



To: Executive Councillor for Climate Change and Growth, Cllr Sian Reid.

Report by: Simon Payne, Director of Environment & Planning

Relevant scrutiny committee: ENVIRONMENT SCRUTINY

## **1 Year Extension of Reverse Agency Agreement**

Not a Key Decision

### **1. Executive summary**

The current reverse agency agreement with Cambridgeshire County Council expires on 31<sup>st</sup> March 2010, however the agreement allows for unlimited yearly extensions until brought to an end by either party by giving one years notice in writing. The County has now submitted notice that it wishes to amend the agreement from April 2011 onwards. This report requests Executive Councillor approval to extend the agreement in its current form until 31<sup>st</sup> March 2011 while a new agreement is established. Further Executive Councillor authority will be sought in the event that a further agency agreement is offered to the Council for any term beyond 31 March 2011.

### **2. Recommendations**

2.1 The Executive Councillor is recommended:

- To approve the extension of the reverse agency agreement with Cambridgeshire County Council in its current form for a further year to end on 31<sup>st</sup> March 2011.

### **3. Background**

3.1 The current reverse agency agreement was agreed in December 2005 following the end of a previous Highways Agency agreement between the City and the County Council. An agency agreement has been required by the City Council since local government reorganisation in 1974 to enable it to exercise some retained highway functions under agreement with the County as Highway Authority.

- 3.2 The County Council has served the City Council with notice that the agreement in its current form will cease on 31<sup>st</sup> March 2011. The agreement currently runs to 31<sup>st</sup> March 2010 with yearly extensions until either party give notice.
- 3.3 There are no proposals to change the agreement in any way as part of this extension proposal and the services that either party deliver on the others behalf will remain unaltered.
- 3.4 The County functions that the City Council currently deliver on behalf of the County Council and for which annual funding is provided are:
- a) Highway tree management, maintenance and advice.
  - b) Highway grass cutting, weed kill and maintenance of highway planting, hedges and shrubs.
  - c) Maintenance of highway ditches.
- 3.5 In return the County provide the City Council with engineering advice, design and implementation services for schemes funded by the City Council, particularly major environmental improvement schemes within the highway. The current programme for the coming year includes the Executive Councillor approved Fitzroy/Burleigh Street and Riverside City Council EIP schemes that will be designed and constructed by the County Council through this agreement with a joint value of £762,030. These works will be carried out by the County Council's highway contractor. This contractor has been appointed following a comprehensive and EU compliant procurement process carried out by the County.

#### **4. Implications**

- 4.1 The County provides the City Council with a budget to carry out the functions listed in 3.4 above. The budget figures for 2010/11 are as follows:
- a) Highway tree management, maintenance and advice - £66,470
  - b) Highway grass cutting, weed kill and planting, hedges and shrubs maintenance - £89,760
  - c) Maintenance of highway ditches - £14,990

**TOTAL COUNTY BUDGET CONTRIBUTION - £171,220**

- 4.2 The budget associated with highway grass cutting is subsidised considerably by the City Council in order to achieve the required standard, which is above that applicable in the rest of the County. This additional City Council funding has already been approved for 2010/11 and amounts to £68,680.
- 4.3 The relevant City Council departments responsible for delivering the County functions, have not highlighted any issues associated with a further 12 month extension of this agreement, taking into consideration the associated financial implications detailed above and the resources available to them for 2010/11.
- 4.4 The recent City Council motion to invoke a tree protocol procedure for all tree work within Cambridge will also be followed for all County Council proposed highway tree work. This protocol will form part of the highway tree management function that the City Council carry out on the County Councils' behalf.
- 4.5 There are no procurement implications in terms of the payments by the City Council to the County Council because; a. only the County can carry out or authorise the carrying out of works in the highway (as the Highway Authority); b. in any event the value of the payments for the Works in the highway are substantially less than the current EU Works threshold of £3,927,260. It is for the County Council to satisfy itself as regards any procurement implications (if any) for it in terms of the services to be provided by the City Council to the County Council during the 12 month term.
- 4.6 There are no VAT implications associated with this agreement.

## **5. Background papers**

These background papers were used in the preparation of this report:

Environment Scrutiny Committee Report on the Highways Agency.  
Agenda Item 20 - 27/04/2004.

## **6. Appendices**

Appendix 1 - Current Reverse Agency Agreement

## **7. Inspection of papers**

To inspect the background papers or if you have a query on the report please contact:

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**APPENDIX ONE**

**CURRENT REVERSE AGENCY AGREEMENT**

**CAMBRIDGESHIRE COUNTY COUNCIL AND CAMBRIDGE CITY COUNCIL**

**AGENCY AGREEMENT FOR THE DELIVERY  
OF HIGHWAY FUNCTIONS**

**AN AGREEMENT** made this [1<sup>st</sup>] day of December 2005 **BETWEEN**  
**CAMBRIDGESHIRE COUNTY COUNCIL** ("the County Council") of Shire Hall  
Cambridge and **CAMBRIDGE CITY COUNCIL** ("the City Council") of the Guildhall  
Cambridge.

**WHEREAS**

- (i) The County Council is the local highway authority for highways (other than motorways, trunk roads and special roads) in the County of Cambridgeshire.
- (ii) The County Council is willing, and the City Council has agreed, for the City Council to exercise certain functions herein known as the County Functions on its behalf in pursuance of section 101 of the Local Government Act 1972 ("the 1972 Act").
- (iii) The City Council is the district council for the City of Cambridge.
- (iv) The City Council is willing and the County Council has agreed, for the County Council to exercise certain functions herein known as the City Functions on its behalf in pursuance of section 101 of the 1972 Act.

**NOW THIS DEED WITNESSETH as follows:**

## 1. **DEFINITIONS**

- 1.1. Agency Area means the area for the discharge of County Functions by the City Council on behalf of the County Council shown on the attached map.
- 1.2. Agreement means this agreement.
- 1.3. Cambridge Area Joint Committee (AJC) means the County Council Committee comprised of an equal number of members of the County Council representing electoral divisions covered by the terms of this agreement and of elected Members from the City Council nominated by the City Council.
- 1.4. City Functions Account means the account as set out in detail in clause [17.4] below which defines the income, expenses and balance of the City Functions Account.
- 1.5. County Functions Account means the account as set out in detail in clause 17.3 below which defines the income, expenses and balance of the County Functions Account.
- 1.6. Financial Year means the continuous period of twelve months from the end of one financial year until the next one (April to March).
- 1.7. County Functions means the functions set out in Part 1 of Schedule 1 of this Agreement.
- 1.8. City Functions means the functions set out in Part 2 of Schedule 1 of this Agreement.
- 1.9. The 1976 Regulations mean the Local Government Agency Arrangements (Staff Transfer and Protection) Order 1976 (No. 1421).
- 1.10 The Scheme means the scheme under the 1976 Regulations.

2. In exercise of the powers contained in Section 101 of the 1972 Act, the County Council and the City Council agree that the City Council shall discharge the Functions on the County Council's behalf (or such variants of them as may be agreed between the parties).
3. In exercise of the powers contained in Section 101 of the 1972 Act, the City Council and the County Council agree that the County Council shall discharge the City Functions on the City Council's behalf (or such variants of them as may be agreed between the parties).
4. The City Council agrees to discharge the County Functions within the area shown on the attached map in respect of all highways other than those shown to be excluded (i.e. Motorways and Trunk Roads, which are the responsibility of the Highways Agency) and the County Council agrees to discharge the City Functions within the administrative area of the City of Cambridge.
5. The City Council agrees to discharge the County Functions and the County Council agrees to discharge the City Functions in accordance with the terms of this Agreement.
6. Both parties shall reimburse to the other expenditure incurred in discharging the relevant Functions in accordance with the terms of this Agreement.
7. The Cambridge Area Joint Committee (hereinafter referred to as the AJC) shall exercise (in the context of the policies determined by the County Council's Cabinet and the City Council's Executive Councillors), the executive management of the Functions which are the subject of this Agreement.
8. Annually the AJC will review the performance of both parties in respect of the operations of the Functions and discuss other issues, which may have a bearing on their future operation.
9. This Agreement will be jointly managed by the City Council's nominated client officer and the County Council's nominated head of highways for Cambridge.



10. The City Council may procure highways and engineering works from the County Council's highway related contracts in respect of the delivery of City Council related functions and services whether subject to this agreement or not.
11. Notwithstanding the provisions of Clauses 3 and 4 the County Council shall retain the right to the concurrent exercise of the County Functions in respect of public highways and the City Council shall retain the right to the concurrent exercise of the City Functions on land which is not public highway. The City Council shall retain the option to enter into agreements with the County Council to carry out its own works in respect of public highways.

## 12. **EXTENT OF AGREEMENT**

### 12.1. This agreement extends to:

12.1.1 the Agency Area as shown on the attached map herein attached as Appendix A for the County Functions being exercised by the City Council on behalf of the County Council; and

12.1.2 the administrative area of the City of Cambridge for the City Functions being delivered by the County Council on behalf of the City Council.

12.2 In the event of serious failure by either party hereto to comply with the terms of this Agreement the aggrieved party may serve a notice on the offending party at any time of the year; such notice shall cause the agreement to cease six months from the date of serving.

12.3 In the event of legislative change that affects the statutory relationship between the County Council and the City Council, the parties hereto may arrange a mutually satisfactory termination of this agreement to take effect within a period to be agreed.

### **13. DURATION OF AGREEMENT**

- 13.1. This agreement shall remain in force from the first day of December 2005 until 31st March 2010 and be extended from year to year until determined by either party by giving not less than one years notice in writing or such lesser period as the parties may agree provided always that any such notice shall expire on 31<sup>st</sup> March in any year. The agreement may be reviewed and amended from time to time with the consent of the City Council and County Council.

### **14. EXERCISE IN AGENCY**

- 14.1. This agreement supersedes any and all agreements currently between the County Council and the City Council relating to the Functions detailed in Schedule 1.
- 14.2. The County Council in relation to the County Functions under Part 1 of Schedule 1 shall retain the right to set annual funding allocations, and service standards, procedures and policies.
- 14.3. The City Council in relation to the City Functions under Part 2 of Schedule 1 shall retain the right to set funding allocations, and service standards, procedures and policies provided that these do not conflict with the County Council's policies and procedures insofar as they relate to the public highway.
- 14.4. Each Council will inform the other of the funding allocations and/or proposed project work for the following year at the earliest opportunity or by the 1st March in the preceding financial year.
- 14.5. The County Council will take responsibility for dealing with all claims for compensation (including the ancillary costs incurred by the successful claimant) arising from the exercise of the County Functions. The City Council shall indemnify the County Council against any claim made against the County Council as a result of a negligent act or negligent omission by the City Council or its employees and contractors in discharging the County Functions

14.6 The County Council will take responsibility for dealing with all claims for compensation (including the ancillary costs incurred by the successful claimant) arising from the exercise of the City Functions on, above or below land where it is the highway authority. However the City Council will take responsibility for dealing with all claims for compensation (including the ancillary costs incurred by the successful claimant) arising from the exercise of the City Functions on, above or below land where the County Council is not the highway authority. The County Council shall indemnify the City Council against any claim made against the City Council as a result of a negligent act or negligent omission by the County Council or its employees and contractors in discharging the City Functions.

## 15. **FINANCIAL**

15.1. The City Council will manage the finances for all the County Functions it provides under Part 1 of Schedule 1 in a separate account. The account will be the County Functions Account for all finances for all Functions.

15.2. The County Council will manage the finances for all the City Functions it provides under part 2 of Schedule 1 in a separate account. The account will be the City Functions Account.

### 15.3. **County Functions Account**

15.3.1. The County Functions Account deals with all income and expenses in respect of the County Functions managed by the City Council. The following list of credits and debits may be amended during the term of this Agreement when both parties agree.

#### 15.3.2. Credits

15.3.2.1. The County Functions Account will be credited with any income recovered from third parties in fulfilling the County

Functions, except those arising from enforcement Functions where no funding allocations are made by the County Council.

### 15.3.3. Debits

15.3.3.1. The County Functions Account will be debited with:

15.3.3.1.1 the City Council's fee(s) for streetscape and landscape design work carried out to specific briefs issued by the County Council. Each brief will contain details of the fee agreed by both parties; and

15.3.3.1.2 the costs of works, associated fees and advice in relation to highway tree maintenance, ditch maintenance, grass cutting, weedkill and maintenance of highway planting, hedges and shrubs. Provided that the costs do not exceed the annual funding allocation set by the County Council at the start of each financial year unless increased by notification in writing during the financial year

### 15.3.4. Balance

15.3.4.1. At the end of each quarter (i.e. 1st July, 1st October January and 1st April) of each financial year the City Council shall provide the County Council with a statement of credits and debits to date and the outstanding balance of the County Functions Account.

15.3.4.2. On closure of the City Council's accounts at the end of each Financial Year, and by the 31<sup>st</sup> of May, the City Council shall provide the County Council with an annual statement of the total credits and debits and the outstanding balance

of the County Functions Account.

15.3.4.3. Within 28 days of receiving the quarterly and annual statements of the County Functions Account, the City Council will credit the County Council with any surplus balance and the County Council will credit the City Council with any deficit balance, unless both parties agree otherwise.

#### 15.4. **City Functions Account**

15.4.1. The City Functions Account deals with all income and expenses in respect of the City Functions managed by the County Council. The following list of credits and debits may be amended during the term of this agreement when both parties agree.

##### 15.4.2. Credits

15.4.2.1. The City Functions Account will be credited with:

15.4.2.1.1 income from developers to pay for new street name plates

15.4.2.1.2 any other income recovered from third parties in fulfilling the City Functions

##### 15.4.3. Debits

15.4.3.1. The City Functions Account will be debited with:

15.4.3.1.1 the County Council's fee(s) for work carried out to specific briefs issued by the City Council for any of the City Functions listed in Part 2 of Schedule 1 other than those functions listed in

clause [15.4.3.1.2] below. Each brief will contain details of the fee agreed by both parties.

15.4.3.1.2 the costs of works carried out to previously agreed programmes in relation to street nameplate, finger post signage and footway maintenance, bus shelter and mobility crossing installation. Provided that the costs do not exceed the annual funding allocations set by the City Council at the start of each financial year or increased by notification in writing during the financial year.

15.4.3.1.3 an operation fee of 11% of the costs of the works carried out to previously agreed programmes in relation to street nameplate, finger post signage and footway maintenance, bus shelter and mobility crossing installation.

#### 15.4.4. Balance

15.4.4.1. At the end of each quarter (i.e. 1st July, 1st October, 1st January and 1st April) of each financial year the County Council shall provide the City Council with a statement of credits and debits to date and the outstanding balance of the City Functions Account.

15.4.4.2. On closure of the County Council's accounts at the end of each Financial Year, and by the 31<sup>st</sup> of May, the County Council shall provide the City Council with an annual statement of the total credits and debits and the outstanding balance of the City Functions Account.

15.4.4.3. Within 28 days of receiving the quarterly and annual

statements of the City Functions Account, the County Council will credit the City Council with any surplus balance and the City Council will credit the County Council with any deficit balance, unless both parties agree otherwise.

**16. THIRD PARTY RIGHTS**

16.1. This Agreement shall not create or give rise to, nor shall it be intended to create or give rise to, any third party rights. No third party shall have any right to enforce or rely on any provision of this Agreement which does or may confer any right or benefit on any third party, directly or indirectly, expressly or impliedly. The application of any legislation giving or conferring on third parties contractual or other rights in connection with this Agreement shall be excluded.

**17. DATA PROTECTION FREEDOM OF INFORMATION AND HUMAN RIGHTS**

**17.1. General**

17.1.1. Without prejudice to the specific requirements noted in this clause [17], each party shall comply with the requirements of the Data Protection Act 1998 as amended ("the DPA") and any equivalent or associated Legislation in relation to the performance of this Agreement and will not knowingly do anything or permit anything to be done which might lead to a breach by the other party of the DPA.

17.1.2. In relation to all Personal Data (as defined in the DPA), the parties shall at all times comply with:

17.1.2.1. the DPA as a data controller (as defined in the DPA) and, if necessary, including maintaining a valid and up to date registration or notification under the DPA covering the data

processing to be performed in connection with this Agreement; and

17.1.2.2. any City or County Council policies relating to data protection.

17.1.3. The parties and any of their contractors and sub-contractors shall only undertake processing of Personal Data reasonably required in connection with this Agreement and shall not transfer any Personal Data to any country or territory outside the European Economic Area.

17.1.4. All processing of Personal Data undertaken by the parties in accordance with this Agreement shall at all times comply with the eight Data Protection Principles under the DPA. In particular, the parties shall:

17.1.4.1. ensure that, subject to any exemption under the DPA, all processing of Personal Data is done fairly and lawfully;

17.1.4.2. ensure that Personal Data processed for the purposes of this Agreement is not used for any other purpose or provision by or on behalf of the parties;

17.1.4.3. ensure that all Personal Data processed for the purposes of this Agreement is no more than is necessary for the purposes of this Agreement;

17.1.4.4. ensure that checks are undertaken to ensure accuracy of the Personal Data maintained for the purposes of this Agreement;

17.1.4.5. ensure that Personal Data maintained for the purposes of this Agreement is not kept for any longer than is



necessary, in accordance with any guidelines which shall be provided from time to time by the City or the County Council;

17.1.4.6. ensure that they are fully able to comply with all of the rights of data subjects (as defined in the DPA) under the DPA, including the ability to comply with data subject access requests within the statutory maximum period, whether such requests are received by the City or the County Council. If such requests are received by one party, they will be forwarded to the other party promptly. The parties shall notify each other of all notices in connection with this Agreement received from data subjects, which appear to or purport to exercise that person's rights under the DPA, promptly;

17.1.4.7. bring into effect and maintain technical and organisational measures to prevent unauthorised or unlawful processing of Personal Data and accidental loss or destruction of, or damage to, Personal Data including but not limited to take reasonable steps to ensure the reliability of the parties' staff having access to the Personal Data and, in particular, with regard to sensitive personal data as defined in the DPA;

17.1.4.8. comply with the provisions of BS7799 or equivalent European standard;

17.1.4.9. not transfer any Personal Data to any country or territory outside the European Economic Area without the express written consent of the other party.

17.1.5. All staff of the parties who have access to Personal Data for the purposes of this Agreement shall be trained in data protection to

accord with the requirements of this Agreement.

17.1.6. Without prejudice to the parties' general obligations to provide data and information to each other on request, the parties shall be entitled to request, and the other party shall provide within a reasonable time, employment and relevant personal information in relation to that party's staff or any sub-contractor's employees for the purposes of anti-fraud measures such as data matching. The parties shall ensure that it takes any measures necessary pursuant to the DPA and any other relevant legislation to facilitate such disclosure lawfully and fairly.

## 17.2. **No Disclosure**

17.2.1. The parties to this Agreement shall not disclose Personal Data to any third parties other than:

17.2.1.1. to their staff to whom such disclosure is reasonably necessary in order to perform its obligations under this Agreement;

17.2.1.2. to the extent required under a court order; or

17.2.1.3. disclosures made with the data subject's express written consent;

17.2.1.4. provided that disclosure under [17.2.1] is made subject to written terms substantially the same as, and no less stringent than, the terms contained in this clause [17.2] and that the parties shall give notice in writing to the other party of any disclosure of Personal Data which the parties are required to make under [17.2.1.2] immediately upon becoming aware of such a requirement.

17.2.2. The parties may, at reasonable intervals, request a written description of the technical and organisational methods employed by the other party referred to in [17.1.4.7]. Within 20 working days of such a request, the party shall supply written particulars of all such measures detailed to a reasonable level such that the other party can determine whether or not, in connection with the Personal Data, it is compliant with the DPA.

### **17.3. Indemnity**

17.3.1. The parties shall indemnify and keep indemnified each other against all losses, claims, damages, liabilities, costs and expense (including reasonable legal costs) incurred by each other in respect of any breach of this clause [17] by the other party.

17.3.2. Without prejudice to the generality of any other relevant Conditions, if the Information Commissioner investigates any of the activities or practices of one of the parties, the party shall promptly and fully co-operate with such investigation (including, without limitation, allowing the Information Commissioner and the other party access to all books, accounts and other records and making available directors and employees of that party to give evidence to the Information Commissioner and to the other party).

17.3.3. Where, as a result of such investigation, the Information Commissioner issues any information enforcement or other notice under his powers under the FOIA 2000 and/or the DPA 1998 in which he is of the opinion that any breach of the party's obligations under FOIA 2000 and/or the DPA 1998 has taken place and the party is of the opinion that such breach is in whole or in part caused by or attributable to the other party, the other party shall:-

17.3.3.1. fully and promptly co-operate with the party in formulating a response to such notice;

- 17.3.3.2. take all reasonable steps to rectify or remedy such breach;
  - 17.3.3.3. take all reasonable steps to prevent a recurrence of such breach; and
  - 17.3.3.4. take such other steps as the party may reasonably require in order to comply with any requirements in the notice or any guidance or recommendation issued by the Information Commissioner in relation to either party.
- 17.3.4. Supply to the party upon written request any information or details held about said named person/s on any of the other party's IT System or other information systems.
- 17.3.5. The parties shall carry out the Functions in a manner consistent with the FOIA 2000.
- 17.3.6. Without prejudice to any other obligations of the parties to indemnify each other, the parties shall fully and promptly indemnify and keep indemnified the each other in respect of any proceedings notices or actions issued by the Information Commissioner and against any fines damages and costs incurred by one party thereunder to the extent that the same was or is caused by or attributable to the other party.
- 17.3.7. The parties shall carry out the Functions in a manner which is consistent with the Human Rights Act 1998 in such a way that the one party shall not be liable to any person for a breach of its duties under this Act and shall indemnify the other party against any direct or indirect costs expenses damages compensation liabilities or other claims incurred or suffered by that other party arising from or in relation to a breach or alleged breach of this Act.

## 18. **CONFIDENTIALITY**

- 18.1. The parties shall not, whilst this Agreement is in force, or at any time thereafter, make use of for their own purposes or disclose to any person except as may be required by law or in accordance with the terms of this Agreement or where necessary for its performance this Agreement or any information contained therein or prepared by the other party pursuant to this Agreement, all of which information shall be deemed to be confidential.
- 18.2. No party to this Agreement shall, without the prior written consent of the other party at any time hereafter (including after termination or expiry of this Agreement) make use of for its own purposes or disclose, reveal to or discuss with any person this Agreement or any information contained therein or any documents, information or material provided pursuant to or in contemplation of this Agreement or any document or information provided or prepared pursuant to or in contemplation of this Agreement, all of which information shall be deemed to be confidential ("Confidential Information"), and the parties shall, treat all Confidential Information as strictly private and confidential except insofar as is necessary for the parties to publish or otherwise disclose information in order to comply with its duties under the FOIA 2000 or as otherwise set out in [18.3] below.
- 18.3. The obligations of the parties under [18.2] shall not apply to:-
- 18.3.1. information, which at the time of disclosure is in the public domain;
  - 18.3.2. information, which is or was lawfully in the possession of or becomes available to the parties from a source other than the parties provided that the source of such information was not subject to any agreement or other duties relating to confidential information;
  - 18.3.3. any disclosure of information required by law or the order of any court of competent jurisdiction or under the conditions of any governmental or regulatory authority; or

18.3.4. any disclosure of information by the parties to their legal, financial or other professional advisers provided that such advisers have been informed by the parties in advance of its confidential nature.

18.4. Nothing in this clause [18] shall require any party to carry out any act which would put it in breach of any law, court order or banking or other regulatory requirement.

18.5. Each party shall fully and promptly indemnify and keep indemnified the other party against all action, claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of any breach by such party of this clause [18] .

## 19. **DISPUTES**

19.1. In the event of a dispute or difference between the parties hereto arising out of this Agreement, the parties shall meet to try to resolve the dispute without resort to legal proceedings. The meeting will be held within 14 working days of a written request from one party to the other, which request will set out brief details of the dispute. A representative of each party will attend such a meeting.

19.2. In the event that any dispute is not resolved in accordance with clause 21.1 then the dispute shall be determined by mediation under the auspices of the Centre for Dispute Resolution, to which both parties hereby agree to submit. Neither party shall wilfully delay or obstruct the mediation process. Only in the event of failure of this mediation process to resolve the dispute shall either party be free to issue proceedings in the English courts. This [19.2] shall not prejudice the parties' ability to refer the dispute or any part thereof to mediation again at a later date.

19.3. Unless this Agreement shall have already been determined the parties shall in every case continue to comply with their obligations under this Agreement

unless and until the same shall be revised in accordance with the provisions of clauses [19.1] or [19.2].

## 20. **NOTICES**

20.1. No notice required to be served upon the City Council under this Agreement shall be valid or effective unless it is in writing and shall be served either:

20.1.1. By delivering the notice by hand to the City Council at the following address:

The Director of Central Services  
Cambridge City Council  
The Guildhall  
Cambridge  
CB2 3QJ;  
or

20.1.2. To such other address as the City Council may notify the County Council in writing, and the notice shall be deemed to have been duly served at the time it is so delivered provided a receipt is obtained; or

20.1.3. By posting the notice in a pre paid envelope sent by recorded delivery and addressed to the City Council at the address in [20.1.1] or such other address as the City Council may notify the County Council in writing.

20.2. No notice required to be served upon the County Council under this Agreement shall be valid or effective unless it is in writing and shall be served either:

20.2.1. By delivering the notice by hand to the County Council at the following address:

Chief Executive  
Cambridgeshire County Council  
Shire Hall  
Cambridge  
CB3 0AP;  
or

20.2.2. To such other address as the County Council may notify the City Council in writing, and the notice shall be deemed to have been duly served at the time it is so delivered provided a receipt is obtained; or

20.2.3. By posting the notice in a pre paid envelope sent by recorded delivery and addressed to the County Council at the address in [20.2.1] or such other address as the County Council may notify the City Council in writing.

## 21. **RIGHT OF SET OFF**

21.1. Whenever under this Agreement any sum of money shall be recoverable from or payable by one party to the other party the same may be deducted from any sum then due or which at any time thereafter may become due to the latter party under this Agreement or any other contract with the former party.

21.2. The rights of the parties under [21.1] shall be without prejudice to any other rights or remedies which they may possess under this Agreement or otherwise.



22. **SUB-CONTRACTING**

22.1. The parties shall be entitled to sub-contract their benefits, rights, duties and obligations of this Agreement or any part thereof to a third party upon the prior written consent of the other party such consent not to be unreasonably withheld.

23. **LAW**

23.1. This Agreement shall in all respects be governed and construed in accordance with the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the English Courts.

24. **WAIVER**

24.1. Failure by one party to enforce the provisions of this Agreement or to require performance by the other party of any of the provisions contained in this Agreement shall not constitute or be construed as a waiver of or as creating an estoppel in connection with any such provision and shall not affect the validity of this Agreement or any part thereof or the right of the former party to enforce any provision in accordance with its terms.

25. **CONSENT**

25.1 Where the consent of one party is required pursuant to this Agreement the grant or refusal of this consent pursuant to this Agreement shall be entirely without prejudice to the grant or refusal of any other consent pursuant to this Agreement or any other contract or agreement.

26. **AMENDMENTS**

26.1 No omission from, addition to, or other variation of this Agreement, shall be valid or of any effect unless it is agreed in writing and signed by a duly authorised representative of the City Council and the County Council.

26.2 Save for an omission, addition or other variation agreed pursuant to [18.1], any provision which is inconsistent with this Agreement and contained in any other document or any oral agreement shall be void and of no effect.

**27. SEVERANCE**

27.1 If any provision of this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other provision of this Agreement, all of which shall remain in full force and effect.

**28. FORCE MAJEURE**

28.1 Although the City Council and the County Council shall make every reasonable effort to discharge their obligations under this Agreement in a prompt and efficient manner, no delay or failure in performance by the City Council or the County Council shall constitute a breach of this Agreement or give rise to any claim for damages or loss if such delay or failure is caused by an occurrence beyond the control and without the fault, failure or negligence of the party involved and which the said party is unable to prevent or provide against by the exercise of reasonable diligence, including but not limited to acts of God or the public enemy; expropriation or confiscation of any facilities or any form of government intervention; war, rebellion, terrorist activity, sabotage or riots; floods or unusually severe weather conditions which could not reasonably have been anticipated; fire, explosions or other catastrophes; strikes or any other concerted acts of the workforce but only where such strikes and workforce acts are in relation to third parties and which do not involve the said party; or similar occurrences; provided that as soon as such occurrences have ceased, the City Council and the County Council shall continue to discharge their obligations under this Agreement.

In witness whereof the parties have executed this document as a deed the day and year above written.

**SCHEDULE 1**  
**COUNTY FUNCTIONS**

**Schedule 1 Part 1**

1. Subject to mutually agreed detailed briefs, the County Functions to be exercised by the City Council on behalf of the County Council to which this agreement relates are the:
  - 1.1 Streetscape and landscape design when requested to “mutually agreed” specific briefs;
  - 1.2 Highway tree management, maintenance and advice;
  - 1.3 Highway grass cutting, weedkill and maintenance of highway planting, hedges and shrubs to standards and levels agreed by both parties;
  - 1.4 Maintenance of highway ditches; and
  - 1.5 Power to act under sections 132, 148 and 149 of the Highways Act 1980 in accordance with County Council policies and procedures.
  
2. Without prejudice to the generality of clause 1. above, the County Functions include the:
  - 2.1 The management of the agreement by the City Council’s nominated client officer;
  - 2.2 The preparation of reports for and attendance at County Council Committees;
  - 2.3 Consultation exercises;
  - 2.4 Management of funding allocations;
  - 2.5 Employment and management of suitable contractors;

- 2.6 Collection and monitoring of key data and the preparation of an annual report on performance and delivery;
- 2.7 Liaison, discussion and meetings with the County Council's nominated head of highways.
- 2.8 Liaison and discussion with County Councillors;
- 2.9 Delivery of the County Functions in accordance with an annual programme agreed with the County Council's nominated head of highways; and
- 2.10 All powers and authorities required to implement section 132, 148 and 149 of the Highways Act 1980 including recovery of costs from third parties.

#### **Schedule 1 Part 2**

- 3. Subject to mutually agreed detailed briefs, the City Functions being delivered by the County Council on behalf of the City Council to which this agreement relates are the:
  - 3.1 Maintenance and replacement of street name plates including provision of new plates at the developer's cost;
  - 3.2 Maintenance and replacement of city centre finger post signage;
  - 3.3 The design and implementation of improvements arising from the City Council's cycling and walking strategy;
  - 3.4 City Council funded footway maintenance;
  - 3.5 The design and implementation of the environmental traffic calming capital programme;

- 3.6 The design and implementation of the pedestrian crossings capital programme;
  - 3.7 The development of a programme and installation of mobility (dropped kerbs) crossings;
  - 3.8 Verge parking byelaw pilot;
  - 3.9 Environmental Improvement schemes – engineering advice, design and implementation;
  - 3.10 Environmental safety fund schemes - management of lighting schemes; and
  - 3.11 Community Services Engineering Advice - on any proposed work and estimates for work such as vehicle access to housing.
4. Without prejudice to the generality of clause 3. above, the City Functions include:
- 4.1 The management of the agreement by the County Council's nominated head of highways;
  - 4.2 The preparation of reports for and attendance at City Council Committees;
  - 4.3 Consultation exercises;
  - 4.4 Management of funding allocations;
  - 4.5 Employment and management of suitable contractors.;
  - 4.6 Collection and monitoring of key data and the preparation of an annual

report on performance and delivery;

4.7 Liaison and discussion with the City Council's designated Executive Councillor, as well as all City Councillors.;

4.8 Liaison, discussion and meetings with the City Council's nominated client officer; and

4.9 Delivery of the City Functions in accordance with an annual programme agreed with the City Council's nominated client officer.

The Common Seal of  
Cambridgeshire County Council  
was hereunto affixed  
in the presence of

Authorised Signatory

The Common Seal of  
Cambridge City Council  
was hereunto affixed  
in the presence of

Head of Legal Services