APPENDIX 2

LONDON BUSINESS RATES RETENTION POOL 2020/21

1.0 Introduction

1.1 This report sets out the proposed arrangements for the London Business Rates Retention Pool in 2020/21 and seeks approval for Hackney's participation in the Pool.

1.2 This year, in common with all boroughs, we are operating under the 2019/20 London Business Rates Retention Pilot Pooling arrangement.

1.3 The 2019-20, the 75% pilot pool under which the boroughs retain 48% of the business rates income received, is forecast to generate £181 million in net financial benefit for the boroughs and the GLA as a result of paying no levy on growth (that would otherwise have been paid) and retaining 75% of growth rather than 67%, which would be the case under the 2017/18 scheme. The distribution will be as follows:

- London Boroughs and the City - £98 million
- Greater London Authority - £55 million
- Strategic Investment Pot - £27 million

1.4 Hackney's share of the net benefit is estimated to be £3.9m

1.5 Following the publication of the 2019 Spending Review, the Government announced that the planned reforms to a national 75% business rate retention scheme will be postponed by a year until April 2021 and has chosen not to continue the London pilot in 2020/21.

1.6 This means that in 2020/21, the 2017/18 shares of business rates income will apply, i.e. GLA 37%; Central Government 33% and London Boroughs 30% . This will reduce the amount of business rates retained by Hackney from 48% to 30% but the losses in income will be mitigated to some extent by additional Government funding.

1.7 In October 2019, the London Councils Leaders' Committee agreed to continue the London business rates pool in 2020/21, despite the loss of pilot status. The 2017/18 shares will still apply but London Councils have estimated that the anticipated financial benefit of the Pool is approximately £25 million, all of which will be distributed to boroughs following the Mayor of London's agreement to forego any financial benefit, and Leaders' agreement not to have a Strategic Investment Pot (SIP) next year. London Council's latest modelling estimates our share at £1.1m. The advantages from continuing with the pooling arrangements which are further discussed below.

2.0 Recommendations

1. **To approve and accept the designation by the Secretary of State as an authority within the London Business Rates Pilot Pool pursuant to 34(7)(1) of Schedule 7B Local Government Finance Act 1988;**

2. **To participate in the London Business Rates Pilot Pool with effect from 1 April 2020 to 31 March 2021;**

3. **To delegate the authority administrative functions as a billing authority pursuant to the Non- Domestic Rating (Rates Retention) Regulations 2013, to the City of London Corporation ("COLC") acting as the Lead Authority;**

4. **To authorise the Lead Authority to sub-contract certain ancillary administrative functions [regarding the financial transactions [payment of tariffs and top-ups] within the Pool to the GLA as it considers expedient];**

5. **To delegate authority to Group Director of Finance and Corporate Resources in consultation with the Mayor to agree the operational details of the pooling arrangements with the participating authorities;**

6. **To agree to enter into a Memorandum of Understanding (attached at Annex 1) with the other participating authorities as may be necessary to implement and/or regulate the pool and to delegate authority to the Group Director of Finance and Corporate Resources in consultation with the Director of Legal and Governance to negotiate, finalise and execute the same on behalf of the authority.**

7. **To authorise the Mayor to represent the authority in relation to consultations regarding the London Business Rates Pilot Pool as may be undertaken by the Lead Authority pursuant to the Memorandum of Understanding;**

These recommendations are subject to the requirement that actual funding allocations from the Lead Authority are in line with expectations based on previous financial modelling carried out by London Councils.

3.0 Advantages of Pooling in 2020/21

3.1 Direct Financial Benefits

The financial benefits of pooling under the 67% scheme are not as great as under the current 75% retention pilot. Firstly, there would be less growth retention (67% versus 75%), and, secondly, there would be a lower saving on levy payments, as the pool would pay a levy on growth (as all tariff areas would normally do). The financial benefit comes from the pool overall paying less in levy than the London tariff authorities would have paid individually.

Based on the latest forecasts from July rolled forward (i.e. no real terms growth assumed next year), suggests a non-pilot pool of all London authorities would produce a net financial benefit of approximately £25.4 million. This comes from the pool only paying a levy of £92.9 million on growth of 9% above baselines level, compared to individual payments totalling £118.3 million across the tariff authorities in the pool.

Following the Mayor of London's agreement to forego any financial benefit, and Leaders' agreement not to have a Strategic Investment Pot (SIP) next year. London Council's has estimated our share at £1.1m.

Another reason why authorities choose to pool is to spread risk collectively – it being less likely that the entire pool will see rates decline than an individual borough.

The original pilot pool was underpinned by the principle - underwritten in 2018-19 by the "no detriment" guarantee from Government - that no participating authority could be worse off than it would otherwise be. In a straightforward, "non-pilot" pool it is not possible to offer such a guarantee. This was technically the case in the current 75% pilot pool this year - although the scale of financial benefit made the possibility of boroughs being worse off very unlikely. It is also true of all the other non-pilot pools across the country. While more likely in a 67% non-pilot pool, there would need to be a significant downturn for the pool not to be able to ensure that any one borough was not worse off than it would otherwise be. Modelling suggests that a reduction across the pool of 4.8% compared with the current forecast would have to occur (a fall in overall rates of around £400 million) for this to be the case. In the context of annual real terms growth of over 2% per annum in the last 6 years since the first year of the scheme, this is unlikely. Given that even in 2009 following the biggest economic downturn in 80 years, business rates grew in London, this also seems unlikely.

3.2 Strategic Benefits

There could be strategic benefits in continuing to pool business rates without pilot status. Further retention of business rates in the capital has been a long-held ambition of London Government, with London boroughs and the GLA working closely on business rates retention since the Government announced plans to implement 100% retention in October 2015. The pilot pool was seen as a platform from which to develop further arguments about London Government genuinely retaining 100% of the business rates it collects, while providing an important step towards broader fiscal devolution ambitions, in line with the recommendations of the London Finance Commission in 2013 and 2017.

Maintaining a collaborative arrangement for a further year would likely give London Government a more influential voice with regard to the eventual design of the full 75% scheme, now due to be implemented in 2021-22. It may be that ministers would look even more favourably on a London pool that was genuinely seen to work under the “normal” conditions of risk and reward outside of the conditions of a pilot that Government may maintain, is somewhat artificial.

3.3 Administrative Benefits

The current pilot has provided a platform for greater openness and sharing of information about assumptions regarding those elements of the NNDR process that authorities have more judgement over. It has enabled stakeholders to improve their technical understanding of how the system works and has raised the level of awareness amongst both members and officers of the key drivers of business rate growth, the importance of accurate forecasting, and the impact that appeals judgements have on the system.

Treasurers regularly discuss the progress of the pilot and any issues that the pool may foresee in the future, and the Lead Authority has established a technical working group of finance and revenues officers to consider operational issues, which has developed a regular monitoring process to improve the accuracy and reliability of forecasts for the pool throughout the year.

4.0 Next Steps

4.1 As was the case for the original pilot, each council will need to make its own individual decision to participate in the pool, in time for the resulting business rate and funding baselines to be incorporated within the Final Local Government Finance Report in February. The Scheme has been designated by the Secretary of State in the 2020/21 Provisional Local Government Finance Settlement. Boroughs have 28 days after the Provisional Local Government Finance Settlement was published to withdraw from the pool. If no authority withdraws then the 2020-21 pool will go ahead as from 1st April 2020. The Group Director Finance and Corporate Resources will report at the Cabinet meeting if any borough has withdrawn from the scheme which appears unlikely at the time of writing this report.

4.2 The key principles that underpin the London pooling agreement are set out in the Memorandum of Understanding (MOU) between the boroughs and the GLA, which is attached at Annex 1 to this Appendix. The MOU sets out the basis on which the Participating Authorities have collectively agreed to continue to operate a Business Rates Pool across London and distribute the financial benefits. It comes into effect for the financial year 1 April 2020 to 31 March 2021 and is presumed to continue to operate for 2020-21 only. The key points are summarised below.

(a) From 1 April 2020 the Participating Authorities shall retain 67% of their non-domestic rating income, with tariffs and top-ups reverting back to the levels calculated by government within the 2020-21 Local Government Finance Settlement that reflect the underlying 50% retention scheme, with a borough share of 30%. The Participating Authorities shall also continue to receive Section 31 Grant from the Government in respect of changes to the business rates system. Section 31 Grant shall amount to 100% of the value of the lost income so will also be calculated on a 67% retention basis.

(b) This MOU comes into effect for the financial year Non-Domestic Rating Income on 1 April 2020 to and terminates on 31 March 2021.

(c) Where there is sufficient retained income in the pool to guarantee it, each of the Participating Authorities shall receive at least as much from the Pool as they would have individually under the non-pooled 67% retention scheme;

(d) Any Financial Benefit will be distributed through the Redistribution Pots agreed by Participating Authorities in the former Business Rates Pilots. However, London Councils Leaders' Committee and the Mayor of London agreed to remove the Strategic Investment Pot (**SIP**) as a redistribution pot. The Financial Benefit will therefore be proportionally apportioned using the three remaining pots in the agreed proportions set out below

i) Incentives Pot. 18% of the Financial Benefit to incentivise Growth by allowing the Billing Authorities where Growth occurs to keep a proportion of the additional resources retained as a result of the Pool. The proportion shall reflect, for authorities with Growth, each Billing Authority's share of the total Growth prior to Levy;

ii) 41% to reflect each Billing Authority’s share of the total the Settlement Funding Assessment (a proxy for needs) for the London Billing Authorities;

iii) 41% according to each Billing Authority's per capita formulation as calculated by the most recent available ONS projection for 2020 at the time of distribution;

(e) The GLA will be included in the 2020-21 pool. However, the GLA shall not receive any of the Financial Benefit arising from pooling, (as agreed at the London Councils Leaders’ Committee and with the Mayor of London in October 2019.

(f) In the event of the Pool generating a financial deficit (being in a worse position than the aggregate position had Participating Authorities not agreed to pool), any authority who would have qualified for a safety net payment had they not been part of the pool will be guaranteed to retain a level of business rates equal to their safety net level as calculated by government. The remaining net Financial Deficit will be shared among all Participating Authorities in accordance with the approach agreed, with the GLA funding 36% of the Financial Deficit and those remaining boroughs, who would not receive safety net payments had they not been part of the pool (the Remaining Billing Authorities) funding the remaining 64% of the Financial Deficit The distribution to the Remaining Billing Authorities of their 64% of a Financial Deficit will reflect the following proportions:

1. 50% of the Remaining Billing Authorities’ share of a Financial Deficit according to each Remaining Billing Authority’s share of the total Settlement Funding Assessment for the Remaining Billing Authorities not receiving safety net payments;(Needs Pot);

2. 50% of the Remaining Billing Authorities’ share of a Financial Deficit according to each Remaining Billing Authority's per capita formulation as calculated by the most recent available ONS projection for 2020 at the time of distribution. (Population Pot).

(g) The City of London (COLC) shall continue to act as the accountable body to the Government and administer the Pool. The GLA shall provide transactional support to the COLC, including treasury management issues and making any monetary transfers between billing authorities in respect of the Pool on behalf of the Lead Authority including any sums due to the GLA.

(h) The City’s responsibilities include: - all accounting for the finances of the Pool and the balance of Strategic Investment Pot funds remaining from prior years including payments to and from the Government; management of the Pool; receiving payments from Participating Authorities and making payments to central government on behalf of Participating Authorities on time; administering the schedule of payments between Pool members in respect of the financial transactions that form part of the Pool's resources; all audit requirements in relation to the Pool; and production of an annual report of the Pool's activity following final allocation of funds for the year;

4.3 The pooling agreement MOU between the 34 London authorities will be signed by each Leader or elected Mayor of the 32 London boroughs, the Chairman of the Policy and Resources Committee of the City of London and the Mayor of London.

ANNEX 1

MEMORANDUM OF UNDERSTANDING

In relation to Extended London Business Rates Pool 2020/21

1. Background

1.1 This Memorandum of Understanding (**MOU**) and the appendices which form part of the MOU sets out the basis on which the Participating Authorities have collectively agreed to continue to operate a Business Rates Pool across London and distribute the Financial Benefit. No provision within this MOU is intended to create any legal relations between the Participating Authorities.

1.2 The Participating Authorities agree to act collaboratively and to co-operate with each other in utmost good faith.

1.3 The Government designated a pan-London business rates pool in 2018-19, which piloted 100% retention in that year, and was revised to pilot 75% retention in 2019-20 (the Business Rates Pilots). It confirmed in September 2019 its intention not to renew the London pilot in 2020-21, and for London to revert back to the pre-existing 2017-18 67% retention scheme (which was a partial pilot, reflecting the incremental impact of the rolling in of the Greater London Authority's (**GLA**) Revenue Support Grant (**RSG**) and the Transport for London investment grant).

2 Aim/Rationale of the Pool

2.1 The Pool continues to aim to improve the well-being of the communities served by the Participating Authorities in London. By working together, they can retain a greater proportion of business rates Growth within London, providing additional resources to support local communities and strengthen financial resilience following a decade of significant funding reductions.

3 Principles of the Pool

3.1 The Participating Authorities hereby confirm their agreement to continue to participate in compliance with this MOU and confirm that they have resolved or intend to duly and properly resolve to accept the Designation Order in satisfaction of Schedule 7B, Paragraph 34(2) of the Local Government Finance Act 1988 (**LGFA 1988**) and to enter into this MoU.

3.2 From 1 April 2020 the Participating Authorities shall retain 67% of their Non-Domestic Rating Income. The Participating Authorities shall also continue to receive Section 31 Grant from the Government in respect of changes to the business rates system. Section 31 Grant shall amount to 100% of the value of the lost income so will also be calculated on a 67% retention basis.

3.3 In returning to 67% rates retention, the Ministry of Housing, Communities and Local Government (**MHCLG**) will once again pay RSG to the Participating Authorities in 2020-21 with tariffs and top-ups reverting back to the levels calculated by government within the 2020-21 Local Government Finance Settlement that reflect the underlying 50% retention scheme, with a borough share of 30%. The GLA's tariff will be calculated based on its partial pilot of 37% retention, to reach the total 67% retention scheme.

3.4 The Safety Net level of the pool will be 92.5% of the aggregate Baseline Funding Level of the pool, and the Levy rate (reflecting the relative scale of the pool's aggregate Business Rates Baseline and Baseline Funding Level) is estimated to be 19 pence in the pound (the Final Local Government Finance Settlement will formally confirm the levy rate).

3.5 This Pool shall have no impact on Enterprise Zones or "designated areas" where the designations made by the Secretary of State came into force on or before 1 April 2020, along with other special arrangements, such as the statutory provision to reflect the unique circumstances of the City of London Corporation (**COLC**), as currently contained in Part II of Schedule 7 to the LGFA 1988 and paragraph 1(2) of Schedule 1 to the Non-Domestic Rating (Rates Retention) Regulations 2013/452.

4.1 Subject to clause 4.2, this MOU comes into effect for the Non-Domestic Rating Income on 1 April 2020 and terminates on 31 March 2021 (the **Term**), unless otherwise agreed in writing by all the Participating Authorities or unless terminated in accordance with paragraph 9 below ("Dissolution of the Pool") or extended on the same basis for 2021-22.

4.2 Notwithstanding termination or expiry of the MOU Participating Authorities will continue to implement / operate any outstanding Activities agreed for the Term till such time as the Activities are complete, the annual report is issued, and the final Reconciliation Payments are settled by the Lead Authority.

5 Distribution of any Financial Benefit or Deficit

5.1 This MOU shall constitute the agreement for the operation of the Pool in which:

5.1.1 Where there is sufficient retained income in the pool to guarantee it, each of the Participating Authorities shall receive at least as much from the Pool as they would have individually received under the non-pooled 67% retention scheme;

5.1.2 Any Financial Benefit will be distributed through the Redistribution Pots agreed by Participating Authorities in the former Business Rates Pilots. However, London Councils Leaders' Committee and the Mayor of London agreed to remove the Strategic Investment Pot (**SIP**) as a redistribution pot. The Financial Benefit will therefore be apportioned using the three remaining Redistribution Pots, in in the agreed proportions set out in clause

5.1.3 The distribution of Financial Benefit arising from the pooling arrangement will be allocated to Billing Authorities on the basis of the following proportions:

(a) Incentives Pot: 18% of the Financial Benefit to incentivise Growth by allowing the Billing Authorities where Growth occurs to keep a proportion of the additional funds retained as a result of the Pool. The proportion shall reflect, for authorities with Growth, each Billing Authority's share of the total Growth prior to Levy;

(b) Needs Pot: 41% of the Financial Benefit to reflect, as proxy for need, each Billing Authority's share of the total the Settlement Funding Assessment for the London Billing Authorities;

(c) Population Pot: 41% of the Financial Benefit according to each Billing Authority's per capita formulation as calculated by the most recent available ONS projection for 2020 at the time of distribution.

5.1.4 The GLA will be included in the 2020-21 pool. However, the GLA shall not receive Financial Benefit arising from pooling (as discussed at the London Councils Leaders' Committee and with the Mayor of London in October 2019).

5.1.5 In the event of the Pool generating a Financial Deficit (being in a worse financial position than the aggregate position had Participating Authorities not agreed to pool), any Participating Authority who would have qualified for a Safety Net payment had they not been part of the Pool will be guaranteed to retain a level of business rates equal to their Safety Net level as calculated by government. The remaining net Financial Deficit will be shared among all Participating Authorities in accordance with approach agreed, with the GLA funding 36% of the Financial Deficit and the Billing

Authorities who would not have qualified for a Safety Net payment had they not been part of the Pool (the Remaining Billing Authorities) funding the remaining 64% of the Financial Deficit The distribution to the Remaining Billing Authorities of their 64% of a Financial Deficit will reflect the following proportions:

(a) 50% of the Remaining Billing Authorities' share of a Financial Deficit according to each Remaining Billing Authority's share of the total Settlement Funding Assessment for the Remaining Billing Authorities (Needs Pot);

(b) 50% of the Remaining Billing Authorities' share of a Financial Deficit according to each Remaining Billing Authority's per capita formulation as calculated by the most recent available ONS projection for 2020 at the time of distribution (Population Pot).

6 Lead Authority

6.1 COLC, as the Lead Authority, shall continue to act as the accountable body to govern and administer the Pool. The Participating Authorities hereby acknowledge that the Lead Authority is carrying out valuable services on behalf of the Participating Authorities, and that it is entitled to reimbursement of its reasonable costs and expenses in providing those services. This MOU makes provision for the reimbursement in the calculation of Financial Benefit.

6.2 The GLA shall provide transactional support to the Lead Authority, including administering and operating treasury management and making any monetary transfers between Participating Authorities in respect of the Pool on behalf of the Lead Authority including any sums due to the GLA.

6.3 These monetary transfers between Participating Authorities will be collected or paid by the GLA on the basis of a schedule of payments which will be determined by the GLA in consultation with the COLC, reflecting the Government's Payment Requirements and scheduled instalment dates. which are prescribed in secondary legislation. (This reflects the fact that the GLA already has the systems in place to manage payment flows to and from Billing Authorities for the existing business rate retention scheme).

6.4 The GLA shall also transfer any sums required to COLC based on the schedule of instalments agreed with MHCLG so that COLC as Lead Authority can pay the net Tariff payment payable by the Pool as approved in the Local Government Finance Settlement.

6.5 COLC shall also transfer any sums COLC receives from MHCLG in Safety Net payments to the GLA so that the GLA can distribute this to Participating Authorities if applicable.

6.6 The Lead Authority's responsibilities shall include:

6.6.1 all accounting for the finances of the Pool and the balance of SIP funds remaining from prior years including payments to and from the Government;

6.6.2 management and administration of the Pool;

6.6.3 receiving payments from Participating Authorities and making payments to Government on behalf of Participating Authorities on time;

6.6.4 maintaining a cash account on behalf of the Pool and paying Interest on any credit balances;

6.6.5 liaising with and completing any formal Pool returns to central government;

6.6.6 administering the schedule of payments between Participating Authorities in respect of the financial transactions that form part of the Pool's resources;

6.6.7 providing the information required by Participating Authorities in preparing their annual statement of accounts in relation to the activities and resources of the Pool;

6.6.8 leading on reporting to understand the Pool's position during and at the end of the financial year;

6.6.9 responsibility for the Pool’s net Tariff payment to Government as well as the Tariff and Top up payments to and from the Participating Authorities individually;

6.6.10 all audit requirements in relation to the Pool;

6.6.11 production of an annual report (**Annual Report**) of the Pool's Activities following final allocation of funds for the year, which along with any final reconciliation payments required, concludes the rights and obligations of the Participating Authorities under this MoU (unless it has been extended for a further financial year);

6.6.12 the administration of the dissolution of the Pool;

6.6.13 all communications with the MHCLG including year-end reconciliations;

6.6.14 convening a Technical Group to advise the Lead Authority and Participating Authorities on the implications of the Pool and other proposed changes to business rates retention;

6.6.15 the collation and submission of information required for planning and monitoring purposes.

6.7 The Lead Authority may resign from its role on 3 months' written notice to all the Participating Authorities (or longer if required by the Government or where another Participating Authority is neither ready nor willing to assume the role of Lead Authority).

6.8 Transfers outside the pool relating to retained business rates (e.g. Section 31 Grant Payments, MHCLG's share of individual Billing Authority collection fund surpluses or deficits, MHCLG's share of business rates income and transitional protection payments) will continue to be made between MHCLG and Participating Authorities.

7 Governance

7.1 The Participating Authorities have resolved, if required, to delegate Administrative Functions in respect of their Powers in Relation to Business Rates Retention to COLC as the Lead Authority.

8 Participating Authorities' responsibilities

8.1 Each of the Participating Authorities shall promptly provide the Lead Authority with full and accurate relevant information (the "**Reporting Information**") in order to enable the Lead Authority to make payments to Government and to and from the Participating Authorities.

8.2 The Lead Authority shall request the Reporting Information and each Participating Authority shall provide timely Reporting Information to the Lead Authority.

8.3 Each Participating Authority shall make or receive payments to or from the Lead Authority based on the schedule of payments dates referred to in paragraph 6.2 and as required after the end of the financial year to settle any outstanding balances under this MOU.

9 Dissolution of the Pool

9.1 The pool is presumed to continue to operate for 2020-21 only in respect of which the Government Designation Order continues in force. These Designation Orders are made and remain in force until revoked.

9.2 Any Participating Authority seeking to leave the Pool should inform MHCLG and all other Participating Authorities as soon as possible. In the event of one or more Participating Authorities leaving the Pool, this Pool would cease to operate at the end of 31st March of that year and the Pool would be dissolved in accordance with the provisions of this MOU. Once the Pool has been established, any Participating Authority leaving the Pool must notify the other Participating Authorities by 30th September in any year, to allow the remaining Participating Authorities time to seek designation of a new pool for the following year.

9.3 The Lead Authority shall make the necessary calculations and submit the required returns associated with the dissolving of the Pool in accordance with paragraph 9.2.

9.4 In the event that the Pool is dissolved in accordance with paragraph 9.2, the Lead Authority shall distribute to the Participating Authorities any resources held on behalf of the Pool in accordance with the distribution formula set out at paragraph 5.1.2 above. The final balance of SIP funds shall be allocated in a further round, once the financial year of dissolution is completed and the amount finalised.

9.5 Subject to paragraph 6.7, COLC shall continue to act as Lead Authority for as long there are any outstanding responsibilities under this MoU.

9.6 The remaining Participating Authorities of the Pool may in their discretion agree to form a new pool and, if they wish, include new members for the following year (subject to a new Designation Order being made by the Secretary of State).

This MOU may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the MOU