



## LEAD MEMBER FOR STRATEGIC MANAGEMENT AND ECONOMIC DEVELOPMENT

**DECISIONS** to be made by the Lead Member for Strategic Management and Economic Development, Councillor Keith Glazier

**TUESDAY, 22 JANUARY 2019 AT 11.45 AM**

**COMMITTEE ROOM - COUNTY HALL, LEWES**

### **AGENDA**

- 1 Decisions made by the Lead Cabinet Member on 20 August 2018 (*Pages 3 - 4*)
- 2 Disclosure of Interests  
Disclosure by all Members present of personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- 3 Urgent items  
Notification of any items which the Lead Member considers urgent and proposes to take at the appropriate part of the agenda.
- 4 SELEP Sector Support Fund (SSF) (*Pages 5 - 24*)  
Report by the Directors of Communities, Economy and Transport
- 5 Any urgent items previously notified under agenda item 3

PHILIP BAKER  
Assistant Chief Executive  
County Hall, St Anne's Crescent  
LEWES BN7 1UE

14 January 2019

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## **LEAD MEMBER FOR STRATEGIC MANAGEMENT AND ECONOMIC DEVELOPMENT**

DECISIONS made by the Lead Member for Strategic Management and Economic Development, Councillor Keith Glazier, on 20 August 2018 at County Hall, Lewes

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### 5 DECISIONS MADE BY THE LEAD CABINET MEMBER ON 10 JULY 2018

5.1 The Lead Member approved as a correct record the minutes of the meeting held on 10 July 2018.

### 6 REPORTS

6.1 Reports referred to in the minutes below are contained in the minute book.

### 7 EAST SUSSEX BETTER TOGETHER - UPDATED ESBT ALLIANCE AGREEMENT

7.1 The Lead Member considered a report by the Director of Adult Social Care and Health.

#### DECISIONS

7.2 The Lead Member RESOLVED to (1) agree in principle to amend the East Sussex Better Together (ESBT) Alliance Agreement for 2018/19 as set out in paragraph 2.1 of the report, and that authority is delegated to the Chief Executive to finalise and agree these amendments, including entering into an ESBT Alliance data sharing agreement with the other partners;

(2) agree to delegate authority to the Chief Executive to make any other amendments to the Alliance Agreement they consider appropriate arising from the governance review, from a review of learning from the first year and to ensure that the Agreement remains fit for purpose going forward; and

(3) agree to extend the ESBT Alliance Agreement for a further year until 31 March 2020.

#### Reasons

7.3 The extension to the Alliance Agreement will help provide the stability and consistency needed for our place-based arrangement in the context of the wider Sustainability and Transformation Programme. Further changes may be necessary as a result of wider system reviews and exploration of possibilities for different approaches to governance, based on our continued learning and the requirements of our integrated system working, and delivering financial recovery going forward as well as our future plans for transformation.

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# Agenda Item 4

**Report to:** Lead Member for Strategic Management and Economic Development

**Date of meeting:** 22 January 2019

**By:** Director of Communities, Economy and Transport

**Title:** SELEP Sector Support Fund (SSF)

**Purpose:** To seek approval for the County Council to act as the Local Accountable Body for successful South East Local Enterprise Partnership (SELEP) Sector Support Fund projects and to enter into a legal grant agreement to transfer the Sector Support Fund grant monies as approved by SELEP

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**RECOMMENDATIONS:** Lead Member is recommended to:

**(1) Approve the County Council acting as the Local Accountable Body for successful South East Local Enterprise Partnership (SELEP) Sector Support Fund projects and to enter into a legal grant agreement to transfer the Sector Support Fund grant monies as approved by SELEP;**

**(2) Delegate authority to the Director of Communities, Economy and Transport to agree the terms of, and enter into, any relevant agreements with Essex County Council as the SELEP's Lead Accountable Body, necessary to secure the funding and enter into subsequent legal grant agreements with lead project sponsors; and**

**(3) Delegate authority to the Director of Communities, Economy and Transport to approve the terms of any such agreements and to take all other necessary actions in respect of recommendations 1 and 2 above**

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## 1 Background Information

1.1 The South East Local Enterprise Partnership (SELEP) Sector Support Fund (SSF) is a £500,000 per year pot from 2018/19 onwards to support one-off, discrete pieces of work of a pan-LEP nature with a sector focus that bring demonstrable benefits and have support across the SELEP. It uses Growing Places Fund (GPF) Revenue Grant (grant agreement in Appendix 1) to fund a programme of works to support the sector focussed activities that are being undertaken on a pan-LEP basis. These are predominantly led by the established SELEP working Groups. These currently include: Coastal Communities; Enterprise Zones; Housing; Rural; Social Enterprises; South East Creative Economy Network; Tourism; Transport Officers; U9 Universities; Growth Hub; and Clean Growth/Energy.

1.2 To be eligible for funding from the SSF, the project must:

- Be pan-LEP;
- Have outcomes that align with SELEPs overarching objective to create the conditions for increased jobs and homes, safeguarding existing jobs and raising skill levels;
- Align with the SELEP priorities as defined in the Economic Strategy Statement (ESS);
- Be for a discrete piece of work, not ongoing or business as usual (BAU) costs;
- Be revenue only;
- Have match funding of 30%;
- Be between £25,000 - £200,000;
- Demonstrate value for money and comply with the SELEP Assurance Framework;
- ***Be supported by an Upper Tier Authority or equivalent as Local Accountable Body***
- ***Have endorsement from the relevant Federated Board of the lead Upper Tier Authority***

## 2 Supporting Information

2.1 Support and endorsement is normally sought according to the geographic location of the project lead. Only one bid, from the four overall that were submitted to SELEP in August 2018, is led by an East Sussex-based project lead (Plumpton College) on behalf of SELEP's Rural Working Group. This was

considered and endorsed by Team East Sussex (TES), the local East Sussex Federated Growth Board to the SELEP at its meeting on 24 September 2018.

2.2 Following a further bidding round, which concluded on 2 November 2018, a project titled 'Coastal Communities Economic Prospectus', led by Hastings Borough Council (HBC) on behalf of the SELEP's Coastal Communities Working Group was submitted. This was considered and endorsed by TES at its meeting on 3 December 2018. More projects are anticipated during the lifetime of the SSF and any led by an East Sussex-based organisation will seek support at the TES federated board level.

2.3 The County Council is therefore being requested, at present, to act as the Local Accountable Body for two projects (see 2.1 and 2.2 above), with the potential for more projects to be approved during the lifetime of the SSF. The role of the Local Accountable Body is to:

- Ensure appropriate grant agreements are in place with SELEP and the lead project sponsor;
- Oversee the required project claim, monitor outputs/outcomes and ensure reporting processes, as currently exist within the overall East Sussex led Growth programme, are met and ensure these meet the requirements internally, to TES and to SELEP;
- Ensure the lead project sponsor is defraying funds and accurately drawing down financial payments within budget;
- Manage and oversee the governance, approval or sign off processes, as required under the SELEP Assurance framework, including County Council Lead Member, TES and the SELEP Accountability Board approval as appropriate.

The tasks of the Local Accountable Body, as described above, will be delivered using existing County Council resources within the Economic Development Team, as already established under the reporting purposes for the Local Growth Fund (LGF) and Growing Places Fund (GPF) programmes. The Economic Development team will work together with other County Council support services such as Legal and Finance Services as required.

### **3 Conclusion and Reasons for Recommendations**

3.1 The Sector Support Fund (SSF) supports one-off, discrete pieces of work of a pan-LEP nature with a sector focus that bring demonstrable benefits and have support across the LEP. It will facilitate outcomes that align with SELEPs overarching strategic objectives to create the conditions for increased jobs and homes, safeguarding existing jobs and raising skill levels. Being pan-LEP it will result in benefits to the East Sussex economy, regardless of the location of the project lead/promoter.

3.2 The Lead Member is therefore recommended to approve the County Council acting as the Local Accountable Body for the two SELEP SSF projects detailed in this report together with any others that receive the necessary approvals and entering into any grant agreements required to transfer the SSF monies to the lead project sponsor. The Lead Member is further recommended to delegate authority to the Director of Communities, Economy and Transport to agree the terms and conditions of the relevant grant agreements with Essex County Council acting as the SELEP's Lead Accountable Body and subsequently with lead project sponsors.

RUPERT CLUBB  
Director of Communities, Economy and Transport

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#### **LOCAL MEMBERS**

All.

#### **BACKGROUND DOCUMENTS**

Visit: <https://www.southeastlep.com/opportunities/sector-support-fund/>

**GRANT AGREEMENT**

between

**ESSEX COUNTY COUNCIL ACTING AS THE ACCOUNTABLE BODY FOR THE SOUTH EAST  
LOCAL ENTERPRISE PARTNERSHIP**

And

**East Sussex County Council**

DRAFT

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THIS AGREEMENT is dated                    day of                    2018.

## **PARTIES**

- (1) Essex County Council, the “Accountable Body” for the South East Local Enterprise Partnership, whose principal address is at County Hall, Market Road, Chelmsford, CM1 1LX (**Funder**).
- (2) East Sussex County Council, whose principal address is at County Hall, St Anne’s Crescent, Lewes, BN7 1UE (**Recipient**).

## **BACKGROUND**

- (A) The South East Local Enterprise Partnership (“SE LEP”) has agreed a grant programme to support sector focussed activities that are being undertaken on a pan-LEP basis. The grant awards are made through open calls for application and consideration against published criteria. The SE LEP Strategic Board endorses the grant applications and the final approval of the application is made by the SELEP Managing Director, under delegated authority.
- (B) The programme is funded via the revenue element of the Growing Places Fund grant. This grant was awarded to the Accountable Body on behalf of SE LEP in 2012. The revenue element of the grant awarded totalled £3,733,422.
- (C) The Funder Accountable Body is the local authority which has responsibility for adhering to any stipulations made by the Government in relation to the grant, including ensuring that expenditure is spent in accordance with all legal requirements and adhering to any reporting requirements to the Government in relation to the Grant.
- (D) The Funder has agreed to pay the Grant to the Recipient to assist it in carrying out the Project.
- (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:** 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:** date of this agreement

**Grant:** the sum up to £40,000 forty thousand pounds, to be paid to the Recipient in accordance with this Agreement.

**Data Protection Legislation:** the Data Protection Act 2018 and thereafter (i) unless and until GDPR is no longer directly applicable in the UK, the GPDR and any national

implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR

**Grant Period:** the period for which the Grant is awarded starting on the Commencement Date and ending on 31 March 2020.

**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 and set out in Schedule 1.

**Project Manager:** the individual who has been nominated to represent the Funder for the purposes of this Agreement is SE LEP Capital Programme Manager.

**Significant Change:** A significant change is incurred when any one of the following arises:

- (a) proposal to cancel , postpone or suspend the project

- (b) the project, as defined in Schedule 1, is altered or amended so as to change the Project Summary or Project Outcomes as set out in the Sector Support Fund Application Form.
- (c) Change to the total project cost of more than 40%.

## **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 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. Significant changes to the Project may require SE LEP Strategic Board 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 OF GRANT**

- 3.1 The grant shall be paid in a single payment in advance, within 30 days of the commencement date.
- 3.2 The Grant is limited to a maximum of £40,000 forty thousand pounds 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.

## **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 Grant 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 Grant Period, the Recipient shall not be entitled to any non-spent Grant.

## **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 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 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 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 Grant 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.

## **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 Recipient also agrees to comply with the current publicity requirements (including any branding guidelines) as defined by Government for Local Enterprise Partnership Growing Place 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 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 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 Recipient acknowledges that the Funder is 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 the Funder (at the Recipient's expense) to enable the Funder to comply with these information disclosure requirements.

10.2 The Recipient shall:

- (a) transfer the request for information to the Funder as soon as practicable after receipt and in any event within 2 (two) Working Days of receiving a request for information;

- (b) provide the Funder with a copy of all information in its possession or power in the form that the Funder requires within 5 (five) Working Days (or such other period as the Funder may specify) of the Funder requesting that information; and
  - (c) provide all necessary assistance as reasonably requested by the Funder to enable the Funder 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.
- 10.3 The Funder 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, and in no event shall the Recipient respond directly to a request for information unless expressly authorised to do so by the Funder.
- 10.4 In no event shall the Recipient respond directly to a request for information unless expressly authorised to do so by the Funder.
- 10.5 The Recipient acknowledges that the Funder 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 Recipient; or
  - (b) following consultation with the Recipient and having taken its views into account,provided always that where clause 10.5(b) applies the Funder shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Recipient advanced notice, or failing that, to draw the disclosure to the Recipient'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 Delivery Partner 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 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 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;



- (l) 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; or
- 12.2 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.
- 12.3 The Recipient shall make any payments due to the Funder without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 12.4 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 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;
- (j) 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 Grant 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 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.
- 18.2 The Funder shall only assign or transfer, or make over to any third party the benefit and/or the burden of this Agreement, in the event that they are no longer the Accountable Body, or, in the event of a change to the boundaries of SE LEP, the Recipient falls outside the boundaries of the successor of the SE LEP.

**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 matter should first be referred for resolution to the Section 151 Officer of the Accountable Body or any other individual nominated by the Funder from time to time.
- 21.2 Should the complaint or dispute remain unresolved within 14 days of the matter first being referred to the Section 151 Officer of the Accountable Body or other nominated individual, as the case may be, either party may refer the matter to the Strategic Board of the SE LEP or its successor to resolve the dispute within 28 days, or such other period as may be mutually agreed by the Funder and the Recipient.
- 21.3 If the parties remain dissatisfied after the conclusion of the process set out in clause 21.2, 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.

## **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.

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

Essex County Council as  
Accountable Body for SELEP

Authorised Signatory .....

Print .....

Date .....

Essex County Council as  
Accountable Body for Haven  
Gateway Partnership

Authorised Signatory

Print

Date 2018

DRAFT

**Schedule 1 – The Project** *(insert business case)*

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## Schedule 2 – Quarterly Reporting Template

<b>Name of Project</b>	
<b>Organisation submitting Report</b>	
<b>Reporting Quarter and Period</b>	
<b>Total Funds Transferred</b>	£ <i>[insert total pounds transferred from SELEP/ECC to date]</i>
<b>Total SSF grant spent in Quarter</b>	£ <i>[insert total pounds spent funded by SSF in reporting quarter]</i>
<b>Total SSF grant spent in total</b>	£ <i>[insert total pounds spent funded by SSF in total]</i>
<b>Total spend on project to date</b>	£ <i>[insert total pounds spent on project to date]</i>
<b>Project progress to date</b>	<i>[insert narrative to provide project update]</i>
<b>Project Milestones</b>	<i>[insert details of project milestones and expected completion date]</i>
<b>Confirm Project is due to finish by Project end date</b>	Yes/No
<b>If no – provide details</b>	<i>[insert narrative to any delays on completion]</i>
<b>Please provide details if any outputs/outcomes have changed</b>	<i>[insert narrative on changes to the project from that laid out in Schedule 1]</i>
<b>Project Risks</b>	<i>[Insert details of the main project risks].</i>
<b>Risk Mitigation</b>	<i>[Insert details of the mitigation measures which will need to be implemented in the next quarter to manage project risks]</i>

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