

DATED 01 JULY 2024

GRANT AGREEMENT

between

ESSEX COUNTY COUNCIL

And

TENDRING DISTRICT COUNCIL

IN RELATION TO THE COMMUNITY INFRASTRUCTURE LEVY (CIL) UPTAKE

03/07/2024

CONTENTS

CLAUSE

1.	Definitions	01
2.	Purpose of Grant	03
3.	Payment and Condition of Grant	04
4.	Use of Grant	04
5.	Accounts and records	05
6.	Monitoring and reporting	05
7.	Acknowledgment and publicity	06
8.	Intellectual Property Rights	07
9.	Confidentiality	07
10.	Freedom of information	08
11.	Data protection	09
12.	Withholding, suspending and repayment of Grant.....	09
13.	Limitation of liability.....	11
14.	Warranties and Undertakings.....	11
15.	Insurance.....	12
16.	Duration	12
17.	Termination.....	13
18.	Assignment.....	13
19.	Waiver	13
20.	Notices.....	13
21.	Dispute resolution	13
22.	No partnership or agency.....	14
23.	Joint and several liability	14
24.	Contracts (Rights of Third Parties) Act 1999	14
25.	Counterpart.....	14
26.	Governing law.....	14
26.	Survival.....	14

SCHEDULES

SCHEDULE 1: THE PROJECT.....	16
SCHEDULE 2: REPORTING TEMPLATE.....	18
SCHEDULE3: CHARGING SCHEDULE.....	19
SCHEDULE 4: CLAIM FORM.....	20
SCHEDULE 5: CLAWBACK.....	21

THIS **AGREEMENT** is dated 01st day of July 2024

PARTIES

- (1) **ESSEX COUNTY COUNCIL** whose principal address is at County Hall, Market Road, Chelmsford, CM1 1LX (**Funder**).
- (2) **TENDRING DISTRICT COUNCIL** whose principal address is at the Town Hall, Station Road, Clacton on Sea, Essex, CO15 1SE (**Recipient**).

BACKGROUND

- (A) The Funder has identified funding available to support the implementation of (Community Infrastructure Levy) CIL in the District of Tendring. The Funder is supportive of CIL as a mechanism to enable developer contributions to be obtained from smaller housing developments, which are known to provide low contributions to infrastructure, thus increasing the overall level of developer contributions received.
- (B) This Project is being progressed because the developer contributions received by the Recipient and by the Funder are insufficient and unable to fund the required mitigating infrastructure, facilities and services required to support planned growth across Essex.
- (C) As such, the Funder has agreed to pay the Grant to the Recipient to assist it in carrying out the Project as described in Schedule 1.
- (D) The Parties have entered into an MOU for the provision of support by the Funder to the Recipient, to prepare and support the delivery of CIL in the District of Tendring.
- (E) This Agreement sets out the terms and conditions on which the Grant is made by the Funder to the Recipient and 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: means 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.

Capital Expenditure: means grant paid under this Agreement may be used only for the purposes that a capital receipt may be used for in accordance with regulations made under section 11 of the Local Government Act 2003.

Charging Authority: means Tendring District Council

Charging Schedule: means the schedule issued by a Charging Authority which proposes to charge CIL setting rates, or other criteria, by reference to which the amount of CIL chargeable in respect of development in its area is to be determined as outlined in Schedule 3.

CIL: means the Community Infrastructure Levy under the Community Infrastructure Levy Regulations 2010 (as amended)

CIL Contributions: means the developer contributions (which are charges applied on most new developments) received from the adoption of CIL as set out in the MOU.

Clawback Period: means the period from the date of this Agreement to 5 years after the Completion Date.

Clawback Event: means any of the events more particularly described in clause 12.

Commencement Date: 01/07/2024

Data Protection Legislation: means all applicable data protection legislation and privacy legislation in force from time to time in the UK including the GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426); any other directly applicable European Union regulation relating to privacy; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data and the privacy of electronic communications.

GDPR: means General Data Protection Regulation ((EU) 2016/679).

Grant: means the sum up to £20,000 (twenty thousand pounds), to be paid by the Funder to the Recipient in accordance with this Agreement.

Project Period: means the period for which the Grant is awarded starting on the Commencement Date and ending on 01/05/25, or no later than 3months after the adoption of the CIL Charging Schedule, whichever is later.

Intellectual Property Rights: means 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: means 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: means the implementation of CIL in the District of Tendring to enable developer contributions to be obtained from smaller housing developments, which are currently rarely subject to S106 Agreements, thus increasing the overall level of developer contributions received set out in Schedule 1.

Project Completion Date: 01/05/25 or no later than 3 months after the adoption of the CIL Charging Schedule, whichever is later.

Project Manager: means the individual who has been nominated to represent the Funder for the purposes of this Agreement: Alethea Evans, Lead Infrastructure Planning and Finance Manager.

MOU: means the Memorandum of Understanding dated 01/07/2024 between the Funder and the Recipient at Schedule 5 of this Agreement.

Significant Change: means a significant change is incurred when any one of the following arises:

- i. proposal to cancel, postpone or suspend the Project
- ii. the Project, as defined in Schedule 1, is altered or amended.

Staffing Resources: means the provision of 2 members of staff employed by

the Funder to undertake the Project valued at £45,000

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 written agreement of the Funder such agreement shall not be unreasonably withheld.
- 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, 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 AND CONDITIONS OF GRANT

- 3.1 The Grant shall be paid in a single payment lump sum within 30 days following the receipt of a correctly completed Claim Form set out in Schedule 4.
- 3.2 The Grant is limited to a maximum of £20,000 (twenty thousand pounds), and shall not be increased in the event of any overspend by the Recipient in its delivery of the Project.
- 3.3 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.
- 3.4 On completion of the Project and the adoption of CIL by the Recipient, the Recipient shall prioritise the spending of CIL Contributions paid by developers to the Recipient on categories of future infrastructure projects agreed between the Funder and the Recipient as set out in the MOU. This clause 3.4 shall survive the termination and /or expiry of this Agreement.
- 3.5 For the avoidance of doubt if at the 5th anniversary of the adoption of CIL by the Recipient the Grant and Staffing Resources up to the sum of £65,000 have not been repaid in full to the Funder through CIL Contributions any remaining sum due shall not be claimed by the Funder for repayment.

3.6 The Funder acknowledges that the final decision to implement CIL lies with the elected Councillors of the Recipient and that the completion of this Project does not guarantee the implementation or adoption of a CIL and the repayment of the Grant or Staff Resources through CIL Contributions.

3.7

4. USE OF GRANT

4.1 The Grant shall be used by the Recipient against actual spend incurred in the delivery of the Project. The Recipient shall not use the Grant to:

- (a) make any payment to members of the Recipient; or
- (b) purchase buildings or land; or
- (c) pay for any expenditure not directly related to the Project

unless this has been approved in writing by the Funder in advance of the spend being incurred.

4.2 The Recipient shall not spend any part of the Grant on the delivery of the Project after the Project Period unless this has been approved in writing by the Funder.

4.3 This Agreement provides for available funding up to the value of the Grant. In the event that the Project does not utilise all the available funding by the end of the Project Period, the Recipient shall not be entitled to any non-spent Grant.

4.4 Any non-spent Grant must be refunded forthwith to the Funder on its first demand or upon the Recipient becoming aware that the Grant funding has been under-spent, whichever first occurs.

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 (6) 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 comply with 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 Project 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 quarterly update on project progress in the template at Schedule 2 and a final report which shall confirm whether the Project has been successfully and properly completed at the end of the Project Period in such formats as the Funder may reasonably require.
- 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 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.
- 6.5 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.
- 6.6 The Recipient shall permit any person authorised by the Funder for the purpose to visit the Recipient upon the Funder's reasonable request 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.
- 6.7 The Recipient shall provide the Funder with a final report on completion of the Project 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 propose in writing a Completion Date for the purposes of calculating any repayments that may become due in the event a Clawback Event occurs (Completion Date Notice).

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 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 Recipient also agrees to comply with the current publicity requirements (including any branding guidelines) as defined by Government for Local Enterprise Partnership Local Growth Funds.
- 7.6 The Funder may acknowledge the Recipient's involvement in the Project as appropriate without prior notice.
- 7.7 The Recipient shall comply with all reasonable requests from the Funder to facilitate visits, provide reports, statistics, photographs and case studies that will assist the Funder in its 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 Project 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 except in relation to the Project's continued branding as a South East Local Enterprise Partnership supported facility.

9. CONFIDENTIALITY

- 9.1 Subject to clause 10 (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:
- (a) 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;
 - (b) 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

- (c) 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:
 - (a) without consulting with the other Party; or
 - (b) following consultation with the other Party and having taken its views into account,
 - (c) provided always that where clause 10.5(b) 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.
- 10.7 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, REPAYMENT AND CLAWBACK 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 6 (six) months of the Commencement Date and the Recipient has failed to provide the Funder with a reasonable explanation for the delay;
- (c) the Funder considers that the Recipient has not made satisfactory progress with the delivery of the Project;
- (d) the Recipient is, in the reasonable opinion of the Funder, delivering the Project in a negligent manner;
- (e) binding funding agreements for the Project have not been entered into in the terms and for the amounts described in the Recipient's application contained in Schedule 1, the Recipient obtains duplicate funding from a third party for the Project;
- (f) 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;
- (g) the Recipient provides the Funder with any materially misleading or inaccurate information;
- (h) the Recipient commits or committed a Prohibited Act;
- (i) any member of the recipient, employee or 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;
- (j) 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);
- (k) the Recipient fails to prioritise future agreed CIL projects in Tendring District which the Funder would otherwise pay for up to the value of £65,000 (which incorporates the value of the Grant and Staffing Resources) as required by this Agreement and the MOU;
- (l) 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;

- (m) The Recipient fails to procure specialist consultancy services for technical evidence gathering and viability testing;
- (n) the Recipient fails to comply with any of the terms and conditions set out in this Agreement in particular the Warranties and Undertakings under clause 14 and fails to rectify any such failure within 30 days of receiving written notice detailing the failure; and
- (j) a Clawback Event occurs (when calculation of the repayment required shall be calculated as specified in Schedule 5- Clawback Schedule)

12.2 The decision as to whether a Clawback Event has occurred shall be at the Funder's sole discretion.

12.3 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.

12.4 The Recipient shall make any payments due to the Funder without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

12.5 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.

13. LIMITATION OF LIABILITY

13.1 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.

13.2 Subject to clause 13.1, the Funder's liability under this Agreement is limited to the payment of the Grant in accordance with this Agreement.

14. WARRANTIES AND UNDERTAKINGS

14.1 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 shall prioritise initial future CIL projects in the District of Tendring in accordance with the terms of this Agreement and the MOU up to the sum of £65,000 (which incorporates the value of the Grant and Staffing Resources);
- (c) it has not committed, nor shall it commit, any Prohibited Act;
- (d) 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;
- (e) 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;
- (f) it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
- (g) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- (h) 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;
- (i) 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;
- (j) 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
- (k) since the date of its last accounts there has been no material change in its financial position or prospects.

15. INSURANCE

15.1 The Recipient shall effect and maintain with a reputable 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**).

15.2 The Required Insurances referred to above include (but are not limited to):

- (a) 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
- (b) employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) in relation to any one claim or series of claims arising from the Service.

The Recipient shall (on request) supply to the Funder a copy of such insurance policies and evidence that the relevant premiums have been paid.

16. DURATION

16.1 Except where otherwise specified, the terms of this Agreement shall apply from the date of this Agreement until the anniversary of expiry of the Project Period or for so long as any Grant monies remain unspent by the Recipient, whichever is longer.

16.2 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.

17. TERMINATION

17.1 The Funder may terminate this Agreement and any Grant payments on giving the Recipient three (3) months' written notice should it be required to do so by financial restraints or for any other reason.

18. ASSIGNMENT

18.1 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.

19. WAIVER

19.1 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.

20. NOTICES

20.1 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, e-mailed, or mailed (first class postage prepaid) to the Project Manager at the address referred to above or to the Recipient as necessary. If personally delivered or if e-mailed 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.

21. DISPUTE RESOLUTION

21.1 In the event of any complaint or dispute (which does not relate to the Funder's right to withhold funds or terminate) arising between the parties to this Agreement in relation to this Agreement the Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Agreement within twenty (20) working days of either party notifying the other of the dispute.

21.2 If the parties remain dissatisfied after the conclusion of the process set out in clause **Error! Reference source not found.**1, 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.

22. NO PARTNERSHIP OR AGENCY

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.

23. JOINT AND SEVERAL LIABILITY

Where the Recipient is not a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Recipient shall be jointly and severally liable for the Recipient's obligations and liabilities arising under this Agreement.

24. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

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.

25. GOVERNING LAW

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.

26. SURVIVAL

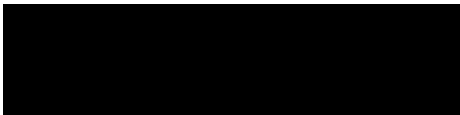
The Clawback provisions in this Agreement shall survive the termination of this Agreement and the expiry of the Project Period.

This document has been agreed and takes effect on the date stated at the beginning of it.

Signed for on behalf of

ESSEX COUNTY COUNCIL

Authorised Officer



(Signed)

___Graham Thomas_____

(Name)

OR

EXECUTED as a **DEED** by affixing the common seal of **ESSEX COUNTY COUNCIL** in the presence of:

.....
Attesting Officer

Signed for on behalf of

TENDRING DISTRICT COUNCIL

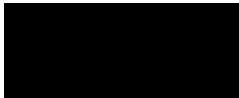
Authorised Officers



(Signed)

Ian Davidson – Chief Executive

(Name)



(Signed)

Gary Guiver – Director of Planning

(Name)

OR

EXECUTED as a **DEED** by affixing the common seal of **TENDRING DISTRICT COUNCIL** in the presence of:

.....

Attesting Officer

SCHEDULE 1 – PART 1 THE PROJECT

Project Description and Project Delivery plan

- a. *The contribution towards the preparation of a viability study to support the introduction of the Community Infrastructure Levy (“CIL”) in the District of Tendring District Council to enable developer contributions to be obtained from smaller housing developments, which are known to provide low contributions to infrastructure, thus increasing the overall level of developer contributions received. This will involve payment by the Funder to the Recipient towards a CIL viability study to support the Charging Schedule, up to the value of £20,000 (twenty thousand pounds) by way of the Grant and supply Staff Resources to undertake the work set out within the Project Plan as set out in the MoU valued at up to £45,000 (forty-five thousand pounds).*

- b. *Delivery of the wider project, as set out within the MOU.*

Delivery plan/timescales

The Project Plan is included in the MOU

SCHEDULE 2- Quarterly Reporting Template

Name of Project	
Organisation submitting Report	
Reporting Quarter and Period	
Total Funds Transferred	£[insert total pounds transferred from ECC to date]
Total SSF grant spent in Quarter	£[insert total pounds spent funded by SSF in reporting quarter]
Total SSF grant spent in total	£[insert total pounds spent funded by SSF in total]
Total spend on project to date	£[insert total pounds spent on project to date]
Confirm Project is due to finish by Project end date	Yes/No
If no – provide details	[insert narrative to any delays on completion]
Please provide details if any outputs/outcomes have changed	[insert narrative on changes to the project from that laid out in Schedule 1]

SCHEDULE 3 CHARGING SCHEDULE

The Charging Authority should specify in their charging schedule what types of development are liable for the levy and the relevant rates for these development types. Levy rates are expressed as pounds (£) per square metre.

When deciding the levy rates, the Charging Authority shall strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments. This balance is at the centre of the charge-setting process.

In meeting the regulatory requirements, the Charging Authority shall show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area.

SCHEDULE 4- CLAIM FORM
Funding Claim Form

A total of £20,000 (Twenty Thousand pounds) can be claimed by Tendring District Council in accordance with clause 3 of this Agreement.

Date of Claim:

Amount already claimed under this agreement	£x
Amount spent on implementing the Project to date	£x
Amount of grant available to be requested to date	£x
Amount of grant being claimed	£x
Total outstanding unclaimed grant	£x

I confirm that the amount being requested in this grant claim is to meet expenditure which has been defrayed in accordance with clause 4 of this grant agreement. I also confirm that the records are in place to meet all requirements of clause 5 and clause 6 of this agreement to support the spend and will be made available to the Funder within 5 working days of any request to see them.

Signed

**SCHEDULE 5
CLAWBACK SCHEDULE**

If a Clawback Event occurs the Recipient shall be liable to repay to the Funder a percentage of the Grant received determined by reference to the period that has elapsed since the Project Completion Date as detailed in the table below:

Period from Project Completion Date	Percentage of Grant to be repaid
Within 1 year after completion date	100%
Within 1-2 years after completion date	80%
Within 2-3 years after completion date	60%
Within 3-4 years after completion date	40%
Within 4-5 years after completion date	20%
From 5 years after completion date	0%