



WATFORD HEALTH CAMPUS

SUMMARY OF LEGAL STRUCTURE

1. INTRODUCTION

The purpose of this Report is to briefly summarise the legal structure envisaged for the proposed Local Asset Backed Vehicle (LABV), and to highlight some of the key commercial features of the arrangements to be entered into.

The overall structure is summarised in the attached diagram.

The **key parties** are as follows:

- 1.1 **Watford Borough Council (WBC)** – in its capacity as land owner;
- 1.2 **The Private Sector Partner (PSP)** – being Kier Project Investment Ltd;
- 1.3 **LABV** – being the Watford Health Campus vehicle established by WBC and the PSP, and being a corporate entity in its own right;
- 1.4 **Possible Development Subsidiaries (DEVCO)** – being subsidiaries of the LABV, established to undertake some of the development zones;
- 1.5 **The Supply Chain** – being the PSP's contracting and professional team supply chain, through which day-to-day activity will be carried out;
- 1.6 **West Hertfordshire Hospitals NHS Trust (WHHT)** – WHHT in its capacity as landowner and potential occupier or recipient of works/services from the LABV or PSP.

2. OVERVIEW OF STRUCTURE

- 2.1 It is contemplated that WBC and the PSP will jointly establish the LABV as a limited liability partnership. Accordingly, a Members Agreement will be entered into on the basis that the LABV is a 50/50 joint venture.
- 2.2 On establishment of the LABV, WBC will enter into a Development Agreement with the LABV. This agreement will regulate (against the LABV Business Plan) the means by which land is to be brought forward for development and ultimately drawn down by the LABV (in some cases to individual DEVCOs).
- 2.3 The LABV will be thinly capitalised and unlikely to directly employ staff – but will contract for services under a Development Management Agreement (DMA), entered into with a company in the PSP's group of companies.



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- 2.4 In order for WHHT to utilise the PSP in future, it is envisaged that a Collaboration Agreement will be entered into between WHHT and the PSP, through which WHHT is able to access services; the purpose of the Collaboration Agreement being to regulate the process by which such arrangements are made in the future but without automatically committing WHHT to doing so.
- 2.5 Finally, WBC, the LABV and WHHT will enter into a Campus Agreement. This agreement will regulate how Trust land may be brought forward for development, drawn down, and any land equalisation (i.e. as to the value of land) dealt with. In addition, this agreement will establish a governance structure, via a Campus Forum, which is consistent, and therefore not in conflict, with the LABV Business Plan.

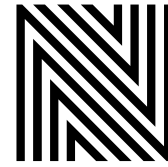
3. MAIN PROPOSALS WITHIN EACH AGREEMENT

Taking each of the main agreements in turn:

3.1 Members Agreement

Key features:

- Establishes the LABV as a corporate entity and frames its objectives;
- Regulates the business activities of the LABV, and its corporate governance arrangements – through a Partnership Board and Operational Board, established on a 50/50 deadlocked basis;
- Sets out the means by which capital and finance is to be brought into the LABV, including how the respective contributions of the Council (land or cash) and PSP (cash) are treated;
- Has arrangements for delegation of decision making by the LABV, under a formal delegation policy;
- Provides the framework for business plans of the LABV;
- Governs the distribution of profits by the LABV;
- Governs the establishment and incorporation of any development subsidiary;
- Has provision for termination and exit;
- Makes provision for an infrastructure business plan and the draw down of Growing Places Funding and NHS funds.



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3.2 **Development Agreement**

Key features:

- Gives the LABV exclusive rights in relation to the development of the Campus, subject to conditions, and generally subject to satisfactory performance (against key performance indicators);
- Sets the pre-conditions against which land (i.e. zones) may be drawn down for development, e.g. as to Planning, Funding and Viability;
- Regulates the terms of any land transfer;
- Has provisions for regulating the delivery of Campus-wide infrastructure;
- Includes provisions to regulate the delivery of the road by the LABV.

3.3 **Development Management Agreement (DMA)**

Key features:

- Appoints the PSP to provide specified professional services and/or contracting services to the LABV;
- Has arrangements in respect of value for money (benchmarking, mini-competitions, and open book);
- Places an obligation on the PSP, in the provision of services to the LABV, to comply with milestones, key performance indicators (KPIs), and other targets set by the LABV (as captured by the LABV Business Plan);
- Has reporting arrangements;
- Sets the payment terms (i.e. the fees payable by the LABV to the PSP, including any deductions in respect of non-performance or failure to meet KPIs).

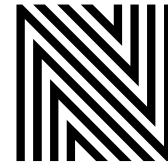
3.4 **Collaboration Agreement**

Key features:

- Establishes how the PSP will provide services required by WHHT;
- Has a staged process under which the PSP will develop proposals back to WHHT, including as to pricing;
- Regulates the basis on which WHHT and PSP (or its Supply Chain) is to enter into contracts.

3.5 **WBC/WHHT/LABV Campus Agreement**

Key features:



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- Regulates the participation of WHHT in the Campus project;
- Enables WHHT to participate in decisions being made the LABV via a Campus Forum;
- Sets out the Business Plan approval steps;
- Governs the terms on which WHHT may bring forward developments for the Trust and the NHS approval steps;
- Governs the basis upon which WHHT land may, subject to business case approval, be introduced to the LABV for development;
- Establishes the mechanism for land equalisation;
- Sets the agreed basis for payment and/or repayment of key infrastructure costs.

SUMMARY

These arrangements will establish the LABV and put in place a commercial structure for land to be brought forward for development on the Campus site. In essence, the LABV will enjoy the exclusive right to develop the Campus site but subject to a number of checks and balances. As a member of the LABV, the Council will participate in decision-making and share in the risks and rewards of the joint venture.

WHHT will be a party to these arrangements, and will actively participate in decisions. Accordingly, the agreements made with WHHT will involve commitment on its part to the extent that these have had necessary approvals. Together, these agreements will create the framework for WHHT involvement in the Campus.

Nabarro LLP

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