

DATED

2019

GRANT AGREEMENT

Between

ESSEX COUNTY COUNCIL

and

******* PARISH COUNCIL**

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SCHEDULE

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THIS DEED is dated

day of

2019

PARTIES

- (1) **ESSEX COUNTY COUNCIL** of PO Box 11 County Hall Chelmsford Essex CM1 1QH (**Funder**).
- (2) ******* PARISH COUNCIL** of ***** (**Recipient**).

hereinafter referred to jointly as “the Parties” or singly as “a Party”

BACKGROUND

- (A) The Funder has agreed to pay the Grant to the Recipient to assist it in carrying out the Project.
- (B) This Agreement sets out the terms and conditions on which the Grant is made by the Funder to the Recipient.
- (C) These terms and conditions are intended to ensure that the Grant is used for the purpose for which it is awarded.

AGREED TERMS

1. DEFINITIONS

In this Agreement the following terms shall have the following meanings:

Bribery Act: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Commencement Date: The date of this Agreement

Data Protection Legislation: the Data Protection Act 1998 (DPA:) as replaced by the GDPR from 25 May 2018; any national implementing laws, regulations, secondary legislation applicable guidance and codes of practice as amended or updated from time to time; and any successor legislation to the GDPR or DPA;

Expiry Date; the date that the Grant Period expires, namely 29 February 2020

GDPR: the General Data Protection Regulation (2016), Regulation (EU) 2016/679, as amended or re-enacted from time to time and any United Kingdom Act or European Union Regulation recognised in UK law substantially replacing the same. All compliance references to GDPR in this Agreement are applicable from 25th May 2018.

Governing Body: the governing body of the Recipient including its directors or trustees.

Grant: the total sum of the grant is £*****.**

Grant Period: the period for which the Grant is awarded starting on the Commencement Date and ending on the Expiry Date.

Intellectual Property Rights: all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.

Know-How: information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Prohibited Act: means:

- (a) offering, giving or agreeing to give to any servant of the Funder any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Funder; or
 - (ii) showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Funder;
- (b) entering into this Agreement or any other contract with the Funder where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Funder;
- (c) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Funder; or
- (d) defrauding or attempting to defraud or conspiring to defraud the Funder.

Project: the project described in Schedule 1.

State Aid:

- a) any aid granted by a Member State of the European Union or through the resources of such Member State in any form whatsoever which distorts or threatens to distort competition by favouring a particular undertaking or the production of certain goods in so far as such aid affects trade between European Union Member States; or
- b) any aid benefit or advantage (which includes but is not limited to assets, rates, funds and land) granted by or through a public sector body which is subject to any United Kingdom Competition Requirements.

Unlawful State Aid:

- a) State Aid which has been granted in contravention of Article 108(3) Treaty of the Functioning of the European Union (TFEU), does not benefit from an exemption from notification and has not been approved by a decision of the European Commission under Article 107(2) or (3) TFEU;

- b) State Aid which has been granted after the United Kingdom ceases to be a Member State of the European Union to the extent that the same is granted contrary to or is an infringement of any United Kingdom Competition Requirement.

2. PURPOSE OF GRANT

- 2.1 The Recipient shall use the Grant only for the delivery of the Project and in accordance with the terms and conditions set out in this Agreement. The Grant shall not be used for any other purpose without the prior written agreement of the Funder.
- 2.2 The Recipient shall not make any significant change to the Project without the Funder's prior written agreement.
- 2.3 Where the Recipient intends to apply to a third party for other funding for the Project within the Grant Period, it will notify the Funder in advance of its intention to do so and, where such funding is obtained, it will provide the Funder with details of the amount and purpose of that funding. The Recipient agrees and accepts that it shall not apply for duplicate funding in respect of any part of the Project or any related administration costs that the Funder is funding in full under this Agreement.

3. Payment of Grant

- 3.1 Subject to clause 12, the Funder shall pay the Grant to the Recipient in full within 30 days of the Commencement Date, subject to the necessary funds being available when payment falls due. The Recipient agrees and accepts that payments of the Grant can only be made to the extent that the Funder has available funds.
- 3.2 No Grant shall be paid unless and until the Funder is satisfied that such payment will be used for proper expenditure in the delivery of the Project.
- 3.3 The amount of the Grant shall not be increased in the event of any overspend by the Recipient in its delivery of the Project.
- 3.4 The Recipient shall not transfer any part of the Grant to bank accounts which are not ordinary business accounts within the clearing bank system, without the prior written consent of the Funder.
- 3.5 The Recipient shall promptly repay to the Funder any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the Grant have been complied with by the Recipient.

3.6 The Recipient shall promptly repay to the Funder, any Grant not utilised for the Project by the end of the Grant Period.

4. USE OF GRANT

4.1 The Grant shall be used by the Recipient for capital and revenue expenditure for the delivery of the Project in accordance with the agreed Grant funding. For the avoidance of doubt, the amount of the Grant that the Recipient may spend on any item of expenditure shall not exceed the total amount of the Grant.

4.2 Where the Recipient has obtained funding from a third party in relation to its delivery of the Project within the Grant Period (including without limitation funding for associated administration and staffing costs), the amount of such funding shall be included in the Project. Loss or reduction of third party funding within the Grant Period will result in withdrawal of the Grant.

4.3 The Recipient shall not use the Grant to:

- (a) make any payment to its Councillors;
- (b) purchase buildings or land;
- (c) pay for any expenditure commitments of the Recipient entered into before the Commencement Date,

unless this has been approved in writing by the Funder.

4.4 The Recipient shall not spend any part of the Grant on the delivery of the Project after the Grant Period without the prior written approval of the Funder.

4.5 Should any part of the Grant remain unspent at the end of the Grant Period, the Recipient shall ensure that any unspent monies are returned to the Funder or, if agreed in writing by the Funder, may be applied to the Project.

4.6 Any liabilities arising at the end of the Project including any redundancy liabilities for staff employed by the Recipient to deliver the Project must be managed and paid for by the Recipient using resources of the Recipient. There will be no additional funding available from the Funder for this purpose.

5. ACCOUNTS AND RECORDS

5.1 The Grant shall be shown in the Recipient's accounts as a restricted fund and shall not be included under general funds.

5.2 The Recipient shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Grant monies received by it.

- 5.3 The Recipient shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least six years following receipt of any Grant monies to which they relate. The Funder shall have the right to review, at the Funder's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records.
- 5.4 The Recipient shall provide the Funder with a copy of its annual accounts within six months (or such lesser period as the Funder may reasonably require) of the end of the relevant financial year in respect of each year in which the Grant is paid.
- 5.5 The Recipient shall comply and facilitate the Funder's compliance with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Funder.

6. MONITORING AND REPORTING

- 6.1 The Recipient shall closely monitor the delivery and success of the Project throughout the Grant Period to ensure that the aims and objectives of the Project are being met and that this Agreement is being adhered to.
- 6.2 The Recipient shall provide the Funder with a financial and operational report on its use of the Grant and delivery of the Project quarterly and in such formats as agreed with the Funder. During the Grant Period the Recipient shall provide the Funder with each report within 14 days of the last day of the month to which it relates.
- 6.3 Where the Recipient has obtained funding from a third party for its delivery of part of the Project, the Recipient shall include the amount of such funding in its financial reports together with details of what that funding has been used for.
- 6.4 Along with its first monthly financial report, the Recipient shall provide the Funder with a risk register and insurance review in a format to be approved by the Funder. The Recipient shall address the health and safety of its staff in the risk register.
- 6.5 The Recipient shall on request provide the Funder with such further information, explanations and documents as the Funder may reasonably require in order for it to establish that the Grant has been used properly in accordance with this Agreement.
- 6.6 The Recipient shall permit any person authorised by the Funder such reasonable access to its employees, agents, premises, facilities and records, for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.

- 6.7 The Recipient shall permit any person authorised by the Funder for the purpose to visit the Recipient once every quarter to monitor the delivery of the Project. Where, in its reasonable opinion, the Funder considers that additional visits are necessary to monitor the Project, it shall be entitled to authorise any person to make such visits on its behalf.
- 6.8 The Recipient shall provide the Funder with a final report on completion of the Grant Period which shall confirm whether the Project has been successfully and properly completed. At the same time as the Recipient provides the Funder with its final report, it shall set out the details of any Grant not utilised on the Project during the Grant Period, and the basis for its prompt return to the Funder.

7. ACKNOWLEDGMENT AND PUBLICITY

- 7.1 The Recipient shall acknowledge the Grant in its annual report and accounts, including an acknowledgement of the Funder as the source of the Grant.
- 7.2 The Recipient shall acknowledge the support of the Funder in any materials that refer to the Project and in any written or spoken public presentations about the Project. Such acknowledgements (where appropriate or as requested by the Funder) shall include the Funder's name and logo (or any future name or logo adopted by the Funder) using the templates provided by the Funder from time to time.
- 7.3 In using the Funder's name and logo, the Recipient shall comply with all reasonable branding guidelines issued by the Funder from time to time.
- 7.4 The Recipient agrees to participate in and co-operate with promotional activities relating to the Project that may be instigated and/or organised by the Funder.
- 7.5 The Funder may acknowledge the Recipient's involvement in the Project as appropriate without prior notice.
- 7.6 Either Party shall comply with all reasonable requests from the other Party to facilitate visits, provide reports, statistics, photographs and case studies that will assist in promotional and fundraising activities relating to the Project.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 The Funder and the Recipient agree that all rights, title and interest in or to any information, data, reports, documents, procedures, forecasts, technology, Know-How and any other Intellectual Property Rights whatsoever owned by either the Funder or the Recipient before the Commencement Date or developed by either party during the Grant Period, shall remain the property of that party.

8.2 Where the Funder has provided the Recipient with any of its Intellectual Property Rights for use in connection with the Project (including without limitation its name and logo), the Recipient shall, on termination of this Agreement, cease to use such Intellectual Property Rights immediately and shall either return or destroy such Intellectual Property Rights as requested by the Funder.

9. CONFIDENTIALITY

9.1 Subject to clause 10.1 (Freedom of Information), each party shall during the term of this Agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of the Agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this Agreement or save as expressly authorised in writing by the other party.

9.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information which:

- (a) at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this Agreement by the receiving party;
- (b) is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence; or
- (c) is at any time after the date of this Agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party.

10. FREEDOM OF INFORMATION

10.1 The Parties acknowledge that they are both subject to the requirements of the Freedom of Information Act 2000 (**FOIA**) and the Environmental Information Regulations 2004 and shall assist and co-operate with each other to comply with these information disclosure requirements.

10.2 The recipient of an FOI request shall:

- (d) share any request for information with the other Party as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
- (e) pool all information in their possession with the other Party within five working days (or such other period as the Parties agree) of receipt of the request for that information; and
- (f) be responsible for the delivery of information pursuant to any such request;

- 10.3 The other Party shall provide all necessary assistance as reasonably requested by the FOI recipient to enable the FOI recipient to respond to a request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations 2004.
- 10.4 The FOI recipient shall be responsible for determining at its absolute discretion whether the information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations 2004;
 - (b) is to be disclosed in response to a request for information.
- 10.5 The FOI recipient acknowledges that the FOI recipient may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations 2004 to disclose information:
- (i) without consulting with the other Party; or
 - (ii) following consultation with the other Party and having taken its views into account,

provided always that where clause 10.5(ii) applies the FOI recipient shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the other Party advanced notice, or failing that, to draw the disclosure to the other Party's attention after any such disclosure.

- 10.6 The Recipient shall ensure that all information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Funder to inspect such records as requested from time to time.

11. DATA PROTECTION

- 11.1 The Recipient shall (and shall procure that any of its staff involved in connection with the activities under the Agreement shall) comply with any notification requirements under the Data Protection Legislation. Both Parties will duly observe all their obligations under the Data Protection Legislation which arise in connection with the Agreement.

12. WITHHOLDING, SUSPENDING AND REPAYMENT OF GRANT

- 12.1 The Funder's intention is that the Grant will be paid to the Recipient in full. However, without prejudice to the Funder's other rights and remedies, the Funder may at its discretion withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant if:

- (a) the Recipient uses the Grant for purposes other than those for which they have been awarded;
- (b) the delivery of the Project does not start within 3 months of the Commencement Date and the Recipient has failed to provide the Funder with a reasonable explanation for the delay;
- (iii) the Funder acting reasonably considers that the Recipient has not made satisfactory progress with the delivery of the Project;
- (iv) the Recipient is, in the reasonable opinion of the Funder, delivering the Project in a negligent manner;
- (v) the Recipient obtains duplicate funding from a third party for the Project within the Grant Period;
- (vi) the Recipient obtains funding from a third party which, in the reasonable opinion of the Funder, undertakes activities that are likely to bring the reputation of the Project or the Funder into disrepute;
- (vii) the Recipient provides the Funder with any materially misleading or inaccurate information;
- (viii) the Recipient commits or committed a Prohibited Act;
- (ix) any Councillor, an employee or a volunteer of the Recipient has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Project or (b) taken any actions which, in the reasonable opinion of the Funder, bring or are likely to bring the Funder's name or reputation into disrepute;
- (x) the Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- (xi) the Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or
- (xii) the Recipient fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

12.2 If a clawback event occurs (when calculation of the repayment required shall be calculated as specified in Schedule 2 - Clawback Schedule)

12.3 The decision as to whether a clawback event has occurred shall be at the Funder's sole discretion.

12.4 Wherever under the Agreement any sum of money is recoverable from or payable by the Recipient (including any sum that the Recipient is liable to pay to the Funder in respect of any breach of the Agreement), the Funder may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Recipient under the Agreement or under any other agreement or contract with the Funder.

- 12.5 The Recipient shall make any payments due to the Funder without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 12.6 Should the Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Project or compliance with this Agreement it will notify the Funder as soon as possible so that, if possible, and without creating any legal obligation, the Funder will have an opportunity to provide assistance in resolving the problem or to take action to protect the Funder and the Grant monies.
- 12.7 Any costs or expenditure above the Estimated Project Cost will be the responsibility of the Recipient. In the event that the Project costs are less than estimated the Funder reserves the right to reduce the Grant pro rata
- 12.8 If the Grant constitutes Unlawful State Aid then the Funder shall be entitled to recover from the Recipient the amount of Unlawful State Aid together with such interest as it is required by Law to recover and the Recipient must pay such amount(s) within ten (10) Business Days of the Funder requesting repayment.

13. ANTI-DISCRIMINATION

- 13.1 The Recipient shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.
- 13.2 The Recipient shall take reasonable steps to secure the observance of clause 13.1 by all servants, employees or agents of the Recipient and all suppliers and sub-contractors engaged on the Project.

14. HUMAN RIGHTS

- 14.1 The Recipient shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement as if the Recipient were a public body (as defined in the Human Rights Act 1998).
- 14.2 The Recipient shall undertake, or refrain from undertaking, such acts as the Funder requests so as to enable the Funder to comply with its obligations under the Human Rights Act 1998.

15. LIMITATION OF LIABILITY

- 15.1 The Funder accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Project, the use of the Grant or from withdrawal of the Grant. The Recipient shall indemnify and hold harmless the Funder,

its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient in relation to the Project, the non-fulfilment of obligations of the Recipient under this Agreement or its obligations to third parties.

15.2 Subject to clause 15.1, the Funder's liability under this Agreement is limited to the payment of the Grant.

16. WARRANTIES

16.1 The Recipient warrants, undertakes and agrees that:

- (a) it has all necessary resources and expertise to deliver the Project (assuming due receipt of the Grant);
- (b) it has not committed, nor shall it commit, any Prohibited Act;
- (c) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Funder immediately of any significant departure from such legislation, codes or recommendations;
- (d) it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Project;
- (e) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (f) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (g) all financial and other information concerning the Recipient which has been disclosed to the Funder is to the best of its knowledge and belief, true and accurate;
- (h) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant;
- (i) it is not aware of anything in its own affairs, which it has not disclosed to the Funder or any of the Funder's advisers, which might reasonably have influenced the decision of the Funder to make the Grant on the terms contained in this Agreement; and
- (j) since the date of its last accounts there has been no material change in its financial position or prospects.

17. INSURANCE

17.1 The Recipient shall affect and maintain with a reputable EU insurance company a policy or policies in respect of all risks which may be incurred by the Recipient, arising out of the Recipient's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss (the **Required Insurances**).

- 17.2 The Required Insurances referred to above include (but are not limited to):
- (i) public liability insurance with a limit of indemnity of not less than ten million pounds (£10,000,000) in relation to any one claim or series of claims arising from the Service; and
 - (ii) employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000 or such higher sum as may be required by law) in relation to any one claim or series of claims arising from the Service.
- 17.3 The Recipient shall (on request) supply to the Funder a copy of such insurance policies and evidence that the relevant premiums have been paid.

18. DURATION

- 18.1 Except where otherwise specified, the terms of this Agreement shall apply from the date of this Agreement until the anniversary of expiry of the Grant Period or for so long as any Grant monies remain unspent by the Recipient, whichever is longer.
- 18.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

19. TERMINATION

- 19.1 The Funder may terminate this Agreement and any Grant payments on giving the Recipient three months' written notice should it be required to do so by financial restraints or for any other reason.

20. ASSIGNMENT

- 20.1 The Recipient may not, without the prior written consent of the Funder, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement or, except as contemplated as part of the Project, transfer or pay to any other person any part of the Grant.

21. WAIVER

- 21.1 No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.

22. NOTICES

22.1 All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

23. DISPUTE RESOLUTION

23.1 In the event of any complaint or dispute arising between the parties to this Agreement in relation to this Agreement the matter should first be referred for resolution to the Head of Essex Highways Commissioning or any other individual nominated by the Funder from time to time.

23.2 Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Head of Essex Highways Commissioning or other nominated individual, as the case may be, either party may refer the matter to the Director, Highways and Transportation of the Funder and the Chief Executive of the Recipient with an instruction to attempt to resolve the dispute by agreement within 28 days, or such other period as may be mutually agreed by the Funder and the Recipient.

23.3 In the absence of agreement under clause 23.2, the parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

24. NO PARTNERSHIP OR AGENCY

24.1 This Agreement shall not create any partnership or joint venture between the Funder and the Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

25. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

25.1 This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

26. GOVERNING LAW

26. This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

27. SURVIVAL

The Clawback provisions in this Agreement shall survive the termination of this Agreement and the expiry of the Grant Period.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SIGNED for and on behalf of the Funder

Name

Position

Authorised Signatory

SIGNED for and on behalf of the Recipient

Name

Position

Authorised Signatory

Schedule 1- The Project

A. WINTER MAINTENANCE SALT BAGS SCHEME (SNOW CLEARANCE AND SALTING OF FOOTWAYS AND PATHS)

- A.1 The Recipient will arrange for staff/volunteers, where possible to clear and salt the footways and paths, specifically in times of bad winter weather (i.e. snowfall) and the salt is for use at locations the Recipient considers important in their local community, such as footways outside doctors surgeries, local shops and services, and access routes to main bus stops.
- A.2 Depending on the size of the geographical area covered by the Recipient, a list of priority footways/paths can be determined locally by the Recipient.
- A.3 The Recipient will not be required to salt roads, and in particular priority 1 routes, which will continue to be undertaken by the Funder.
- A.4 The Recipient will undertake training for staff/volunteers to ensure their health and safety when undertaking this work, and will keep a record of work done.
- A.5 Further information is held on the Essex Highways website:

<https://www.essexhighways.org/Transport-and-Roads/Roads-and-Pavements/Winter-travel/Salt-Bag-Partnership.aspx>

B. FOOTWAY AND OFF-ROAD CYCLE WAYS MINOR REPAIRS

- B.1 The Recipient will arrange for staff/volunteers/qualified contractors, where possible to undertake minor repairs to footways and off-road cycle-ways, such as removing loose material and filling holes. It must not involve digging unless the correct checks have been made regarding statutory undertakers (SU) equipment, including both checks of current SU plans and scanning on site to locate and mark the location of SU equipment before any hand-digging is carried out (no mechanical digging to be undertaken).
- B.2 All works must be undertaken in line with national Health and Safety requirements, and deploy correct traffic management in line with Safety at Street Works and Road Works: a code of practice.
- B.3 Work must only be undertaken where it is safe to do so; the Recipient will be responsible for instructing and overseeing all work.
- B.4 The Recipient will ensure the safe and appropriate disposal of any waste materials resulting from the works.
- B.5 The Recipient will ensure that where others are contracted to undertake work they are appropriately qualified to undertake the work and to work in the public highway.

C. HIGHWAYS VERGE CUTTING INCLUDING SPECIAL ROADSIDE VERGES

Highway Verges

- C.1 The Recipient will arrange for staff/volunteers/qualified contractors, where possible to undertake cutting of highway verges in their area. They may cut verges as frequently as they wish in order to enhance the amenity of their area.
- C.2 It must not involve digging unless the correct checks have been made regarding statutory undertakers (SU) equipment, including both checks of current SU plans and scanning on site to locate and mark the location of SU equipment before any hand-digging is carried out (no mechanical digging to be undertaken).
- C.3 All works must be undertaken in line with national Health and Safety requirements, and deploy correct traffic management in line with Safety at Street Works and Road Works: a code of practice.
- C.4 Work must only be undertaken where it is safe to do so; the Recipient will be responsible for instructing and overseeing all work.
- C.5 The Recipient will ensure the safe and appropriate disposal of any waste materials resulting from the works.
- C.6 The Recipient will ensure that where others are contracted to undertake work they are appropriately qualified to undertake the work and to work in the public highway.

Special Verges

- C.7 In addition to all the above requirements for Highway Verges, the Recipient may choose to maintain the designated Special Verges in their area. These verges have a different maintenance regime due to the species of flora and fauna present in the verges. Further information can be provided by the Authority's Place Services department.
- C.8 The Recipient will not be responsible for the cutting of verges or special verges which appear along priority 1 routes, which will continue to be undertaken by the Funder.

D. WEED CONTROL

- D.1 The Recipient will arrange for staff/volunteers/qualified contractors, where possible to undertake weed control to prevent the spread of non-noxious weeds on highways, excluding Priority 1 routes, in their area. The main focus of weed control efforts should be on kerb lines and footways. There is an expectation that three weed sprays are carried out during the year.
- D.2 The Recipient can manage the level of sprays required in terms of need so that areas that require less weed spraying can have reduced sprays in order to apply resource to areas in greater need.
- D.3 All works must be undertaken in line with national Health and Safety requirements, including the Control of Substances Hazardous to Health Regulations, and deploy correct traffic management in line with Safety at Street Works and Road Works: a code of practice.
- D.4 Work must only be undertaken where it is safe to do so; the Recipient will be responsible for instructing and overseeing all work.
- D.5 The Recipient will ensure that where others are contracted to undertake work they are appropriately qualified to undertake the work and to work in the public highway.

E. TREE AND HEDGE MAINTENANCE

- E.1 The Recipient will arrange for staff/volunteers/qualified contractors, where possible to undertake tree and hedge maintenance in their area, and, only on trees and hedges which are on highway land. Trees and hedges along priority 1 routes will continue to be managed by the Funder. Most hedges will be privately owned and these must be maintained by the owner not the Recipient. The focus is to keep footways free of overgrowing vegetation that would otherwise create an obstruction for users, but work should avoid the bird nesting season.
- E.2 No works should be undertaken where there are overhead cables present nearby.
- E.3 All works must be undertaken in line with national Health and Safety requirements, including the Forestry Commission's A Common Sense Risk Management of Trees, and deploy correct traffic management in line with Safety at Street Works and Road Works: a code of practice.
- E.4 The Recipient is responsible for complying with the conditions of any Tree Preservation Orders that the local City/District/Borough Council has applied to trees in their area.
- E.5 Work must only be undertaken where it is safe to do so; the Recipient will be responsible for instructing and overseeing all work.
- E.6 The Recipient will ensure the safe and appropriate disposal of any waste materials resulting from the works.
- E.7 The Recipient will ensure that where others are contracted to undertake work they are appropriately qualified to undertake the work and to work in the public highway.
- E.8 This is a service that helps support the safety of highway users, carried out in line with the Authority's Tree and Woodland Strategy – Essex Highways Operational Plan, which is a practice note that sets out how to manage the service.

Informal Enforcement regarding overgrowing vegetation

- E.9 The Recipient may wish to be involved in encouraging local property owners to cut their own vegetation. Whilst this is not legal enforcement, encouraging owners in the first instance often results in action being taken. The Funder will provide template letters that the Recipient may wish to use to help encourage property owners to take action.

F. PUBLIC RIGHTS OF WAY (PROW) MAINTENANCE

- F.1 The Recipient will arrange for staff/volunteers/qualified contractors, where possible to undertake cutting of vegetation, or replacement of PROW signage/equipment in their area.
- F.2 They may cut vegetation as frequently as they wish in order to enhance the amenity of their area, but will be required to avoid the bird nesting season.
- F.3 It must not involve digging unless the correct checks have been made regarding statutory undertakers (SU) equipment, including both checks of current SU plans and scanning on site to locate and mark the location of SU equipment before any hand-digging is carried out (no mechanical digging to be undertaken).

- F.4 All works must be undertaken in line with national Health and Safety requirements, and deploy correct traffic management in line with Safety at Street Works and Road Works: a code of practice.
- F.5 The Recipient is responsible for complying with the conditions of any Tree Preservation Orders that the local City/District/Borough Council has applied to trees in their area.
- F.6 Work must only be undertaken where it is safe to do so; the Recipient will be responsible for instructing and overseeing all work.
- F.7 The Recipient will ensure the safe and appropriate disposal of any waste materials resulting from the works.
- F.8 The Recipient will ensure that where others are contracted to undertake work they are appropriately qualified to undertake the work and to work in the public highway.
- F.9 The Funder currently runs a Parish Paths Partnership (P3) scheme, which is volunteer based, and the Recipient may choose to be part of that scheme. More detail is held on the Essex Highways website:

<https://www.essexhighways.org/Getting-Around/public-rights-of-way/volunteering.aspx>

G. PASSENGER TRANSPORT INFRASTRUCTURE MAINTENANCE (FLAGS AND SHELTERS)

- G.1 The Recipient will arrange for staff/volunteers/qualified contractors, where possible to undertake the cleaning of, and minor repairs to, bus stop flags and shelters. It must not involve digging unless the correct checks have been made regarding statutory undertakers (SU) equipment, including both checks of current SU plans and scanning on site to locate and mark the location of SU equipment before any hand-digging is carried out (no mechanical digging to be undertaken).
- G.2 All works must be undertaken in line with national Health and Safety requirements, and deploy correct traffic management in line with Safety at Street Works and Road Works: a code of practice.
- G.3 Work must only be undertaken where it is safe to do so; the Recipient will be responsible for instructing and overseeing all work. The Recipient will be required to report to the Funder any dangerous defect to the passenger transport infrastructure as soon as possible.
- G.4 The Recipient will ensure the safe and appropriate disposal of any waste materials resulting from the works.
- G.5 The Recipient will ensure that where others are contracted to undertake work they are appropriately qualified to undertake the work and to work in the public highway.
- G.6 The Recipient must check that a shelter is not under a maintenance agreement with a third party, and where this is the case the Recipient must seek agreement of the third party prior to carrying out any work.

H. REPAIR AND MAINTENANCE OF ROAD SIGNS

- H.1 The Recipient will arrange for staff/volunteers/qualified contractors, where possible to undertake the cleaning of, and minor repairs to, road signs.
- H.2 No work should be undertaken on signs that are lit as there is danger associated with the electrical supply.
- H.3 Where signs are not lit, no digging should take place unless the correct checks have been made regarding statutory undertakers (SU) equipment, including both checks of current SU plans and scanning on site to locate and mark the location of SU equipment before any hand-digging is carried out (no mechanical digging to be undertaken).
- H.4 All works must be undertaken in line with national Health and Safety requirements, and deploy correct traffic management in line with Safety at Street Works and Road Works: a code of practice.
- H.5 Work must only be undertaken where it is safe to do so; the Recipient will be responsible for instructing and overseeing all work.
- H.6 The Recipient will ensure that where others are contracted to undertake work they are appropriately qualified to undertake the work and to work in the public highway.
- H.7 The Recipient must note that brown tourism signage is often the responsibility of the company who paid for its installation and therefore the Recipient must seek agreement of the third party owner prior to carrying out any work on the tourism sign.

SCHEDULE 2 – CLAWBACK SCHEDULE

Period from Completion Date	Percentage of Grant to be repaid
Within 1 month of the Commencement Date	100%
Within 2-3 months of the Commencement Date	80%
Within 3-4 months of the Commencement Date	60%
Within 4-5 months of the Commencement Date	40%
Within 5-6 months of the Commencement Date	20%