

**DATED**

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**MEMORANDUM OF UNDERSTANDING**

between

**CAMBRIDGE CITY COUNCIL**

and

**THE CHANCELLOR, MASTERS AND SCHOLARS OF THE UNIVERSITY OF  
CAMBRIDGE**

## CONTENTS

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### CLAUSE

1.	Background .....	1
2.	Key objectives for the project.....	1
3.	Principles of collaboration.....	1
4.	Project governance .....	2
5.	Roles and responsibilities .....	4
6.	Escalation .....	5
7.	Intellectual property .....	6
8.	Term and termination .....	6
9.	Variation.....	6
10.	Charges and liabilities .....	7
11.	Status .....	7
12.	Governing law and jurisdiction .....	8

### ANNEX

ANNEX A.	THE PROJECT.....	9
ANNEX B.	INFORMATION SHARING PROTOCOL .....	<b>ERROR! BOOKMARK NOT DEFINED.</b>
ANNEX C.	SPONSORS' BOARD TERMS OF REFERENCE .....	10
ANNEX D.	CONTRIBUTIONS .....	11

**THIS AGREEMENT** is dated [DATE]

## **PARTIES**

- (1) The parties to this memorandum of understanding **MoU** are:
- (2) Cambridge City Council (the Council) of The Guildhall, Market Square, Cambridge ;  
and
- (3) The Chancellor, Masters and Scholars of the University of Cambridge (the University) of The Old Schools, Trinity Lane, Cambridge.

## **1. BACKGROUND**

- 1.1 The parties have agreed to work together on a project to evaluate critically the design and delivery of a district heating scheme for the City of Cambridge as detailed in Annex A to this MoU (“the Project”).
- 1.2 The parties wish to record the basis on which they will collaborate with each other on the Project. This MoU sets out:
  - (a) the key objectives of the Project;
  - (b) the principles of collaboration;
  - (c) the governance structures the parties will put in place; and
  - (d) the respective roles and responsibilities the parties will have during the Project.

## **2. KEY OBJECTIVES FOR THE PROJECT**

- 2.1 The parties shall undertake the Project to achieve the key objectives set out in Annex A to this MoU (**Key Objectives**).
- 2.2 The parties acknowledge that the current position with regard to the Project and the contributions already made (financial and otherwise) are as detailed in the Annex A to this MoU.

## **3. PRINCIPLES OF COLLABORATION**

The parties agree to adopt the following principles when carrying out the Project (**Principles**):

- (a) collaborate and co-operate. Establish and adhere to the governance structure set out in this MoU to ensure that activities are delivered and actions taken as required;

- (b) be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
- (c) be open. Communicate openly about major concerns, issues or opportunities relating to the Project;
- (d) learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) adopt a positive outlook. Behave in a positive, proactive manner;
- (f) adhere to statutory requirements and best practice. Comply with applicable laws and standards including EU procurement rules, if applicable, data protection and freedom of information legislation.
- (g) act in a timely manner. Recognise the time-critical nature of the Project and respond accordingly to requests for support;
- (h) manage stakeholders effectively;
- (i) deploy appropriate resources. Ensure sufficient and appropriately qualified resources are available and authorised to fulfil the responsibilities set out in this MoU. In particular the parties agree to make the contributions detailed in Annex C to this MoU; and
- (j) act in good faith to support achievement of the Key Objectives and compliance with these Principles.

#### **4. PROJECT GOVERNANCE**

##### **4.1 Overview**

The governance structure defined below provides a structure for the development and delivery the Project.

##### **4.2 Guiding principles**

The following guiding principles are agreed. The Project's governance will:

- (a) provide strategic oversight and direction;
- (b) be based on clearly defined roles and responsibilities at organisation, group and, where necessary, individual level;
- (c) align decision-making authority with the criticality of the decisions required;
- (d) be aligned with Project scope [and each Project stage] (and may therefore require changes over time);
- (e) leverage existing organisational, group and user interfaces;

- (f) provide coherent, timely and efficient decision-making; and
- (g) correspond with the key features of the Project governance arrangements set out in this MoU.

#### 4.3 **Sponsors' Board**

- (a) The **Sponsors' Board** provides overall strategic oversight and direction to the Project. This group will consist of:

**The Council:** No more than three elected members and the names to be determined formally by The City Council.

**The University:** The Pro-Vice Chancellor Institutional Affairs, the Registry and the Director of Estate Management.

- (b) The Sponsors' Board shall be managed in accordance with the terms of reference set out in Annex B to this MoU and each organisation will have the right to provide a substitute for a board member who is unable to attend a meeting.

#### 4.4 **Project Board**

- (a) The Project Board will provide strategic management at Project and workstream level. It will provide assurance to the Sponsors' Board that the Key Objectives are being met and that the Project is performing within the boundaries set by the Sponsors' Board.
- (b) The Project Board consists of representatives from each of the parties. The Project Board shall have responsibility for the creation and execution of the project plan and deliverables, and therefore it can draw technical, commercial, legal and communications resources as appropriate into the Project Board. The core Project Board members are:

The Council: Director of Environment  
Head of Corporate Strategy

The University: Head of Environment and Energy;  
Deputy Director of Finance  
Energy Manager

Both parties may co-opt by agreement additional resource from time to time to assist with financial, legal, planning and other issues as they arise.

The Project Board shall meet monthly.

#### 4.5 Reporting

Project reporting shall be undertaken at three levels:

- (a) **Project Board:** Minutes and actions will be recorded for each Project Board meeting. Any additional reporting requirement shall be at the discretion of the Project Board.
- (b) **Sponsors' Board:** Reporting shall be [monthly], based on the minutes from the Project Board highlighting: Progress this period; issues being managed; issues requiring help (that is, escalations to the Sponsors' Board) and progress planned next period and/or aligned with the frequency of the Sponsors' Board meetings.
- (c) **Organisational:** the Project Board members shall be responsible for drafting any reports required by their own organisations, and where appropriate these will be reviewed by the Project Board before being issued.

#### 5. ROLES AND RESPONSIBILITIES

- 5.1 The Project Board shall allocate the following roles and responsibilities between the Council and the University to deliver the Project (see Annex C for distribution):

##### Activity

Project Management

Production of project plan

Completion of appropriate design

Procurement/allocation of site

Production of business case and financial model

Review of land use planning constraints

Maintenance of Risk Register and Risk Management

Review of funding options

Identify appropriate corporate structure

Identify operating model

Review of commercial opportunities

Communications - plan and delivery

- 5.2 For the purpose of the table above, one party shall take the lead role and the other party shall take the assure role:

**Lead:** the party that has principal responsibility for undertaking the particular task, and that will be authorised to determine how to undertake the task. The Lead must act in compliance with the Objectives and Principles at all times, and consult with the other party in advance if they are identified as having a role to Assure the relevant activity;

**Assure:** the party that will defer to the Lead on a particular task, but will have the opportunity to review and provide input to the Lead before they take a final decision on any activity. All assurance must be provided in a timely manner. Any derogations raised must be limited to raising issues that relate to specific needs that have not been adequately addressed by the Lead and/or concerns regarding compliance with the Key Objectives and Principles.

- 5.3 Within 3 months of the date of this MoU, or such other period as the Project Board may set, the party with the lead role for any aspect of the Project shall develop a delivery plan for that part of the Project which shall identify the following:

- (a) the key milestones for the delivery the Key Objectives;
- (b) what employees (other than employees identified in this MoU) will be required to work on the project;
- (c) whether any staff will need to be seconded from one party to the other;
- (d) what staff will require access to the premises of the other party;
- (e) what cost will be incurred.

Each delivery plan must be approved by the Project Board prior to being implemented.

## 6. ESCALATION

- 6.1 If either party has any issues, concerns or complaints about the Project, or any matter in this MoU, that party shall notify the other party and the parties shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period of time, the matter shall be escalated to the Project Board, which shall decide on the appropriate course of action to take. If the matter cannot be resolved by the Project Board within 28 days, the matter may be escalated to the Sponsors' Board for resolution.
- 6.2 If either party receives any formal inquiry, complaint, claim or threat of action from a third party (including, but not limited to, claims made by a supplier but excluding requests for information made under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004) in relation to the Project, the matter shall be promptly referred to the Project Board (or its nominated representatives). No

action shall be taken in response to any such inquiry, complaint, claim or action, to the extent that such response would adversely affect the Project, without the prior approval of the Project Board (or its nominated representatives).

- 6.3 If either party receives any request for information made under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004) in relation to the Project, it shall inform the other party of the request and of its proposed response. The party receiving the request shall take account of representations made by the other party in determining its response.

## **7. INTELLECTUAL PROPERTY**

- 7.1 The parties intend that [notwithstanding any secondment] any intellectual property rights created in the course of the Project shall vest in the party whose employee created them (or in the case of any intellectual property rights created jointly by employees of both parties in the party that is lead party noted in clause 5 above for the part of the project that the intellectual property right relates to).

- 7.2 Where any intellectual property right vests in either party in accordance with the intention set out in clause 7.1 above, that party shall grant an irrevocable licence to the other party to use that intellectual property for the purposes of the Project.

- 7.3 Any intellectual property arising from work funded from the project budget shall be jointly owned.

## **8. TERM AND TERMINATION**

- 8.1 This MoU shall commence on the date of signature by both parties, and shall expire on completion of the Project **OR** 31 March 2015.

- 8.2 Either party may terminate this MoU by giving at least three months' notice in writing to the other party. On the giving of notice of termination, the parties shall negotiate an orderly wind-down of the Project, and the payment of all outstanding costs from the project budget in accordance with Annex D. Neither party shall be liable to the other in respect of the termination of this Agreement before the completion of the Project or should either party at any time decide not to proceed with consideration or implementation of a District Heating Scheme

## **9. VARIATION**

This MoU, including the Annexes, may only be varied by written agreement of the Sponsor's Board.

**10. CHARGES AND LIABILITIES**

- 10.1 Except as otherwise provided, the parties shall each bear their own costs and expenses incurred in complying with their obligations under this MoU.
- 10.2 The parties agree to share the costs and expenses arising in respect of the Project between them in accordance with the budget to be developed by the Project Board and approved by the Sponsors' Board within three months of the date of this MoU, and subject to the principles in Annex D.
- 10.3 Both parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

**11. STATUS**

- 11.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.
- 11.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

**12. GOVERNING LAW AND JURISDICTION**

This MoU shall be governed by and construed in accordance with English law and, without affecting the escalation procedure set out in clause 6, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

**13.**

Signed for and on behalf of the Council

Signature:

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Name:

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Position:

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Date:

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Signed for and on behalf of the University

Signature:

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Name:

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Position:

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Date:

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**CONTACT POINTS**

**Council**

Name:

.Simon Payne.....

Office address:

.....

.....

Tel No:

.....

E-mail Address:

.....

**University**

Name:

.....Joanna Simpson.....

Office Address:

74 Trumpington Street, Cambridge.CB2  
1RW.....

.....

Tel No:

..01223 330883.....

E-mail Address:

.joanna.simpson@admin.cam.ac.uk.....

## **Annex A. The Project**

### **Project overview**

The purpose of the project is to evaluate, design, cost and establish the basis on which a district heating network might be commissioned within the City of Cambridge

### **The Key Objectives**

The over-riding aim is to enable the commissioning of a feasible, deliverable, cost effective scheme to provide heating and electricity to the parties and others within the City of Cambridge at a lower rate of carbon emission than the current infrastructure.

This will be achieved by:

Producing a design for the scheme which services the main users in the most cost effective and energy efficient manner possible ;

Establishing and agreeing and committing a site on which the required plant and building may be located;

Evaluating the likely cost and income produced by the network such that delivery of the scheme is at least cost neutral to the parties;

Producing a business plan of sufficient quality to enable the parties separately to decide whether to proceed with investment and implementation of the scheme;

Ensuring that there are no planning constraints which might prevent implementation of the scheme;

Agreeing and implementing an appropriate corporate structure which would commission and operate the network;

Agreeing an operational model for the network which achieves an appropriate balance of risk and cost; and

Securing funding for the scheme either from the parties themselves or from third parties on terms acceptable to the parties themselves.

### **The existing position and contributions already made**

The Council have commissioned at their cost, through the Low Carbon Development Initiative, feasibility studies and a financial evaluation of a district heating scheme for Cambridge. These documents have been made available to the parties.

## **Annex B. Sponsors' Board terms of reference**

- **Remit:**

The Sponsors Board is responsible for determining strategy for the project and providing over-sight for the actions of the Project Board. The Sponsors' Board shall:

- Approve an overall budget for the project within the funds made available by the parties;
- Determine at a high level how much of that budget should be allocated to the main activities conducted during the course of the project;
- Approve the project plan and significant variations to the project plan;
- Receive and review reports about progress against the project plan;
- Approve key outputs of the project, such as outline design of the network, business plan, communications strategy, strategy for achieving planning permission, site acquisition proposals, proposed corporate form and proposed operating model; and
- Approve any applications for additional funding either via grant applications or by further application to the parties.

- **Decision-making:**

- The Sponsors' Board shall consist of such individuals as are identified in paragraph 4.3 of this MOU between the University and the Council or such alternatives as may be proposed from time to time by the parties.
- Each party shall collectively have one vote, which shall be determined by the representatives of each party present at any meeting..
- In the event of a deadlock, there is to be no casting vote, but the parties shall continue discussion until such time as there agreement to proceed or to terminate the MOU.

- **Meetings:**

- The Sponsors' board meetings should be timed to coincide with key decision points on the project plan and in any event no less than three times per year.
- The Board shall not be considered quorate unless there are two representatives of each party present at a meeting.
- Meetings may be conducted in person or via telephone at the premises of either party or in such other location as is agreeable to the parties.

### **Annex C. Contributions**

From 1 April 2013, the parties commit to contribute equal amounts, up to a maximum of £50,000 each per year for a period not exceeding two years to be used for the creation of a budget with which to fund project management, consultancy support legal advice and such other external costs as are required to develop the project.

The Sponsors' Board shall approve the overall budget and the allocation of this budget to general heads of expenditure. Any costs incurred against the budget must be approved in advance by the Project Board.

All applications for and allocations of additional grant funding must be approved by the Sponsors' Board.

The parties agree that, with the exception of the appointment of a Project Manager for the Project, such support as they are able to render from their own employees shall be provided without charge.

<b>Activity</b>	<b>The Council</b>	<b>The University</b>
Project Management		
Production of project plan		
Completion of appropriate design		
Procurement/allocation of site		
Production of business case and financial model		
Review of land use planning constraints		
Maintenance of Risk Register and Risk Management		
Review of funding options		
Identify appropriate corporate structure		
Identify operating model		
Review of commercial opportunities		
Communications - plan and delivery		