62<sup>nd</sup> meeting of the Board of directors of Coast to Capital ("**Company**") held at DMH Stallard LLP, Griffin House, 135 High Street, Crawley, West Sussex, RH10 1DQ on 20 November 2023 at 11:00-15:00.

<b>PRESENT:</b>	<b>NAME</b>	<b>POSITION</b>
	Anthony Middleton (" <b>AM</b> ", " <b>Chief Executive</b> ")	Acting CEO & Executive Director
	Julie Kapsalis (" <b>JK</b> ", " <b>Chair</b> ")	Chair and private sector NE Director
	Karen Dukes (" <b>KD</b> ")	Vice Chair & Private sector NE Director
	Amanda Jones (" <b>AJ</b> ")	Chair of Audit & Risk Committee & NE Director
	Richard Hopkins (" <b>RH</b> ")	Chair of Finance & Resources Committee & NE Director
	Councillor Bella Sankey (" <b>BS</b> ")	Leader of BHCC & NE Director
	Councillor Natalie Bramhall (" <b>NB</b> ")	SCC Cabinet Member & NE Director
	Councillor Richard Biggs (" <b>RB</b> ")	Nominee of East Surrey Districts & Borough Councils & NE Director
	Claire Mason (" <b>CM</b> ")	Private sector NE Director
	Jamie Arnell (" <b>JA</b> ")	Private sector NE Director
	Polly Toynbee (" <b>PT</b> ")	Private sector NE Director
	Jane Longmore (" <b>JL</b> ")	HE nominated NE Director
	Linsdey Pamphilon (" <b>LP</b> ")	FE nominated NE Director

<b>IN ATTENDANCE:</b>	<b>NAME</b>	<b>POSITION</b>
	Carli Foster (" <b>CF</b> ")	Head of Finance, Coast to Capital
	Nigel Manville (" <b>NM</b> ")	Accountable Body
	Liz Culbert (" <b>LC</b> ")	Accountable Body
	Emma Smith (" <b>ES</b> ")	Government
	Eva Sharp	Paralegal, DMH Stallard LLP

<b>APOLOGIES:</b>	<b>NAME</b>	<b>POSITION</b>
	Councillor Matt Stanley (" <b>MS</b> ")	Nominee of West Sussex District & Boroughs & NE Director

**1. CHAIR**

The Chair reported that due notice of the meeting had been given and that a quorum was present. The Board **AGREED** all Directors would count in the quorum for all items, regardless of any conflicts of interest that may be declared or agreed.

**2. WELCOME AND APOLOGIES**

JK welcomed the Board to the 62<sup>nd</sup> Coast to Capital meeting and :

2.1 Welcomed the proposed new Board member Councillor RB who had been nominated to become a Board member by East Surrey Districts & Borough Councils;

2.2 Welcomed and gave apologies from the proposed new Board member MS, who is the nominee of West Sussex & Districts Borough Councils;

2.3 Recorded thanks to be given to David Joy who has recently stepped down as a director;

2.4 Recorded thanks to CM who will be stepping down after the Board meeting;

2.5 Noted that this would be JL's last meeting, but it would be proposed that her position as a director would be extended until 1st December 2023. Thanks were also recorded to Board Directors for all their support, advice and input over the years.

**3. PUBLIC COMMENTS**

3.1 None were noted.

**4. MINUTES OF PREVIOUS MEETING**

4.1 It was **RESOLVED** that the minutes of the Board meeting held on 12 July 2023, a draft of which was produced to the meeting, be approved without amendment.

**5. MATTERS ARISING**

<b>MATTERS</b>	<b>ACTION(S) TO BE TAKEN</b>
Matter 1 arising from the July 2023 meeting regarding updating the conflicts of interest documents and sending these to Hannah Gosling.	JK noted the conflicts of interest documents are to be updated and sent to Hannah Gosling before the end of this month.
Matter 2 arising from the July 2023 meeting regarding needing the Growing Places Fund re-distribution paper to be modified and circulated via correspondence.	JK noted that Growing Places Fund re-distribution paper matter 2 has been closed.
Matter 3 arising from the July 2023 meeting regarding re-appointment of Chair and for the paper to be amended following feedback form the Board and circulated via correspondence.	JK noted that the re-appointment of Chair has taken place and that an item regarding this was on the agenda for today's meeting.
Matter 4 arising from the July 2023 meeting regarding needing volunteers to sit on the Audit & Risk Committee.	JK noted that we are still looking for volunteers for the Audit & Risk Committee and to please reach out to AJ by email. AJ reiterated this.
Matter 5 arising from the July 2023 meeting regarding the future of LEP to be the main agenda for the next Board meeting.	JK noted that the future of the LEP and C2C was to be the main agenda item for discussion during this meeting.

**6. INTERESTS IN PROPOSED TRANSACTIONS AND/OR ARRANGEMENTS WITH THE COMPANY**

- 6.1 The conflict of interests paper was tabled to the meeting and JK read the standard conflicts of interest statement out to the Board.
- 6.2 The paper detailed the below asserted conflicts of interest regarding members of the Board who were also County Councillors. After discussion the Board AGREED to consider each asserted conflict of interest prior to each agenda item and AGREED to vote on whether the potentially conflicted

Director could take a full part and vote on the item under the provisions of Article 14.6.4.

Asserted Potential Conflicts were stated as:

- 6.2.1 That Directors who are also County Councillors, may subject to the Board agreeing, have a perceived and/or actual conflict of interest in taking part in any discussion or decision involving the designation or distribution of Company reserves. This is because, despite being a Board member in their own personal capacity, there may be a perceived and/or actual conflict of interest in that as councillors of upper tier authorities (Brighton & Hove City Council, & Surrey County Council).
- 6.2.2 The accountable body Brighton & Hove City Council (the “**Accountable Body**”), was also deemed to have a material conflict, in taking part in reserves designation discussion but it was proposed and AGREED that they be allowed to take a full part in the proceedings as the Government Guidance stated that they were to agree matters with the LEP.
- 6.2.3 Items 4, 1.2 c) and 1.3 b) in the Board papers deal with the designation of reserves and there is therefore a potential perceived conflict of interest where upper tier local authority councillors who are Board members are involved in designating (determining) the quantity of public and private reserves, which will directly determine the total quantum of ‘free’ public reserves to be re-distributed to the upper tier authorities. Taking part in such a decision may also constitute an actual conflict of interest.
- 6.2.4 On item 5 of the Board papers, where the same directors will be involved in determining the reserves re-distribution methodology, for example the quantities of money that will be paid directly to the upper tier authorities, it is asserted that there may be both a potential perceived and actual conflict. If these directors take part in the vote on this item, they could have the ability to influence the outcome of their local authority receiving more or less money depending upon how they might vote.
- 6.3 The paper detailed the following asserted conflicts of interest regarding the acting Chief Executive:
  - 6.3.1 There could also be perceived and/or potential conflicts of interest between certain matters dealt with in this meeting and the acting Chief Executive’s employment as lead officer. These matters relate only where his vote as a director could influence a matter that is of personal benefit to him, for example, continuation of the enhanced redundancy policy. He has agreed with the Chair the conflict management strategy set out below;
    - (i) that he will not vote on the continuation of the enhanced redundancy policy;

(ii) that he will not vote on item 1.1 c, d & e; and

(iii) that he will not vote on item 1.2 a & c.

6.3.2 The conflicts of interest paper noted, for the sake of absolute clarity, the acting Chief Executive is included within the service closure consultation and will be treated exactly as all other staff in the organisation, with his employment being at risk (with this element being overseen by the Chair). If there are no Transfer of Undertakings (Protection of Employment) Regulations (“TUPE”) transfer offers for him, then he will be subject to redundancy as others will.

6.4 The paper also detailed the following regarding the Accountable Body:

6.4.1 That there is a perceived and/or actual conflict of interest in the Accountable Body providing advice to the Board on any matters which may benefit its own authority, dealt with in this paper. Despite this conflict, and in line with the Government guidance and Chartered Institute of Public Finance and Accountancy (“CIPFA”) guidance, that the Accountable Body’s opinion on matters shall still be fully heard, duly considered and recorded at the Board meeting.

6.5 As a result of the detailed discussions that occurred, BS noted that she would accept a perceived interest but highlighted that, pursuant to article 14.6 of Coast to Capital’s Company Articles of Association, a conflict of interest may be authorised by the non-interested directors.

6.6 RH asked the Board to **NOTE** that they should make sure they differentiate between upper tier county councillors that will potentially benefit from the Board discussions held at this stage, and the lower tier county councillors who could potentially benefit, but not at this time.

6.7 JK reminded the directors of their duties under the Companies Act 2006 regarding conflicts of interests and their duties to promote the success of the Company. It was therefore noted and agreed that the Board would pick up any issues on conflicts at each resolution on a case-by-case basis. JK then proposed that in light of representations made by the Board Members, who were asserted to have potential conflicts of interest, that as each agenda item was taken, the Board would consider whether the conflict existed, whether it was perceived or actual and whether the Director would be permitted to take part in the discussion and vote pursuant to Article 14.6.4, where the Directors by majority vote can permit Directors to be involved and vote on a matter. The Board AGREED this approach.

## 7. GOVERNANCE AND OTHER UPDATES

### 7.1 Reappointment of Jane Longmore

- 7.1.1 JL left the room due to a conflict of interest.
- 7.1.2 JK asked the Board to agree the re-appointment of JL up until December 1st 2023 to cover this Board meeting as it had been rescheduled from October 2023. The Board papers noted that the reappointment would be covered by the revised Articles of Association of the Company, with exceptional circumstances being deemed to be in existence, to allow a director's term of office to be extended beyond the term usually prescribed by the articles of association of the Company.
- 7.1.3 It was **RESOLVED** that JL be reappointed as a director until 1 December 2023.
- 7.1.4 JL returned to the meeting.
- 7.2 Appointment of Councillor Matt Stanley**
- 7.2.1 The Board was asked to vote to agree the appointment of the new West Sussex District & Boroughs Board member, Councillor MS, leader of Arun District Council.
- 7.2.2 It was **RESOLVED** that MS be appointed as a director with immediate effect.
- 7.3 Appointment of Councillor Richard Biggs**
- 7.3.1 RB left the meeting due to a conflict of interest.
- 7.3.2 The Board was asked to vote to agree the appointment of the new East Surrey District & Boroughs Board member, Councillor RB.
- 7.3.3 It was **RESOLVED** that RB be appointed as a director with immediate effect.
- 7.3.4 RB returned to the meeting.
- 7.4 The Board was thereafter asked to **NOTE** that CM and JL would be stepping down from the Board. JK thanked them again for their significant service and contribution over the years.
- 7.4.1 JA queried the Board papers which stated that this would be his last meeting. It was confirmed that this was a mistake and that this was not the case.
- 7.5 The Board **NOTED** the staff updates and investment updates set out in the Board pack.
- 7.6 The Board was asked to **AGREE** that a special Board meeting be called for December to look at investments and to take final decisions on Local Growth Fund ("LGF") and Getting Building Fund ("GBF") project monitoring actions, together with actions on monitoring management of the Growing Places Fund ("GPF"). KD noted that two years ago, she instigated a process to review contracts that were off-kilter in terms of time and quantum. If

something was off-kilter, they were able to issue a 30-day letter under the LEP's funding withdrawal protocol. KD requested authority that where there was something that fell into the above bracket, that KD could issue a 30-day letter to ask for the issue to be corrected. Therefore, KD requested that the Board **AGREE** that the Executive have delegated authority to the extent they need it to write any 30-day letters before the next Board meeting to get the off-kilter contracts back on track so that when it comes to handing the contracts over, they are in good shape. The next Board meeting would then hopefully be able to consider the responses to the 30-day letters subject to them being received on time.

7.6.1 The Board **RESOLVED** that the delegation of authority discussed at 7.6 above to allow the 30-day letters to be drafted and sent out be approved and **AGREED** that a special Board meeting be called for December where responses (if received in time) could also be reviewed. Post meeting note: An Investment Committee meeting has now been called for January 15<sup>th</sup> 2024, to which all Board Members are invited and will report back to the next main Board meeting on 30<sup>th</sup> January.

7.7 JK left the room due to a conflict and the Board **NOTED** the points relating to JK in the Board papers, regarding the fact that she had due to an administrative error continued as a Board director outside of her prescribed term of office for the period 30 October 2022 to 12 July 2023. The Board had then amended the Company's Articles of Association to allow, under exceptional circumstances, the extension of a director's term of office and her term was duly extended together with her continuation as Chair. The papers noted that during the period of time that JK remained as a director and Chair without formal authority under the Company's Articles of Association, JK took no unilateral decisions under any powers delegated to the Chair. She did take part in certain decisions (as more thoroughly detailed in the Board papers) but her vote was never used in a casting capacity. KD noted that it would not have made any difference to each resolution outcome if she had voted for or against.

JK returned to the meeting

7.8 JK asked the Board to **NOTE** that three independent legal advice notes had been provided by Browne Jacobson regarding the Local Enterprise Partnership ("**LEP**") wind down paper for agenda item 4 and that significant legal and professional advice had been taken in order to come to the proposals within the paper and that the recommendations had been scrutinised by the Board Working Group. It was also noted that the Board had taken significant advice to ensure they follow their duties as directors under the Companies Act 2006.

8. **1.1 - TRANSFER OF STAFF AND SERVICE TRANSFER TO LOCAL AUTHORITIES INCLUDING THE ACCOUNTABLE BODY**

- 8.1 Pursuant to item 1.1 a), the Board was invited to AGREE that Coast to Capital ceases to deliver the core services of the LEP, including the local Growth Hub, Regional Economic Planning, LGF, GBF & GBF monitoring at end of March 2024 as set out in item 3.0 in the Board papers.**
- 8.1.1 AM ran the Board through the resolution and noted that this was the Board formally agreeing to close the LEP at the end of March 2024. AM noted that the reasons for this included that the Government would no longer be funding the LEP after March 2024 and that they had written to the upper tier local authorities to ask if they wanted the Company to continue as a LEP (as if they had wanted the Company to continue as a LEP, it could have) and that two of the upper tier local authorities, being West Sussex and Surrey, had responded that they would not like the LEP to continue beyond March next year. AM noted that they received no response from Brighton.
- 8.1.2 AM asked whether anyone needed to declare any interests and mentioned that the legal advice had stated that there should not be any conflicted directors. No conflicts were declared.
- 8.1.3 JK asked LC if she wanted to make any representations and LC confirmed she did not in relation to this point.
- 8.1.4 RH noted that even if Brighton had responded that they would like the Company to continue as a LEP, the majority had still said that they would not like to Company to continue as a LEP.
- 8.1.5 JA suggested that he felt Brighton should formally respond to the letter. LC confirmed that this would be fine and clarified from Brighton's perspective that their nonresponse had been a misunderstanding.
- 8.1.6 KD asked ES whether the LEP would be released from the obligation to report to Government on 31 March 2024 regarding all grant funds. ES responded that this would not necessarily be the case and that there will need to be an agreement as to who will continue that responsibility and Government believes this would need to be negotiated between the Accountable Body and upper tier local authorities. JA and RH asked ES to confirm whether this means that the Board just need to agree that they will cease their reporting obligations. ES confirmed yes and noted that the Government was not looking to monitor beyond that point and the decision is for the Accountable Body and upper tier local authorities to agree.
- 8.1.7 KD asked whether ES could put that in writing to which she agreed she would. **(Action ES)**
- 8.1.8 CM asked ES whether, where there is not an agreement on responsibility, they would still release the Company from the liability of continuing monitoring. ES confirmed yes. AM responded that he wrote to the director of DLUC's CLGU and said that if there was no agreement, then the Company



would be handing that responsibility back to Government. ES confirmed the Government's acceptance of this now and the Board requested that ES confirm this acceptance in writing. **(Action ES)**

8.1.9 CM asked ES whether central Government would be fine with whatever the extension is that the Board could negotiate regarding the 31 March 2024 deadline. ES confirmed this was negotiable as the Government would like these things to be delivered.

8.1.10 AJ wanted to make sure that the recommendations in the resolution were about the Company ceasing to deliver its core services and that they were not about where they would be transferred to. JK confirmed this was correct.

8.1.11 Following the above discussions, item 1.1 a) was voted on. The Board confirmed that there were no conflicts of interest and it was **RESOLVED** that resolution 1.1 a) be passed.

**8.2 Pursuant to item 1.1 b), the Board was asked to agree a timeline for LEP wind down, service closure and the actions detailed at items 2.0 and 3.0 within the Board pack, including a longstop date of contingency (see also the Gantt chart within the Board papers).**

8.2.1 The Board noted that the legal advice reported that there was no conflict of interest across the directors in relation to the resolution to be considered. It was **NOTED** that there was no conflict across the directors in relation to item 1.1 b).

8.2.2 JA noted that as part of the wind down, there were some past liability issues that are being managed and asked whether appropriate insurance was being acquired in relation to this. AM noted that the Company would be procuring appropriate directors' longstop insurance that would continue for the statutory liability period going forward. JA asked what would happen if this was not available. AM noted that they had no reason to believe this pursuant to their conversations with the broker (as detailed within the Board pack) and that if that was the case they would perhaps need to look back to Government, although Government had confirmed that they would not be offering indemnity to LEP directors. KD noted that as far as she was aware of any potential issues, these had been raised with the insurers.

8.2.3 Item 1.1 b) was voted on and it was **RESOLVED** that item 1.1 b) be duly passed by the Board.

8.3 [Redacted]

8.3.1 [Redacted]

8.3.2 [Redacted]

- 8.4 [Redacted]
- 8.4.1 [Redacted]
- 8.4.2 [Redacted]
- 8.4.3 [Redacted]
- 8.5 [Redacted]
- 8.5.1 [Redacted]
- 8.5.2 [Redacted]
- 8.5.3 [Redacted]
- 8.6 Pursuant to item 1.1 e), the Board was asked to agree the specific service transfer matters and risk mitigation proposals detailed at 3.3 (contained in the Board pack) and NOTE the actions taken to date.**
- 8.6.1 JK asked the Board if they believed anyone was conflicted. None were declared.
- 8.6.2 AJ queried whether resolution 1.1 e) was linked to resolution 1.1 d). AJ had read that resolution 1.1 e) was relating to resolution 1.1 a) and if it is the latter, then even though if further down the line the local authority might be involved, they would not be at present. JK agreed. AJ was therefore happy that there was no perceived conflict but noted that there was mention in the papers of funding the staff staying until May and asked whether the Company has the right and whether it would be retaining sufficient reserves to cover that cost if there is a delay in the transfer of GPF. AJ also asked JK to confirm that the Company would not be expected to fund those additional months out of other reserves. JK confirmed that was correct.
- 8.6.3 The Board **RESOLVED** that resolution 1.1 e) be passed. AM did not vote and was not present due to an actual conflict.
- 8.6.4 JA commented that the proposal the Board had voted on regarding the Growth Hub meant that if its transfer was not agreed then all of the associated data would be deleted and that this seemed like quite a draconian step. ES noted that there needs to be an agreement with the upper tier authorities on where the Growth Hub resides and there will need to be discussions on this outside of the room and transition planning. . JA noted that that would be fine if they get something agreed, but that it is worth noting that the clock is ticking. ES noted that the onus is on DHLUC to get that agreed with the upper tier authorities hopefully by Christmas, and if not, by March.  
AM returned to the room.

**9. ITEM 1.2 - ADMINISTRATIVE WIND DOWN OF ALL LEP ACTIVITIES INCLUDING THE TRANSFER OF FUNDS.**

**9.1 Pursuant to item 1.2 a), the Board was invited to AGREE to delegate to the Chief Executive, Chair and Chair of Finance & Resources Committee, to determine the 'key' staff required to deliver matters under 4.0 in the Board papers.**

9.1.1 AM and JK did not vote as they would be voting to empower themselves. No other conflicts were declared.

9.1.2 It was **RESOLVED** that resolution 1.2 a) be passed by the Board.

**9.2 ITEM 1.2 b) To vote to agree the absolute long stop date of end of September 2024 for the ~~administrative wind down and/or company (legal entity) closure~~ close down of all LEP activities by the company.**

9.2.1 No conflicts were declared. AM noted that the wind down and Company legal entity closure are two different activities, and that there is lots of work to do to in order to close down the LEP activities. AM noted that if the Board decided to close the legal entity down, the long stop date would still hold as the Board would do it coterminous.

9.2.2 AJ noted that that is 9 months from now and the Board could revisit this resolution if needed.

9.2.3 JK noted that the timing of the long stop date would be reviewed and reported on by those designated and the Board agreed to amend the resolution as detailed (in red) at 9.2 above.

9.2.4 It was **RESOLVED** that resolution 1.2 b) be passed by the Board as amended in red above.

9.3 Item 1.2 c) was considered by the Board and it was agreed to amend and split the proposed resolution into two resolutions as follows:

a. **ITEM C To AGREE the recommendations from the Finance and Resources Committee (item 4.2 in the Board papers) to the designation and use of PUBLIC reserves for 24/25 (set out in Annex E of the Board papers). The Board agrees to NOTE that the exact figures will be finalised at financial year end and brought back to the Board for final approval.**

b. **ITEM C To AGREE the recommendations from the Finance and Resources Committee (item 4.2 in the Board papers) to the ~~designation and use of PUBLIC reserves for 24/25 (set out in Annex E of the Board papers).~~ The Board agrees to NOTE that**

**the exact figures will be finalised at financial year end and brought back to the Board for final approval.**

[NOTE that the above resolutions were further amended later in the Board meeting at AGENDA item 5.4.1 and that the exact wording of these resolutions is clarified in these minutes at item 9.16.4 and 9.16.5 below]

- 9.3.1 NB noted that the auditors would re-run the calculations and that it would come back to the Board for final approval.
- 9.3.2 AJ noted that if the Board does not make decisions quickly, the delay will create significant risk. AJ felt strongly that the Board has enough information and that they have had input from their legal advisors and auditors. AJ suggested that the Board voted on what was in front of them today, but if any additional information came to light, that the Board would consider the new information should it be necessary. JK concurred and noted that if there was any additional information or advice given by Kreston Reeves, then the Board would revisit their decision.
- 9.3.3 NM noted that the Accountable Body has sought legal advice from Bevan Brittan and their advice does not conflict with the Board's advice around the ability of the LEP to retain its private funds. NM stated that their advice was that what the Board had done is use a cash loan from the Company to further the consultancy side of the business and that all they are taking out is the surplus after repayment. The key point is that, in building this consultancy, the LEP has not detracted from its objects. RH asked whether the advice could be shared. NM noted that this was legally privileged advice commissioned by the Accountable Body. The Board agreed that they did not need to see the legal advice and that they were happy to take the advice direct from the Accountable Body – noting that it concurred with the professional advice to the Board.
- 9.3.4 JK asked LC whether the Accountable Body's advice thought JK and AM might have a conflict on this item. LC mentioned that AM had already declared a conflict and that the advice was that only if JK had a pecuniary interest in relation to directors would she be conflicted. JK stated that she did not feel that she had a pecuniary interest and that there is no offer on the table for her going forwards, and she asked the Directors whether they agreed. No Director expressed disagreement and JK therefore continued to Chair the meeting and did not declare a conflict. AM also mentioned that there is no offer of employment on the table for him if the legal entity continues.
- 9.3.5 The Board voted on whether the upper tier county councillors were conflicted. The Board allowed a free vote to decide on whether, to the extent that there was a conflict, that the perceived conflict of interest was minor. The Board's legal advice was that there was a material conflict of interest, but,

following the debate around the table and the representations made, it was AGREED by majority vote of the Board, under the powers granted to it by Article 14.6.4, that the Board would recognise that any conflict of interest, whether perceived or actual, was minor and therefore they would allow a free vote. JL abstained and CM voted against as she did not think that the conflicts were minor. AM did not take part in any vote relating to this agenda item.

- 9.4 The Board voted in favour of the above resolution at 1.2 c) regarding the designation of public reserves.<sup>1</sup> AM did not vote.
- 9.4.1 Discussion then followed regarding Company liabilities and whether these would be moving with the public assets. The Board noted that they were not comfortable with splitting assets from liabilities as it would not be fair to ask the directors (whom the Government will not indemnify) to continue to be liable for liabilities attached to public assets. This concern was then addressed by the Chair proposing modification to the wording of the proposed resolutions (see note 2 below).
- 9.5 It was **NOTED** that insurance for directors is being procured and that these points on liability would need to be revisited at the next Board meeting.
- 9.5.1 BS queried whether the issues on asset and liability transfer would have a bearing on the Board's decision on the continuance of the LEP. KD answered that David Smith – Finance Manager, has maintained a schedule of potential liabilities and that they had made a conscious decision to retain assets in excess of liabilities. KD noted that if the Coast to Capital winds down completely, the liabilities disappear, but that no director could make a decision to liquidate the company purely to eradicate its liabilities, as the Board must at all times act in best interests of the Company. KD noted they have always retained sufficient reserves and had to continue to do so.
- 9.5.2 As a result of the ensuing discussion the Board agreed the following revisions (in red) to the proposed resolutions (minute ref. 9.5.3 & 9.5.4) set out below, including minute ref. items 9.6 and 9.6.1 below:
- 9.5.3 **Item 1.2 c) To AGREE the recommendations from the Finance and Resources Committee (item 4.2 in the Board papers) to the designation ~~and use of~~ PUBLIC reserves for 24/25 (set out in Annex E of the Board papers) **subject to sufficient provision being made for past and future liabilities**. The Board agrees to NOTE that the exact figures will be finalised at financial year end and brought back to the Board for final approval.**
- 9.5.4 **Item 1.2 c) To AGREE the recommendations from the Finance and Resources Committee (item 4.2 in the Board papers) to the designation ~~and use of~~ PUBLIC reserves for 24/25 (set out in Annex E of the Board papers) **subject to****

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<sup>1</sup> Note that the wording of resolution 1.2 c) (and other resolutions as appropriate) would be revisited and confirmed after the meeting.

**sufficient provision being made for past and future liabilities.** The Board agrees to NOTE that the exact figures will be finalised at financial year end and brought back to the Board for final approval.

AM was asked to leave the room for the discussion and vote on 1.3b, and duly did noting a conflict. No other conflicts were declared.

- 9.6** Item 1.3. b) The Board is invited to **AGREE** the recommendations from the Finance & Resources Committee to the designation ~~and use~~ of PRIVATE reserves for continuation of the legal entity (Annex E in the Board pack), and to note that the exact figures will be finalized at year end and brought back to the Board for final approval. This approval will be subject to satisfactory assurance being received by the Board from Kreston Reeves (C2C Auditors) that the reserves to be retained (the PRIVATE RESERVES) are solely derived from the commercial surpluses of commissioned commercial work and not in any way from public capital or revenue grant **and subject to sufficient provision for past and future liabilities.**
- 9.6.1** Item 1.3. b) The Board is invited to **AGREE** the recommendations from the Finance & Resources Committee to the designation ~~and use~~ of PRIVATE reserves for continuation of the legal entity (Annex E in the Board pack), and to note that the exact figures will be finalized at year end and brought back to the Board for final approval. This approval will be subject to satisfactory assurance being received by the Board from Kreston Reeves (C2C Auditors) that the reserves to be retained (the PRIVATE RESERVES) are solely derived from the commercial surpluses of commissioned commercial work and not in any way from public capital or revenue grant **and subject to sufficient provision for past and future liabilities.**<sup>2</sup>
- 9.6.2** The Board voted in favour of the above resolutions including the revised wording regarding the designation and use of public reserves and the inserted liabilities wording and it was **RESOLVED** that the above resolutions be passed. BS and NB abstained, subject to further information being provided. JA abstained.
- 9.6.3** JK noted thanks to NB who had to leave the meeting which had overrun due to the detailed examination of the matters at hand and the importance of hearing all representations on managing the business of the meeting.
- 9.7** Regarding item 1.3 c), the Board was invited to **AGREE** that the necessary longtail insurances as set out in item 8.0 in the Board papers are procured.

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<sup>2</sup> Note that the wording of resolutions was further revised at the end of the meeting and would be finalized after the meeting.

9.7.1 The Board **RESOLVED** that the above resolution be passed. No conflicts were declared

AM remained out of the room due to a conflict for the discussion and decision on item 5.4.1 below.

**9.8 Pursuant to item 5.4.1., the Board was invited to AGREE the company business plan for financial year 24/25 ~~is~~ appears sound and Coast to Capital has would have every prospect of continuing as a going concern up to 1 April 2025. This is subject to satisfactory assurance being received by the Board from Kreston Reeves (C2C Auditors) that the reserves to be retained (the PRIVATE RESERVES) are solely derived from the commercial surpluses of commissioned commercial work and not in any way from public capital or revenue grant and subject to sufficient provision for past and future liabilities being made.**

9.8.1 Subject to the revised wording in red, the above resolution was passed by the members of the Board that were still in attendance. BS abstained. AM was not in the room and did not vote, as there could be deemed to be a perceived conflict in him doing so, although he had previously noted that he had not been made any offer of employment re-engagement regarding continuation of the legal entity.

9.9 JL noted thanks to the Board for their forensic examination of the matters discussed.

9.10 LP, JL, PT and BS left the meeting and JK noted her sincere thanks to JL for her continuous service throughout the years and noted thanks to the other Board members for their great contributions. Colleagues leaving the meeting were assured that detailed and clear minutes would be shared to ensure they had a clear understanding of all votes and resolutions. JK also noted that any key votes would be carried forward to the next Board meeting to ensure full discussion.

9.11 It was noted that even though some directors had left, the meeting was still quorate. AM returned to the room.

**10.0 Pursuant to agenda items 5.4.(1),(2),(3),(4),(5) the Board was then asked to AGREE whether the revised 24/25 business plan is approved.**

10.1 JK noted that there were no conflicts and it was agreed that AM could stay for this resolution. The Board confirmed their agreement and it was **RESOLVED** that the resolution be passed. JA noted that his agreement was subject to the fact that if the Board cannot expedite decision making, this will put the business plan at risk.

- 10.2 It was therefore **NOTED** that the business plan is approved but JK and the rest of the Board noted concern that the other topics covered during the Board meeting needed to be expedited in order to prevent the business plan from being put at risk. The Board also resolved to AGREE items 5.4(4) & (5) relating to proposals to be brought back to the next Board meeting.
- 11.0 **AGENDA ITEM 5.4.1 recommendation was then agreed to be modified in line with previous discussions. Recommendation 1.3 (b) then read as:**
- The Board is invited to AGREE the recommendations from the Finance & Resources Committee to the designation ~~and use~~ of PRIVATE reserves for continuation of the legal entity (Annex E in the Board pack), and to note that the ~~exact~~ draft management accounts figures will be finalised at year end and brought back to the Board for final approval. This approval will be subject to satisfactory assurance being received by the Board from Kreston Reeves (C2C Auditors) that the reserves to be retained (the PRIVATE RESERVES) are solely derived from the commercial surpluses of commissioned commercial work and not ~~in any way~~ from public capital or revenue grant and subject to sufficient provision for past and future liabilities.**
- ITEM 5.4.1 Recommendation 1.3 (b) The Board is invited to AGREE the recommendations from the Finance & Resources Committee to the ~~designation and use~~ of PRIVATE reserves for continuation of the legal entity (Annex E in the Board pack), and to note that the ~~exact~~ draft management accounts figures will be finalised at year end and brought back to the Board for final approval. This approval will be subject to satisfactory assurance being received by the Board from Kreston Reeves (C2C Auditors) that the reserves to be retained (the PRIVATE RESERVES) are solely derived from the commercial surpluses of commissioned commercial work and not ~~in any way~~ from public capital or revenue grant and subject to sufficient provision for past and future liabilities.**
- 11.1 It was noted for this resolution that AM may have a perceived conflict and therefore would not vote. No other conflicts were declared. The Board resolved to AGREE the modified resolutions as detailed 1.3 (b) above as the final resolutions.
- 12.0 The Board resolved to AGREE recommendation 1.3 c regarding procurement of long tail insurances as detailed within item 8.0 of the Board papers.
- 13.0 JK noted that the proposals for the new Board structure would be dealt with in January's meeting.
- 14.0 JK noted that some tidying up on the resolutions surrounding the further amendments would need to be made at the end of the meeting and shared in the minutes.



## 15.0 AGENDA ITEM 5

- 15.1 JK NOTED that the reserves distribution papers had been thoroughly reviewed and commented on by Browne Jacobson, the Board's legal advisors, who had proposed options around the redistribution of public and private reserves. JK suggested that the letters from West Sussex County Council and Surrey County Council in terms of assurances that the distributed monies will be used to support the region be circulated to the Board members along with the meeting minutes, so the Board has a record of those assurances. NM noted that Brighton & Hove City Council had also sent a letter which would be shared.
- 15.2 AJ noted that there should be no distribution of free reserves until the Board is assured that doing so will promote the success of the Company's objects.
- 15.3 The below modified resolutions in *italics* shown below concerning item 5 on the agenda were tabled to the meeting. It was decided that it would not be right to vote on agenda item 5 without the Board members that had had to leave the meeting being present. It is suggested that this is done either via correspondence or at the next Board meeting.

### ***"The Board is invited to AGREE:***

- a. *That the distribution methodology of the FREE PUBLIC reserves (including contingent liabilities) is delegated to the Accountable Body and the Upper tier authorities to agree. In the event that the parties cannot agree a methodology, Government will ~~be invited to~~ determine the methodology on behalf of all parties.*
- b. *That Coast to Capital's external auditors (Kreston Reeves) should be asked to verify the final calculation, of the 'FREE' reserves re-distribution and sub-division, addressed in this paper.*

### *The Board is invited to RECOMMEND the following resolutions to company Members:*

- c. *That the quantum assessment of 'FREE' PUBLIC reserves for re-distribution (Annex B) is agreed at this point by Members and again when the final quantum is determined.*
- d. *That company 'FREE' reserves are re-distributed in accordance with (a) above.*
- e. *That no re-distribution of 'FREE' reserves takes place to any party, until the Board is able to recommend to company Members that it considers doing so will best promote the success of the Company via the promotion and continuation of its objects.*

And:

- f. *Should, in the opinion of the Board, sufficient commitment to allow the company to satisfy s172 of the Companies Act 2006, or s62 (in the event of the company winding up), not be obtained from the upper tier authorities as to their intentions, by February 29<sup>th</sup> 2024, the 'FREE' reserves should be transferred to the Department for Levelling Up, Homes & Communities with the specific requirement to;*

*assist, promote, encourage, develop, lead and deliver sustainable economic growth of the Area (Coast to Capital LEP geography) creating a diverse and competitive economy within first class infrastructure and high growth built on local private strengths, exports and job creation, in each case insofar as its resources allow."*

15.4 AM noted that the Board would need to fully define free public reserves where referred to in the resolutions.

15.5 The Board requested that ES continue her work with the upper tier authorities and Accountable Body so that she can come back to the January Board meeting with a proposal on the distribution methodology having considered everything that the Board Working Group had considered and suggested.. The Board would then be able to revisit agenda item 5 and the other issues surrounding liability that had been discussed during the meeting.

15.6 AM suggested that the directors may not want to transfer any of the Company's assets without also transferring the liabilities. The Board also noted that they would need to revisit these issues when the absent directors were present.

## 16 AGENDA ITEM 6

**CF proposed a final resolution to the Board, that they AGREE to request a filing extension for the accounts to the end of March so that they may determine whether to prepare the Company's accounts as a going concern or not.**

16.1 The directors noted that the meeting was still quorate. It was **RESOLVED** that the above resolution be passed.

16.2 AJ noted this approval meant that the Board *must* get the accounts approved by the three-month extension deadline.

## 17.0 FILINGS

The Board resolved to update the register of directors and registers of directors addresses and make the relevant filings at Companies House.

## 18.0 CLOSE

There was no further business and the chair declared the meeting closed.

.....  
Chair

.....  
(Date)