

## Memorandum of Understanding (MOU)

This Agreement is made on:

**Between:**

**(1) COLCHESTER CITY COUNCIL**, of [Rowan House, 33 Sheepen Road, Colchester, CO3 3WG] **(CCC)** and

**(2) ESSEX COUNTY COUNCIL**, of [County Hall, Market Road, Chelmsford, Essex, CM1 1QH] **(ECC)**.

### BACKGROUND

The Parties intend to come together with the ambition of exploring Joint Venture opportunities and reaching a legal agreement (the Agreement) delivering the shared objective of improving Colchester City Centre in accordance with the Masterplan. The Masterplan has been developed with key partners, in consultation with local communities and businesses, with the support of consultants. It will provide the framework to which Colchester will be developed over the coming years by highlighting Colchester's heritage; improving public realm; re-connecting neighbourhoods to the city centre with attractive walking and cycling routes; and redeveloping vacant and under-used sites, introducing new residential, commercial and other uses to help diversify the city centre offer (the 'Purpose').

Any terms not defined within the main body of this agreement can be found in Appendix 1.

### 1. GENERAL PRINCIPLES

- 1.1 This Memorandum of Understanding (MoU) is not a legally binding contract and does not create a partnership between the Parties but sets the basis for the Parties to work together to progress the Purpose as set out in Clause 2.
- 1.2 This MoU places no financial or time commitments on the Parties but rather sets a framework for information sharing and collaboration to determine the potential for a longer-term working relationship.

### 2 PURPOSE

- 2.1 The Parties will work collaboratively and in good faith to achieve the Purpose.
- 2.2 The Parties have suggested specific activities, outputs or targets to achieve the Purpose (the 'Workstreams').
- 2.3 The Workstreams may be amended and updated from time to time by Team Colchester Regeneration Board. The Workstreams will include the following activities:
  - Adoption of the Masterplan as a Supplementary Planning Document

- The delivery of the Masterplan (including land assembly and site delivery, multi-modal transport interchange, community engagement)
- Pipeline Development
- Establishing a long-term Delivery Vehicle Structure (informed by legal expertise, financial modelling, risk management)
- The development of a Business Case
- The overarching Project Plan
- Other Workstreams as agreed and confirmed between the Parties

2.4 The Parties agree that the Business Case Workstream will be to explore the options for and recommend an agreed commercial, contractual, or corporate structure for the formal alignment of the Parties interests in relation to the delivery of the Purpose which will require the further approval of the Parties ('Approved Delivery Structure').

2.5 The Approved Delivery Structure will then be presented by the Parties to their respective organisations to consider a formal approval for implementation of the plans and recommendations it contains.

### **3 GOVERNANCE**

3.1 The Parties shall comply with their own internal governance procedures until such time that an Approved Delivery Structure is established.

3.2 The Parties will continue to report progress to Team Colchester Regeneration Board, or any similar group that forms out of or supersedes this group.

### **4 COMMUNICATION & MANAGEMENT OF INFORMATION**

4.1 Update meetings will be held on a regular basis as necessary to progress the opportunity.

4.2 The Parties will ensure clear communication and oversight and have joint responsibility in ensuring that the communications between Parties is open and honest.

4.3 The Parties will use their best endeavours to align their other internal services and seek to ensure that any issues originating from other teams in their authorities are resolved as quickly and collaboratively as reasonably possible.

### **5 PROJECT BUDGET, COSTS & RESOURCES**

5.1 The Parties will be responsible for their own costs. Each party shall comply with their respective internal governance requirements to seek authority to provide these funds.

5.2 Costs likely to be covered by the funds detailed in paragraph 5.1 include:

- Feasibility and viability studies for individual sites to inform delivery approach (including masterplan site delivery / phasing, potential delivery vehicle structures, and potential returns)
- Legal and finance expertise to support development of a long-term sustainable delivery vehicle • Support fees for land acquisition
- Studies to support further masterplanning / transport strategy work to inform future interchange provision
- Building capacity to manage the masterplan work
- Communications and marketing

## **6 CONSULTANTS & CONTRACTORS**

6.1 The Parties will agree which Party is responsible for the commissioning or contracting of individual elements of the programme that are necessary to support delivery of the Workstreams.

6.2 Where a Party intends to appoint a consultant or contractor in relation to the delivery of the Purpose, or any subsequent Agreement, they will only do so after they have received the consent of the Parties.

6.3 Third party consultants or contractors associated through ownership with any of the Parties may only be appointed with written consent from each of the Parties.

6.4 The Party proposing to engage the services of any consultant or contractor, external to ECC or CCC, will be responsible for the following duties relating to that appointment:

- appointing and managing that consultant or contractor;
- drafting of any scoping of the appointment, and presenting the appointment to the Parties for their approval;
- ongoing payments and paying in final settlement of all amounts payable to the consultant or contractor;
- providing details appropriate and sufficient to demonstrate a competitive process in selection meeting the requirements of procurement law to the reasonable satisfaction of all of the Parties;
- ensuring that there is an appropriate duty of care owed to each of the Parties in the appointment, unless it is agreed by the Parties that a duty is not required; and
- managing and resourcing any disputes, providing that the settlement of any claims must be agreed between the Parties in writing if the appointing Party is seeking a contribution to the costs relating to that consultant or contractor.

## **7 FURTHER ROLES & RESPONSIBILITIES**

### **7.1 Party Owned Assets**

7.1.1 Each of the Parties currently owns assets within the potential development areas as stated in the Masterplan. In lieu of a Delivery Structure the Parties will provide in writing what their plans are for the sites.

## **7.2 Purchasing Land**

- 7.2.1 Each of the Parties may bid for or otherwise enter negotiations to purchase land should it support delivery of the Masterplan.
- 7.2.2 In each instance where one of the Parties wishes to purchase land a third-party valuation will be commissioned (jointly or with appropriate duties of care to the Parties) to ensure that the land is sold to that Party at a fair market value.

## **7.3 Purchasing finished units**

- 7.3.1 Each of the Parties may bid for or otherwise enter negotiations to purchase finished affordable housing and market housing units (and associated land rights) should it support delivery of the Masterplan.
- 7.3.2 In lieu of an approved Delivery Structure the Parties will procure and contract separately with a developer to construct the units.

## **7.4 Facilitating Delivery**

- 7.4.1 Team Colchester will set their vision for Colchester City Centre, and its implementation; ECC's Director of Sustainable Growth and CCC's Deputy Chief Executive will facilitate the implementation of this vision within their respective organisations, working with other teams across both councils as appropriate.
- 7.4.2 The Parties will continue to work together to look at ways to improve joint working to deliver Masterplan objectives.

## **7.5 Project Management**

- 7.5.1 Effective Project Management to support the delivery of the Masterplan will be established by the Parties if required. The parties will work to agree funding and recruitment arrangements for the role(s) if necessary.

## **7.6 Transport Infrastructure**

- 7.6.1 Transport-led projects will be managed by ECC with support and input from CCC. This will include workstreams identified in the Masterplan such as the proposed transport interchange.

## **7.7 Stakeholder and Community Engagement**

- 7.7.1 The Parties will be responsible for, jointly or with the support of the other Party, undertaking clear, transparent, accessible and timely public consultation where appropriate.

7.7.2 The Parties will work together to engage with potential delivery partners.

## 8 NOTICE

8.1 The Parties acknowledge, and will take all reasonable steps to ensure, that any indication of interest in Clauses 7.1, 7.2 and 7.3 should be made as early in the process as possible to ensure effective use of time, resources and project funds.

## 9 ESCALATION

9.1 The Parties will confirm in writing their respective senior team (Senior Sponsors) for the purposes of escalating for higher review any matters arising under this MoU as updated from time to time in writing.

9.2 Where possible, the Parties will co-operate to confirm Senior Sponsors of a comparable seniority from within their own organisations.

9.3 The Parties agree to refer any disagreements between the Parties representatives or the deadlock of the Team Colchester to the Senior Sponsors for resolution.

9.4 The Parties agree to take reasonable measures to ensure that the Senior Sponsors are made available to consider any matter arising as required and to consider the resolution of any disagreement.

## 10 GOVERNING LAW

10.1 This Memorandum of Understanding, or any subsequent Agreement, and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and each of the Parties submits to the exclusive jurisdiction of the English Courts.

This Agreement has been entered into on the date stated at the beginning of this document.

Signed for and on behalf of **Colchester City Council**



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Lindsay Barker  
Deputy CEO & Executive Director Place

Signed for and on behalf of **Essex County Council**



Steve Evison  
Director of Sustainable Growth

## APPENDIX 1

### DEFINITION OF TERMS

**CCC:** Colchester City Council

**ECC:** Essex County Council

**Business Case:** Refers to the HM Treasury Green Book compliant business case required to provide justification for undertaking a project, programme or portfolio. It evaluates the benefit, cost and risk of alternative options and provides a rationale for the preferred solution.

**Colchester City Centre Masterplan:** Overarching strategic document that brings together current and future proposed capital projects within the city centre.

**Supplementary Planning Document (SPD):** Build upon and provide more detailed guidance about policies in the Local Plan. Legally, they do not form part of the Local Plan itself and they are not subject to independent examination, but they are material considerations in determining planning applications.

**Team Colchester Regeneration Board (TCRB):** It is a partnership Board with Leaders, relevant Cabinet Member Portfolio Holders and officers from both councils, whose objective is to successfully deliver the ambitions for Colchester City Centre as set out in the Masterplan. They meet once a month, or more often if required, to help provide strategic direction and check and challenge for the Masterplan and associated city centre project work.

**Delivery Structure:** A model for delivery that may be different to the usual in-house provision in terms of ownership, governance/control and the flexibility to innovate.

**Project Management:** The application of processes, methods, knowledge, skills and experience to achieve specific objectives for change.