Local Memorandum of Understanding & Constitution

1. Background and Context

1.1 The Parties

Somerset County Council (SCC), the Axe / Brue and the Parrett Internal Drainage Boards (IDBs), Mendip, Sedgemoor, South Somerset and West Somerset District Councils, Taunton Deane Borough Council, the Environment Agency, Natural England, and the Wessex Regional Flood and Coastal Committee (together the "Parties") comprise the Somerset Rivers Authority (SRA). These Parties, to whom this Local Memorandum of Understanding (MoU) applies, are those agreed to be represented on the SRA Board.

1.2 The Somerset Flood Action Plan

The Parties, together with Defra and DCLG, are committed to reducing flood risk and increasing resilience to flooding in Somerset via implementation of the Somerset Flood Action Plan, including the delivery of its vision for the Levels and Moors (Appendix One). The SRA Board agreed that this will require additional expenditure on water and flood risk management and that this should be secured via a SRA precept.

1.3 Memorandum of Understanding 8th December 2014 and sustainable funding mechanism

Pursuant to the commitment in para 1.2 above, on 8th December 2014 a Memorandum of Understanding was agreed by the local authorities, the IDBs, Defra and DCLG, which confirmed funding totalling £2.7m available to the SRA for 2015 / 16. That MoU included a commitment to work together to review the options for a sustainable local funding solution for the work of the SRA from 2016/17 onwards, and provide an assessment of the options for consideration by Ministers in July 2015.

In September 2015, it was decided that the preferred funding mechanism was the establishment of the SRA as a precepting body and the Chairman of the SRA wrote to both the Secretaries of State for Environment, Food and Rural Affairs, and for Communities and Local Government with a view to discussing and agreeing how to implement this as soon as possible.

1.4 Local Government Finance Settlement 2016-17

The Local Government Finance Settlement 2016-17 includes the provision of alternative notional amounts for council tax levels so that pending the establishment of the Somerset Rivers Authority as a precepting body, Somerset County Council and all Somerset district councils could set a shadow precept of up to 1.25%, for the purpose of funding the Somerset Rivers Authority.

The SRA Board, and its constituent local authority partners, agreed this can only be a one year measure, pending the introduction of precepting legislation.

1.5 This Local Memorandum of Understanding (Local MoU)

This Local MoU document is not intended to be legally binding on the Parties, but the Parties agree to the Local MoU, intending to honour their obligations set out in it. It will be cover the period up to 31st March 2017. Section 2 of this Local MoU set outs a constitution for the SRA. Information on background papers, technical terms and acronyms, can be found in Appendix Two.

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1.6 Term & Amendment

This Local MoU shall come into effect on 1st April 2016**,** and shall continue in force unless terminated in accordance with this Local MoU. It will be reviewed prior to the end of the financial year, and no later than 31st March 2017.
Proposals for amendments should be communicated to the SRA Senior Manager, no less than 30 days ahead of any Board meeting at which they would need to be considered. Proposals would then be circulated for comment and a recommendations made the SRA Board, and in accordance with its decision-making arrangements decided by a simple majority.

1.7 Previous Arrangements

Prior to this Local MoU, the Parties have worked collaboratively in relation to the Somerset Rivers Authority through a Local MoU dated January 2015. Those arrangements will be superseded by the arrangements put in place under this Local MoU.

Signed by **John Osman** for and on behalf of **Somerset County Council**

Date

Signed by **John Williams** for and on behalf of **Taunton Deane Borough Council**

Date

Signed by **Ric Pallister** for and on behalf of **South Somerset District Council**

Date

Signed by **Harvey Siggs** for and on behalf of **Mendip District Council**

Date

Signed by **Duncan McGinty** for and on behalf of **Sedgemoor District Council**

Date

Signed by **Anthony Trollope-Bellew** for and on behalf of **West Somerset Council**

Date

Signed by **Peter Maltby** for and on behalf of the **Parrett Internal Drainage Board**

Date

Signed by **Jeff Fear** for and on behalf of the **Axe & Brue Internal Drainage Board**

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Date

Signed by **David Jenkins** for and on behalf of the **Wessex Regional Flood & Coastal Committee**

Date

Signed by **Nick Gupta** for and on behalf of the **Environment Agency**

Date

Signed by **Matt Heard** for and on behalf of **Natural England**

Date

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2. Somerset Rivers Authority (SRA) - Constitution

2.1 Legal Status of SRA

The SRA will continue as an unincorporated association. This does not require any new statutory powers. In participating in this association, the Flood Risk Management Authorities (FRMAs, see para 2.3.1) are acting in accordance with the co-operation duty under the Flood and Water Management Act 2010, Section 13.

The SRA Board has agreed it is committed to enabling the necessary legislation to be enacted to establish the SRA as an independent precepting body, in time to be able to precept householders for funds for 2017/18

2.2 Purpose of the SRA

2.2.1 To bring together and co-ordinate the Environment Agency, Natural England, the Somerset Internal Drainage Boards (IDBs), the Lead Local Flood and Highway Authority (Somerset County Council - SCC) and the other Somerset local authorities, in their roles as FRMAs

2.2.2 To provide a strategic overview of the continued delivery of the Somerset Flood Action Plan; and Flood Risk and Water Level Management in Somerset

2.2.3 To provide a public forum and single point of contact for collective decision making in respect of Flood Risk and Water Level Management in Somerset

2.2.4 To identify, prioritise, find funding for and oversee the delivery of additional flood risk and water level management work across the whole of Somerset, over and above that which the FRMAs are able to justify within their existing funding streams and to prepare a rolling 5 year programme detailing that work, to raise the necessary funds and to oversee its delivery.

2.2.5 To enable the FRMAs to take on a broader role, to ensure that Somerset's flood risk and water level management activity benefits from the collective wisdom, experience and knowledge of all its members;

2.2.6 To undertake the detailed planning and, with government, put in place the necessary arrangements for the establishment of the SRA as a precepting body.

2.2.7 To achieve long-term sustainable flood risk management funding for Somerset

2.3 Scope of Activities

2.3.1 The geographic scope of the SRA is the whole of the area administered by Somerset County Council

2.3.2 The SRA does not diminish the responsibilities of the individual Parties or those of riparian owners. The existing FRMAs and their existing associated funding streams, responsibilities and accountabilities continue, and their existing powers and discretions are unaffected. However, opportunities will be taken to join up delivery where agreed.

2.3.3 The SRA makes publically available, in one place, information about all the planned inland flood risk and water level management activity in Somerset, funded from Somerset's FRMAs' and other local partners' existing budgets. This information is called the Somerset

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Common Works Programme.

2.3.4 The SRA prepares a rolling prioritised 5 year programme detailing the additional work outlined in 2.2.4. This additional work is called the SRA 5 Year Enhanced Programme.

2.3.5 The SRA commissions the delivery of activities outlined in the first year of the SRA Programme, namely the SRA 2016/17 Enhanced Programme, details of which, the criteria for inclusion and the method of prioritisation can be found in Appendix Three.

2.3.6 The SRA co-ordinates the implementation of the Somerset Flood Action Plan whose outstanding actions, are contained in either the Somerset Common Works Programme or the SRA 5 Year Enhanced Programme.

2.3.7 Public Sector Co-operation Agreements under the Flood & Water Management Act 2010 section 13(4) will be used as appropriate.

2.3.8 Where works are undertaken by a Party, the practices and procedures of that Party shall apply. Each of the Parties shall take responsibility for its own liabilities, including insurance; e.g. through appropriate insurance cover or indemnity of Members and officers.

2.3.9 The SRA will not include within its scope, activities associated with emergency response and recovery or coastal flood risk.

2.4 Funding

2.4.1 Funding totalling £2.7m will be available to the SRA for 2016/17, which will be raised by Somerset's local authorities and the Parrett and Axe/Brue Drainage Boards as follows:

Authority	**Contribution**
Somerset County Council	£2,418,520
Taunton Deane BC	£67,987
Sedgemoor DC	£68,000
Mendip DC	£70,953
South Somerset DC	£108,122
West Somerset C	£23,728
Somerset Internal Drainage Boards	£20,000
Total	**£2,777,409**

2.4.2 The Heart of the South West LEP Growth Deal funding totalling £13.1m is available to SCC as the accountable body for the SRA for the 6 year period 2015/16 – 2021/22

2.4.3.SCC will account for the use of all funds to the Parties as set out in para 2.7

2.5 Host Authority

2.5.1 As recipient and accountable body for the funding contributions from Somerset's local authorities, SCC shall act on behalf of the SRA Board as Host Authority. In particular it shall:

- Provide the services of its Chief Financial Officer and Monitoring Officer at no cost;
- Provide accounting, financial analysis, accounts payable and receivable.
- Provide procurement services to all contracts SCC awards on behalf of the SRA and, on request, on those of the SRA's delivery partners as required.

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- Employ any Host Authority staff and provide HR and IT services in support of them and the SRA website;
- Respond to requests for information;
- Carry out such other functions as may be agreed.

2.5.2 The costs of the Host Authority in this role shall be covered by the funding available to the SRA, and shall be separately identified in the SRA budget for the year as shall any interest accruing in respect of funding made available at the beginning or during the year.

2.5.3 The SRA shall, where relevant and unless otherwise agreed, operate in accordance with Host Authority practices and procedures, including the following:

- Procedural standing orders for the conduct of meetings;
- Financial regulations;
- Equalities policies;
- Policies for dealing with access to information and data protection.
- Employment Policies
- Formal decision making procedures

2.6 Conduct of SRA Board Members

Members of local authorities, IDBs and Regional Flood and Coastal Committees are bound by their own codes of conduct, as are staff of the Environment Agency and Natural England. SRA board members, including any co-opted members, will in particular need to comply with the principles of the Host Authority's Members' code of conduct as it applies to the declaration of interests, and compliance with the principles of public life set out by the Nolan Committee on Standards in Public Life.

2.7 Obligations

2.7.1 As the accountable body for the funding, SCC shall ring fence the funding, provide quarterly information on spend to date against budget and interest accrued to the SRA Board. In particular, SCC will apply its normal financial probity and accountability controls, and will maintain reliable, accessible and up to date accounting records with an adequate audit trail for at least six years.

2.7.2 The other Parties shall pay to the Host Authority their contribution (see para 2.4.1) on 1st April 2016, following receipt of an invoice from the Host Authority, and shall provide timely information relating to progress, costs, benefits and impacts in connection with their roles as delivery partner in relation to the SRA 2016/17 Enhanced Programme (see Appendix Three).

2.7.3 The Parties shall, by 31st March 2016, agree the budget for 2016-17, arrangements as to the way in which SRA funding for 2016 / 17 shall be spent, managed and accounted for. These shall include mechanisms for handling any underspends against budget, for managing the risk of cost increases, and for facilitating the flow of funding from SCC to meet agreed expenditure incurred by another Party.

2.7.4 SCC will settle all payments within 30 days of agreement and submission.

2.8 Member Organisations (The Parties)

Somerset County Council, the Axe / Brue and the Parrett IDBs, Mendip, Sedgemoor, South Somerset and West Somerset District Councils, Taunton Deane Borough Council, the Environment Agency, Natural England, and the Wessex Regional Flood and Coastal

Committee.

2.9 SRA Board

2.9.1 Composition of Board: One representative per member organisation, except for the IDBs that shall each have two, totalling 13 members.

2.9.2 Authority of Board: The SRA Board has the authority to;

- Agree the SRA 5 Year Enhanced Programme and authorise SCC to release SRA funding for the delivery of its current year's activities;
- Endorse programmes that reduce both the risk and impact of flooding and other activities supporting the delivery of the Vision and the Flood Action Plan to be carried out by the Parties;
- Determine the scope of services provided by SCC as Host Authority.

2.9.3 Appointment of Board Members and Period of Office: The Parties have appointed representatives to serve as members of the SRA Board. Board members shall hold office until written notification of their removal and / or replacement is received by the Host Authority, or shall cease with immediate effect if they cease to hold office within that member organisation.

2.9.4 Nomination of Deputies to Attend Meetings: Each of the Parties shall nominate a deputy for its appointed Board member, to attend and to vote at any meeting of the Board in place of the appointed Board member, who for any reason is unable to attend.

2.9.5 Appointment of Chair and Vice-Chair: The SRA Board elected a Chair and a Vice-Chair who are members of the Board on February 27th 2015. They will hold office until they cease to be members of the Board or June 2017, whichever is the earlier and an election will be held at the next meeting of the Board to appoint their successor. If neither the Chair nor Vice-Chair is present, then a member shall be elected from those present to act as Chair for that meeting.

2.9.6 Co-option of additional Board Members: The SRA Board shall have the power to appoint additional non-voting members to the Board. The process for co-option is to invite expressions of interest following agreement to do so by the SRA Board. Any expressions of interest would need to be accompanied by a curriculum vitae setting out relevant skills and experience of the invited individual or representative of the invited organisation. To ensure that adequate time is available for consultation on any co-option proposal any expressions of interest should be forwarded to the SRA Senior Manager, for circulation to Board Members for comment no less than 30 days ahead of any Board meeting at which they would need to be considered. Proposals would then be put as recommendations to the SRA Board, and in accordance with its decision-making arrangements, decided by a simple majority.

2.9.7 Voting: Decisions to be made by a simple majority of voting members attending. In the event of a tied vote, the Chair shall have a casting vote. In the event of a prejudicial interest arising, a member will need to abstain from participation in accordance with normal practice.

2.9.8 Quorum: A minimum of 9 voting members, including the accountable body for the funding.

2.9.9 Access to Meetings and Information: SRA Board meetings will be open to the public. Papers will be published on the SRA website 5 clear working days prior to meetings. Minutes of Board meetings will also be published on the website.

2.9.10 Public Speaking and Questions: Guidance is published on the SRA website as follows:

"Public Question Time
You may ask questions and/or make statements or comments about any matter on the agenda. The length of public question time will be no more than 30 minutes in total, unless extended at the discretion of the Chair.

If you wish to speak at the meeting then you will need to submit your statement or question in writing at least two clear working days ahead of the meeting. This can be done by sending an email to sra@somerset.gov.uk

A slot for Public Question Time is set aside near the beginning of the meeting. However, questions or statements about any matter on the agenda for this meeting may, at the chair's discretion, be taken at the time when each matter is considered.

You must direct your questions and comments through the Chair. You may not take direct part in the debate, unless invited to do so by the Chair.

The Chair will decide when public participation is to finish.

The amount of time you speak will be restricted normally to two minutes only, although it can be extended at the discretion of the Chair."

2.9.11 Frequency of Meetings: A calendar of meetings for each Board year will be published at the beginning of each financial year. Full Board meetings are held quarterly and extra meetings will be called in the event of an urgent decision.

2.9.12 Attendance at Meetings: Each of the Parties shall be responsible for meeting any remuneration, costs and expenses associated with attendance at meetings.

2.10 Officer Support and Availability of Information

2.10.1 Where appropriate, the Parties shall make such of their officers and their information available for the purposes of the SRA, and for the Host Authority to meet its responsibilities, and in particular for updating and implementing the Flood Action Plan, the outstanding works of the SRA 2015/16 Enhanced Maintenance Programme, the SRA 2016/17 Enhanced Programme, the SRA 5 Year Enhanced Programme and Somerset's Common Works Programme.

2.10.2 An officer management group has been set up to oversee the delivery of the SRA's Enhanced Programmes and the outstanding actions of the Flood Action Plan. Their terms of reference are set out in Appendix 4 and members of the SRA Management Group are senior officers as follows:

- Paula Hewitt (Chair), Somerset County Council
- Doug Bamsey, Sedgemoor District Council
- Brendan Cleere, Taunton Deane District Council and West Somerset Council
- Stuart Brown, Mendip District Council
- Vega Sturgess, South Somerset District Council
- Ben Thorne, Farming and Wildlife Advisory Group, South West
- David Whelon, Natural England
- Nick Stevens, Somerset Consortium of Drainage Boards
- Rachel Burden, Environment Agency
- Sarah Diacono, Somerset Rivers Authority

2.10.3 An officer technical group has been set up in support of the Board. Their terms of reference and membership are set out in Appendix Four

2.11 Delegations / Urgent Business

2.11.1 The SRA delegations are outlined in Appendix Five.

2.12 Dispute Resolution

2.12.1 All disputes between the Parties on the meaning and interpretation of the constitution, and all disputes or differences in any way arising from the constitution, shall in the first instance be referred to the next meeting of the SRA Board for resolution.

2.12.2 In the event that the dispute is not resolved through this mechanism, it shall be referred to a mediator in accordance with the CEDR Model Mediation Procedure.

2.12.3 All parties shall use their reasonable endeavours to conclude the mediation with 40 business days of referral of the dispute to mediation.

2.12.4.If the dispute is not resolved in accordance with para 2.12.2 within 40 business days, it shall be referred to an arbitrator to be agreed between the parties in dispute, and failing agreement, to an arbitrator appointed by the President of the Chartered Institute of Arbitrators, and the Arbitration Act 1996 shall apply to any such arbitration.

2.13 Withdrawal / Termination

2.13.1. In order to withdraw from the SRA, any Party shall give not less than 3 months' notice in writing to the Host Authority to expire on 31st March in any year.

2.13.2. The Parties may agree to wind up the SRA through a decision of the SRA Board by giving not less than 3 months' notice to the Host Authority.

2.13.3 If a Party serves notice to withdraw under para 4 above, or the Parties agree to wind up the SRA under para 5 above, the Host Authority shall arrange with that Party or the Parties, such operational, administrative and financial arrangements as may be agreed between the Parties.

2.13.4. A Party withdrawing from the SRA, or the Parties winding up the SRA, shall be entitled to receive a fair share of any assets held, offset by any liabilities, to be agreed between the Parties, at the date of the withdrawal or winding up, to be received when those assets are able to be realised.

2.14 Overview and Scrutiny

A joint Scrutiny Committee will be established, comprising one member from each of the funding organisations, to oversee and scrutinise the activities of the SRA.

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Appendix Two: Background Papers, Glossary of Terms & Acronyms

A1.1 Background Papers

- Background papers can be found on the Somerset Rivers Authority website at www.somersetriversauthority.org.uk

A1.2 Technical Terms

- **Prejudicial Interest** An interest of an individual Board member, which could be perceived to represent a conflict of interest with any matter considered by the Board
- **Public Sector Co-operation Agreements** The Flood and Water Management Act 2010 enables an FRMA to arrange for a flood risk management function to be exercised on its behalf by another risk management authority. This can be done under a Public Sector Co-operation Agreement.
- **Riparian Owner** An owner of land or property adjoining a watercourse.

A1.3 Acronyms

- BC Borough Council
- CEDR Centre for Effective Dispute Resolution
- DC District Council
- DCLG Department for Communities and Local Government
- Defra Department for the Environment, Food and Rural Affairs
- FRMA Flood Risk Management Authority
- HR Human Resources
- IDB Internal Drainage Board
- IT Information Technology
- MoU Memorandum of Understanding
- SCC Somerset County Council
- SRA Somerset Rivers Authority

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