

**Agenda Item 7 Appendix C**

**Dated**

**2023**

**East Hertfordshire District Council**

**Epping Forest District Council**

**Harlow District Council**

**Essex County Council**

**Hertfordshire County Council**

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**Inter-Authority Agreement**

**for the Harlow and Gilston Garden Town Joint Committee**

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**THIS DEED** is made on

2023

**BETWEEN:**

- 1 East Hertfordshire District Council of Wallfields, Pegs Lane, Hertford SG13 8EQ (“**EHDC**”)
- 2 Epping Forest District Council of Civic Offices, 323 High Street, Epping CM16 4BZ (“**EFDC**”)
- 3 Harlow District Council of Civic Centre, The Water Gardens, College Square, Harlow CM20 1WG (“**HDC**”)
- 4 Essex County Council of County Hall, Market Road, Chelmsford CM1 1QH (“**ECC**”); and
- 5 Hertfordshire County Council of County Hall, Pegs Lane, Hertford SG13 8DQ (“**HCC**”),

each a “**Partner Authority**” and together the “Partner Authorities”.

**BACKGROUND**

- A. The Partner Authorities are local authorities for the purposes of the Local Government Act 1972 and best value authorities for the purposes of the Local Government Act 1999.
- B. Under sections 101(5) and 102(1) of the Local Government Act 1972 and Regulations 10 and 11 of The Local Authorities (Arrangements for the Discharge of Functions) England Regulations 2012, local authorities may arrange for the discharge of their functions by a Joint Committee comprising members of their authorities.
- C. All of the Partner Authorities have introduced Executive Arrangements under section 9EA of the Local Government Act 2000.
- D. Each of the Partner Authorities has agreed to establish a Joint Committee for the purposes of section 101 of the Local Government Act 1972 to be known as the Joint Committee for the Harlow and Gilston Garden Town (the “**Joint Committee**”) to co-ordinate and facilitate the delivery of 16,000 homes in the HGGT by 2033, and 7,000 homes in the years after that along with associated infrastructure.
- E. Epping Forest District Council will act as the Accountable Body.
- F. The Accountable Body will provide the Services and employ the HGGT Delivery Team on the terms set out in this Agreement and in accordance with Part VII of the Local Government Act 1972.
- G. This Agreement sets out the services that the Accountable Body will deliver to the Joint Committee and the respective roles, responsibilities and behaviours of the Partner Authorities in respect of associated matters related to the Joint Committee and the delivery of the Harlow and Gilston Garden Town.
- H. The Parties have also agreed the Joint Committee Terms of Reference which is incorporated into this Agreement.



## **1 AGREED TERMS**

- 1.1 In this Agreement, the definitions set out in Schedule 1 (Definitions) shall apply.
- 1.2 Clauses, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 A reference to a statute or a provision of a statute is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7 Words in their singular shall include the plural and vice versa (unless the context otherwise requires).
- 1.8 A reference to **writing** or **written** excludes a reference to electronic communications, facsimile transmissions or comparable means of communication.
- 1.9 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.10 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.
- 1.11 Where there is any conflict or inconsistency between the provision of the agreement, such conflict or inconsistency shall be resolved according to the following order of priority:
  - 1.11.1 the clauses of the Agreement;
  - 1.11.2 Schedule 1 to this Agreement;
  - 1.11.3 the remaining schedules to this Agreement.

## **2 Governance**

- 2.1 The Partner Authorities agree to adhere to the overarching governance structure set out in the Joint Committee Terms of Reference.
- 2.2 The Partner Authorities will work together acting in their capacities as Accountable Body and Partner Authorities.
- 2.3 The Partner Authorities agree that the following principles underpin their collaborative working: mutual co-operation; accountability; transparency and mutual benefits.



- 2.4 The Partner Authorities agree that they will work together with mutual trust, good faith and in an open, co-operative and collaborative manner and will respond in a timely manner
- 2.5 A structure chart depicting the governance arrangements applicable to the Joint Committee as at the date of this Agreement is included at Schedule 11. The parties acknowledge that the chart is included for information only. In the event of any conflict between the chart and any other provision of this Agreement, the other provision shall prevail.

### **3 Roles and Responsibilities of the Accountable Body**

- 3.1 The Accountable Body shall operate administrative functions to ensure the partnership operates legally and has the back office support services required. In this context it is not a political function. The political leadership comes from the five partners in the joint committee.
- 3.2 Subject to clause 3.3, in accordance with the terms of this Agreement the Accountable Body shall:
- 3.2.1 be the employing authority of the HGGT Director and HGGT Delivery Team on behalf of the Partner Authorities, who will be employed on the Accountable Body's terms and conditions of employment and subject to the employment policies of the Accountable Body;
  - 3.2.2 ensure that line management is provided to the HGGT Director and the HGGT Delivery Team in consultation with the Chair, where necessary, in order to ensure that the HGGT Director and Delivery Team are effectively performing their roles;
  - 3.2.3 establish and maintain a financial system to hold and account for all Project Funding and Recoverable Cost Funding received and disbursed on behalf of the Joint Committee;
  - 3.2.4 receive the Project Funding and Recoverable Cost Funding on behalf of the Joint Committee and be responsible for its proper administration;
  - 3.2.5 comply with all instructions of the Joint Committee and any sub-committee except where the instruction is:
    - (i) inconsistent with the principles of probity or sound financial practice;
    - (ii) in breach of applicable funding terms
    - (iii) inconsistent with public law principles;
    - (iv) against the public interest
    - (v) likely to bring the Accountable Body or the Joint Committee into disrepute; or
    - (vi) illegal;



- 3.2.6 ensure, through the S151 Officer, that Project Funding and Recoverable Cost Funding is used appropriately in accordance with the law, good financial management and any applicable grant conditions;
  - 3.2.7 ensure the decisions and activities of the Joint Committee conform with legal requirements;
  - 3.2.8 ensure that the Accountable Body's decisions conform with legal requirements;
  - 3.2.9 issue offer letters and enter into agreements for Recoverable Cost Funding with the Partner Authorities as authorised by the Joint Committee;
  - 3.2.10 provide the Services;
  - 3.2.11 provide the necessary data and other information in timely manner to enable the HGGT Director to monitor the progress of scheme delivery and spend of Project Funding;
  - 3.2.12 ensure all required information on expenditure, activities, outputs and outcomes are properly recorded and provided in due time for reporting to the Joint Committee upon the Joint Committee's request;
  - 3.2.13 only spend the Project Funding and Recoverable Cost Funding on the Services, the Recoverable Costs, and any other costs or expenditure agreed by the Joint Committee;
  - 3.2.14 obtain and keep in place sufficient insurance cover in respect of its liabilities under this Agreement and supply to the Joint Committee, on request, evidence that insurance cover or self-insuring arrangements are in place;
  - 3.2.15 unless directed otherwise by the Joint Committee, maintain ownership of the Assets and use them only for the purposes of the Joint Committee and any sub-committee; and
  - 3.2.16 unless directed otherwise by the Joint Committee, administer the Contracts and manage them only for the purposes of the Joint Committee.
- 3.3 The Accountable Body shall not have responsibility for the RIF pursuant to this Agreement. The parties acknowledge that the accountable body for the RIF shall be decided by the Partner Authorities pursuant to clause 4.6.5.
- 3.4 In addition to acting as Accountable Body, EFDC (or any successor Partner Authority) shall ensure that where it has a role as recipient of Project Sponsor Funding, there is a clear separation of such functions from its role as Accountable Body and all decisions to release Project Funding shall remain subject to the Joint Committee's approval.
- 3.5 The Accountable Body shall provide the Services or procure that they are provided:
- 3.5.1 with all reasonable skill, care and attention in accordance with the best industry practice within the timescales appropriate to the service in question;
  - 3.5.2 in accordance with the Assurance Framework and the terms of the Joint Committee Terms of Reference;



- 3.5.3 in accordance with relevant accounting standards including but not limited to guidance from the Chartered Institute of Public Finance and Accountancy and GAAP (generally accepted accounting principles);
  - 3.5.4 in all respects in accordance with the Accountable Body and Joint Committee's policies; and
  - 3.5.5 in accordance with all applicable Law.
- 3.6 In the event that the Accountable Body is unable or unwilling to deliver the Services, the Accountable Body must provide the other Partner Authorities with at least twelve (12) months' notice (or such shorter period as the parties may agree) of its intention to cease to act as Accountable Body. The Accountable Body reserves the right to transfer the Accountable Body role and responsibilities under this Agreement to a different Partner Authority as agreed with the other Partner Authorities by providing the other Partner Authorities with written notice of such change. The new Accountable Body shall assume all responsibilities and obligations relating to this Agreement from the effective date of transfer and the Partner Authorities shall co-operate fully with the new Accountable Body to ensure a seamless transition. The retiring Accountable Body shall take all steps necessary to transfer to the new Accountable Body any Assets and Staff, and to novate any Contracts.

#### **4 Roles and Responsibilities of the Partner Authorities**

- 4.1 Each Partner Authority shall comply with the terms and conditions set out in this Agreement, including this clause 4, and the Joint Committee Terms of Reference.
- 4.2 The Partner Authorities shall co-operate to achieve the Garden Town Purpose.
- 4.3 The Partner Authorities shall ensure that an executive officer is appointed to and participates as a member of the Executive Officer Group in accordance with paragraph 7 of the Joint Committee Terms of Reference.
- 4.4 The Partner Authorities shall provide a Lead Officer(s).
- 4.5 The CEOs of the Partner Authorities, or the CEOs nominated deputies, will meet at least quarterly and in advance of the formal joint committee meetings to consider the papers and provide strategic advice.
- 4.6 The Partner Authorities shall work to achieve the RIF Purpose, including:
  - 4.6.1 co-operating to enable HCC to draw down the HIG Funding in accordance with the terms of the Grant Determination Agreement;
  - 4.6.2 committing to maximising recovery of the HIG Funding for inclusion in the RIF;
  - 4.6.3 maximising the contributions from the strategic sites to put into the RIF;
  - 4.6.4 using reasonable endeavours to secure additional grant or revenue funding for the delivery of the STC Network and, where appropriate, to allocate such funding to the RIF, subject always to any terms and conditions attaching to such funding;





- 4.6.5 cooperating to develop, agree, and implement the RIF strategy described in paragraph 6.4 of the Memorandum of Understanding at which point the parties agree that the Memorandum of Understanding shall terminate;
  - 4.6.6 paying the Accountable Body the Partner Authority Contribution;
  - 4.6.7 making appropriate in-kind resources available as required and agreed by the Joint Committee.
- 4.7 The Partner Authorities shall (so far as the law permits) comply with the terms of the Exit Schedule.
- 4.8 For the avoidance of doubt, nothing in this Agreement shall fetter the statutory rights, powers, duties and obligations of the Partner Authorities in the exercise of their role as a local authority.

## **5 HGGT Delivery Team**

- 5.1 The Accountable Body shall employ the HGGT Delivery Team and the HGGT Director and they will be subject to the employment policies of the Accountable Body.
- 5.2 The Accountable Body will ensure that line management is provided to the HGGT Delivery Team and the HGGT Director in consultation with the Chair of the Joint Committee, where necessary, in order to ensure that the HGGT Delivery Team is effectively performing its role.
- 5.3 The HGGT Delivery Team shall have its primary place of work at HDC. HDC shall provide office space, access, and employee welfare facilities to the HGGT Delivery Team which is sufficient to allow the HGGT Delivery Team to support the delivery of the Garden Town Purpose and the RIF Purpose.
- 5.4 The role of the HGGT Delivery Team is to:
- 5.4.1 support the Joint Committee to carry out the programme of coordinating and enabling work required for the delivery of the Joint Committee's primary aims as detailed in paragraph 4.5 of the Joint Committee Terms of Reference;
  - 5.4.2 support the allocation of Project Funding;
  - 5.4.3 manage the expenditure and recovery of Project Funding;
  - 5.4.4 monitor and report on delivery against the HGGT Budget;
  - 5.4.5 report to the Joint Committee about issues affecting the development of the HGGT.
- 5.5 The role of the HGGT Director shall be to:
- 5.5.1 lead the HGGT Partnership and deliver the objectives of the HGGT Joint Committee including leadership and management of the HGGT Delivery Team;
  - 5.5.2 be the budget holder of the Recoverable Cost Funding and Project Funding in accordance with the Accountable Body's constitution and financial regulations;



- 5.5.3 prepare and maintain a three (3) year Business Plan to the Joint Committee (a Proposed Budget) setting out:
- (i) the proposed level of Partner Authority Contributions;
  - (ii) the Recoverable Cost Funding required and how the Recoverable Cost Funding is to be allocated with respect to those three (3) Financial Years;
  - (iii) the allocation of project funding; and
  - (iv) The annual programme of enabling work to be carried out by the HGGT Delivery Team with objective for years 2 & 3.
- 5.5.4 prepare the Proposed Budget; and
- 5.5.5 chair meetings of the HGGT Delivery Team and the Executive Officer Group.

## **6 Not Used**

## **7 Charges and Payment**

- 7.1 The Partner Authorities agree that the Partner Authority Contribution shall be set at a level sufficient to cover the Recoverable Costs.
- 7.2 The Charges for the Services provided by the Accountable Body shall be funded by the Recoverable Cost Funding and shall be calculated in accordance with Schedule 4 (Charges).
- 7.3 Before the start of each Financial Year, the HGGT Director in consultation with the Partner Authorities will bring a report to the Joint Committee with proposals for the three (3) year business plan (a “**Proposed Budget**”) as set out in clause 5.5.3.
- 7.4 Subject to approval by Joint Committee, the Accountable Body shall be entitled as part of the annual budget setting process by written notice, to vary Charges upwards or downwards, to reflect any change in its underlying cost base in the provision of the Services (or changes in the underlying cost base and margin of the Accountable Body). In making any such changes, Accountable Body shall act reasonably at all times.
- 7.5 The Accountable Body shall pay any Recoverable Costs from the cost centre held for such purpose within the Accountable Body’s accounting records.

## **8 Change Request**

- 8.1 If the outcome of a review pursuant to clause 6 of the Joint Committee Terms of Reference results in a change to the nature, volume or execution of all or any of the Services, the Partner Authorities shall submit details of the requested change in writing to the Accountable Body. Following the submission or receipt of a change request, the Accountable Body shall, within a reasonable time, provide a written estimate to the Partner Authorities of:
- 8.1.1 the time required to implement the change;
  - 8.1.2 any proposed variations to the Charges arising from the requested change;



- 8.1.3 any other impact of the requested change on the Services or the terms of this Agreement.
- 8.2 The Accountable Body shall consider the request in good faith in accordance with its responsibilities under clause 3 but the Accountable Body shall (acting reasonably) be under no obligation to accept any requested change to the Services. The Accountable Body shall give its formal response within two (2) weeks of receipt of the change request. If the Partner Authorities cannot agree on the appropriate variation to the fees within four (4) weeks of agreeing the requested change, the matter shall be referred to the Chair of the Joint Committee and a nominated officer of the Accountable Body who shall attempt in good faith to resolve it.
- 8.3 The Accountable Body may, from time to time and without prior notice, change the Services in order to comply with any applicable regulatory or statutory requirements. Where practicable, it will give not less than three (3) months' written notice of any change (including any required variation to the Charges), but in any event, it will give notice of any such change within one (1) month of it taking effect.

## **9 Confidentiality and Freedom of Information**

- 9.1 The Partner Authorities recognise that they are subject to legal duties which may require the release of information under the FOIA or any other applicable legislation governing access to information, and that they may be under an obligation to provide information to third parties on request. Such information may include matters relating to or arising out of this Agreement.
- 9.2 Each Partner Authority will assist the other to enable it to comply with its obligations and will ensure that any third parties acting on its behalf will also comply with the requirements of this clause 9. In the event that any Partner Authority receives a request for information under the FOIA or any other applicable legislation governing access to information and subject of such request or otherwise, the relevant Partner Authority will respond to any such request for assistance at its own cost and promptly, and in any event within five (5) days.
- 9.3 The Accountable Body, when in receipt of an FOIA addressed to or concerning the Joint Committee or Accountable Body, will consider the representations made by the relevant Partner Authorities. The Partner Authorities understand and acknowledge that, in such a case and as the recipient of the FOIA, the Accountable Body shall have the final determination of the response and disclosure required and the Partner Authorities agree to abide by that determination.

## **10 Intellectual Property**

- 10.1 All Intellectual Property created by the Joint Committee, or by any of the Partner Authorities for the purposes of the Joint Committee or this Agreement, shall vest in the Accountable Body on creation. The Accountable Body shall grant to the Partner Authorities a perpetual, royalty-free, non-exclusive licence to use the Joint Committee Intellectual Property.
- 10.2 The Accountable Body shall grant, subject to the remainder of this clause 10 and for so long as the Accountable Body remains the Accountable Body, a non-exclusive licence to use such Accountable Body Intellectual Property as is necessary to allow the Joint Committee to enjoy the benefit of the Services provided by the Accountable Body. The Joint Committee and the Partner Authorities shall at all times maintain standards of quality equivalent to those used by the Accountable Body in relation to its



Intellectual Property and shall comply with such reasonable instructions as may be notified to it by the Accountable Body in connection with the use of such Intellectual Property from time to time.

- 10.3 The Partner Authorities acknowledge that where the Accountable Body does not own the Intellectual Property, use by the Partner Authorities of rights in the Accountable Body's Intellectual Property is conditional on the Accountable Body obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Accountable Body to license such rights to the Partner Authorities.
- 10.4 Where the circumstances set out in clause 10.3 arise, the Accountable Body agrees to use its reasonable endeavours to enable the Partner Authorities to use the Intellectual Property required to enable them to enjoy the benefit of the Services.

## **11 Termination**

- 11.1 This Agreement shall terminate on the date that the Joint Committee Terms of Reference terminate or expire.
- 11.2 This Agreement shall terminate on the date that the Partner Authority that is acting as Accountable Body ceases to be the Accountable Body pursuant to clause 3.5 for any reason, unless another Partner Authority is appointed to undertake the responsibilities of the Accountable Body.
- 11.3 In the event that a Partner Authority leaves the Joint Committee pursuant to paragraph 5.3 of the Joint Committee Terms of Reference, that Partner Authority shall be deemed also to withdraw simultaneously from this Agreement. In such circumstances the withdrawing Partner Authority shall (to the extent that the law permits) comply with the Exit Provisions.

## **12 Consequences of Termination**

- 12.1 Upon the termination of this Agreement or part thereof for any reason, the provisions of Schedule 6 (Consequences of Termination) shall apply.

## **13 Force Majeure**

- 13.1 In the event that any Partner Authority is affected by any circumstances beyond its reasonable control ("an event of Force Majeure") the affected Partner Authority shall promptly notify the other Partner Authorities of the nature and extent of the circumstances in question.
- 13.2 Notwithstanding any other provision of this Agreement, no Partner Authority shall be deemed to be in breach of this Agreement or otherwise liable to the other for any delay in performance or the non-performance of any of its obligations under this Agreement to the extent that the delay or non-performance is due to the occurrence of an event of Force Majeure of which it has notified the other Partner Authorities, and the time for performance of that obligation shall be extended accordingly.

## **14 Entire Agreement, Inter-Authority Agreement Review and Variations**

- 14.1 This Agreement (including the documents and Schedules referred to in this Agreement) represents the entire agreement between the Partner Authorities in relation to the subject matter hereof and supersedes and replaces all prior agreements,



communications, representations, warranties and undertakings between the Parties, whether oral or written.

- 14.2 The Partner Authorities agree that they shall together review this Agreement from time to time and shall agree such amendments to this Agreement as are necessary to reflect any changes in the circumstances of the Partner Authorities or any changes in the levels of benefit derived from this Agreement by the Partner Authorities. This review shall take place:
- 14.2.1 at least every five (5) years;
  - 14.2.2 whenever a Party Authority gives notice of withdrawal under Schedule 5; or
  - 14.2.3 at such times as a Partner Authority may request on reasonable notice.
- 14.3 Subject to clause 14.4, amendments or variations to this Agreement shall only be effective if, and to the extent that, they are endorsed by the Joint Committee and approved by all Partner Authorities. Any amendments or variations shall be recorded in writing and signed by authorised representatives of each Partner Authority.
- 14.4 Variations in respect of Charges, including but not limited to the annual budget setting process, shall be recorded in writing and signed by authorised representatives of each Partner Authority.

## **15 Assignment**

- 15.1 None of the Accountable Body or the Partner Authorities shall be entitled to assign or transfer any of its rights or obligations arising under this Agreement without the prior written consent of all other Partner Authorities.

## **16 Notices**

- 16.1 A notice given to a party under or in connection with this Agreement shall be in writing and:
- 16.1.1 shall be delivered by hand, pre-paid first-class post, recorded delivery or special delivery in each case sent for the attention of the person, and to the postal address given in clause 16.2 (or such other address or person as the relevant party may notify to the other party); or
  - 16.1.2 shall be sent by electronic mail to the email address given in clause 16.2 (or such other address or person as the relevant party may notify to the other party).
- 16.2 The addresses for service of notices are:

### Accountable Body

Address: Civic Offices, High Street, Epping, Essex CM16 4BZ

Email: [asmall@eppingforestdc.gov.uk](mailto:asmall@eppingforestdc.gov.uk)

For the attention of: Andrew Small



## Partner Authorities

(1) Address: East Hertfordshire District Council of Wallfields, Pegs Lane, Hertford SG13 8EQ

Email: sara.saunders@eastherts.gov.uk

For the attention of: Sara Saunders - Head of Planning

(2) Address: Harlow District Council of Civic Centre, The Water Gardens, College Square, Harlow CM20 1WG

Email: simon.hill@harlow.gov.uk

For the attention of: Simon Hill

(3) Address: Essex County Council of County Hall, Market Road, Chelmsford CM1 1QH

Email: mark.doran@essex.gov.uk

For the attention of: Mark Doran, Director – Sustainable Growth

(4) Address: Hertfordshire County Council of County Hall, Pegs Lane, Hertford SG13 8DQ

Email: quentin.baker@hertfordshire.gov.uk

For the attention of: Quentin Baker, Monitoring Officer

16.3 Delivery of a notice is deemed to have taken place:

16.3.1 if delivered by hand, at the time the notice is left at the address or if sent by post on the second Business Day after posting, unless such deemed receipt would occur outside business hours, in which case deemed receipt will occur at 9.00 am on the next working day;

16.3.2 if sent by electronic mail, at the time actually received provided that any notice sent by electronic mail outside business hours shall be deemed to have been given at 9:00 am on the next working day.

For the purposes of this clause 16.3, business hours means 9.00 am to 5.30 pm Monday to Friday on each day that is not a public holiday.

16.4 This clause 16 does not apply to the service of any proceedings or other documents in any legal action.

## **17 Data Protection**

17.1 The Parties shall comply with their obligations under the Data Protection Legislation and the Data Sharing Schedule in the performance of their obligations under this Agreement.



## **18**     **Disputes**

18.1    If a dispute arises out of or in connection with this Agreement or the performance validity or enforcement of it (a "Dispute") then the Partner Authorities shall follow the procedure set out in this clause:

**18.1.1**    either Partner Authority shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Heads of Finance of the Partner Authorities shall attempt in good faith to resolve the Dispute;

**18.1.2**    if the Heads of Finance of the Partner Authorities are for any reason unable to resolve the Dispute within fourteen (14) days of service of the Dispute Notice, the Dispute shall be referred to the Directors of Finance of the Partner Authorities who shall attempt in good faith to resolve it; and

**18.1.3**    if the Directors of Finance of the Partner Authorities are for any reason unable to resolve the Dispute within fourteen (14) days of it being referred to them, the Dispute shall be referred to the Chief Executives of the Partner Authorities; and

**18.1.4**    if the Chief Executives of the Partner Authorities are for any reason unable to resolve the Dispute within fourteen (14) days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than twenty eight (28) days after the date of the ADR notice.

**18.2**    The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 20.2 which shall apply at all times.

**18.3**    If the Dispute is not resolved within fourteen (14) days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of fourteen (14) days, or the mediation terminates before the expiration of the said period of fourteen (14) days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 20.2.

## **19**     **General**

19.1    A waiver of any right or remedy by a Partner Authority under this Agreement shall only be effective if given in writing and shall not be considered to be a waiver of any subsequent breach of the same or any other provision.

19.2    In the event that any provision of this Agreement is held by a competent authority to be invalid or unenforceable in whole or in part, the validity of the remainder of the provision in question and the remaining provisions shall not be affected.

19.3    Third parties shall not have any rights whatsoever to take any action under or in relation to this Agreement and, accordingly, all rights that are or may be conferred on such third



parties pursuant to the Contracts (Rights of Third Parties) Act 1999 are hereby expressly excluded.

## **20 Governing law and Jurisdiction**

- 20.1 This Agreement shall be governed by and construed in accordance with English law.
- 20.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Agreement (including any non-contractual dispute or claim).

## **21 Counterparts**

- 21.1 This Agreement may be executed in any number of counterparts and by the several parties to it on separate counterparts, each of which when so executed shall constitute an original of this Agreement, but all counterparts together shall constitute one and the same instrument.

This agreement has been entered into as a deed on the date stated at the beginning of it.

The common seal of  
EAST HERTFORDSHIRE DISTRICT COUNCIL  
Was affixed in the presence of:

Authorised signatory

The common seal of  
EPPING FOREST DISTRICT COUNCIL  
was affixed in the presence of:

Attesting Officer





The common seal of  
HARLOW DISTRICT COUNCIL  
was affixed in the presence of:

Duly Authorised Officer

The common seal of  
ESSEX COUNTY AUTHORITY  
was affixed in the presence of:

Attesting Officer  
Date

The common seal of  
HERTFORDSHIRE COUNTY COUNCIL  
was affixed in the presence of:

Authorised Signatory



## SCHEDULE 1

### DEFINITIONS

In this Agreement the words and expressions set out below shall have the meanings set out below (unless the context requires otherwise):

**Accountable Body** means EFDC, or such other Partner Authority as may be appointed pursuant to this Agreement, which has responsibility under this Agreement for holding the Project Funding and the Recoverable Cost Funding and providing the Services including ensuring that expenditure is spent in accordance with all legal requirements.

**Agreement** means this agreement that sets out the services to be delivered by the Accountable Body and the respective roles, responsibilities and behaviours of the Partner Authorities.

**Assets** means any assets held by the Accountable Body on behalf of the Joint Committee from time to time, being at the date of this Agreement four (4) cargo bikes.

**Assurance Framework** means the Financial Regulations of the Accountable Body, which shall be applied to manage the Project Funding until such time as alternative arrangements shall be adopted and incorporated into this Agreement.

**Charges** means the charges (including Recoverable Costs) which become due and payable by the Partner Authorities to the Accountable Body in respect of the Services provided under this Agreement, as such charges are set out in Schedule 4 (Charges).

**Contracts** means any contracts entered into by the Accountable Body on behalf of the Joint Committee from time to time.

**Data Sharing Schedule** means the obligations of the Parties as set out in Schedule 8 (Data Sharing Schedule).

**Data Protection Legislation** means: (a) the GDPR, the LED and any applicable national implementing Laws as amended from time to time; (b) the DPA to the extent that it relates to processing of personal data and privacy; and (c) all applicable Law about the processing of personal data and privacy.

**DPA** means the Data Protection Act 2018;

**Executive Officer Group** means an officer group established by the Partner Authorities made up of one (1) senior officer from each Partner Authority and which is chaired by the HGGT Director.

**Exit Provisions** means the exit plan and provisions set out at Schedule 5 (Exit Provisions) which shall be used in the event of termination of this Agreement for any reason in whole or in part.

**Financial Year** means during the continuance of the Agreement any period commencing on 1 April and ending on the following 31 March.



**FOIA** means the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

**Garden Town Purpose** means providing the leadership required to deliver the spatial growth and infrastructure proposals set out in the Local Plans of HDC, EHDC and EFDC, supported by ECC and HCC to align and maximise the opportunities for new residents and the existing residents and communities in Harlow, Epping Forest and East Hertfordshire.

**GDPR** means the General Data Protection Regulations 2016, Regulation (EU) 2016/679 as implemented in UK law under the European Union (Withdrawal) Act 2018 and any United Kingdom Act or European Union Regulation recognised in UK law substantially replacing the same.

**HGGT** means the Harlow and Gilston Garden Town located to the north of London in the district council areas of Harlow, East Hertfordshire and Epping Forest and in the counties of Hertfordshire and Essex which will co-ordinate and enable new homes, modal shift and associated infrastructure in and around Harlow with four new strategic sites being Gilston, East Harlow, Latton Priory and Water Lane which shall be connected via the STC Network.

**HGGT Area** means the area of the HGGT as delineated in red on the map at Schedule 2 (HGGT Area).

**HGGT Budget** means the agreed budget for the Recoverable Cost Funding and the Project Funding once agreed by the Joint Committee.

**HGGT Delivery Team** means the employees employed by the Accountable Body on behalf of the Partner Authorities for the purposes of supporting the Joint Committee and carrying out the programme of enabling work required for the delivery of the objectives set out in this Agreement and which shall include the Independent Facilitator and the HGGT Director.

**HGGT Director** means an officer employed by the Accountable Body on behalf of the Partner Authorities for the purposes of leading the HGGT Partnership of 5 partner authorities and delivering the objectives of the HGGT Joint Committee including leadership and management of the HGGT Delivery Team and chairing the Executive Officer Group

**HIG Funding** means the funding made available or to be made available by Homes England to HCC under the terms of a Grant Determination Agreement dated 31 March 2021 for the purposes of application towards the expenditure of delivering or procuring the delivery of infrastructure works and dwellings in the HGGT.

**Independent Facilitator** means a person appointed by the Joint Committee in accordance with paragraph 10.4 of the Joint Committee Terms of Reference.

**Intellectual Property** means all patents, rights to inventions, copyright and related rights, database rights, rights in designs, trademarks, know-how, trade secrets and other similar or equivalent rights or forms of protection (whether registered or unregistered) and all applications (or rights to apply) for, and for renewals and extensions of such rights as may now or in the future exist anywhere in the world.



**Joint Committee** means the joint committee constituted through the Joint Committee Terms of Reference between the Partner Authorities.

**Joint Committee Intellectual Property** means any and all Intellectual Property created through the work of, or as directed by, the Joint Committee.

**Joint Committee Terms of Reference** means the terms of reference in relation to the HGGT agreed between the Partner Authorities and Joint Committee and set out in Schedule 10, which sets out the duties and obligations, roles and responsibilities of the Partner Authorities in relation to delivery of Joint Committee's objectives.

**Law** means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which Accountable Body is bound to comply.

**LED** means Law Enforcement Directive (Directive (EU) 2016/680).

**Lead Officer** means an officer employed by each Partner Authority to work to progress the work of the HGGT.

**Memorandum of Understanding** means the memorandum of understanding between the Partner Authorities set out in Schedule 9 to this Agreement, signed by each of the Partner Authorities on different dates in February and March 2022. In interpreting the Memorandum of Understanding, the definitions set out in that Schedule shall apply.

**Partner Authority Contribution** in each Financial Year means a financial contribution which a Partner Authority has agreed to make to the Recoverable Cost Funding.

**Partner Authority** means each party or the parties (as the case may be) to this Agreement.

**Project Funding** means Developer Contributions and any other funding contributions which are to be used for the delivery of the HGGT schemes and work programme as agreed by the Joint Committee.

**Project Sponsor Funding** means a payment of Project Funding to a Partner Authority for the purposes of delivering an element of the HGGT.

**Proposed Budget** has the meaning given to it in clause 7.3.

**Recoverable Costs** means costs incurred by the Accountable Body in the provision of the Services which shall include:

- a) the cost of the Services, the cost of insurance, the cost of the HGGT Delivery Team, the cost of the HGGT Director, and such other funding as is required to cover the agreed programme of work; and
- b) third party costs incurred by the Accountable Body to which no value is added by the Accountable Body, including, but not limited to, any costs, fees, or charges paid pursuant to the Contracts.

**Recoverable Cost Funding** means the funding needed to cover the Recoverable Costs.



**RIF** means the rolling infrastructure fund which shall comprise, as a minimum, the HIG Repayment Funding and the Developer Contributions, principally for the purposes of forward funding and completing the STC Network, which shall be held on behalf of the Joint Committee by the accountable body appointed by the Partner Authorities pursuant to clause 3.3 and clause 4.6.5.

**RIF Purpose** means work to further develop the principles and processes set out in the Memorandum of Understanding at:

- a) Clause 2 (Establishment of the Rolling Infrastructure Fund)
- b) Clause 3 (Rolling Infrastructure Fund Governance)
- c) Clause 4 (Initial Projects – Forward Funding)
- d) Clause 5 (Initial Projects – Recovery of Contributions)
- e) Clause 6 (Subsequent Projects)
- f) Clause 7 (Fund Holders’ Obligations)
- g) Clause 9 (Review and Development of the RIF).

**S151 Officer** means the officer appointed by the Accountable Body for the proper administration of its financial affairs under s151 of the Local Government Act 1972.

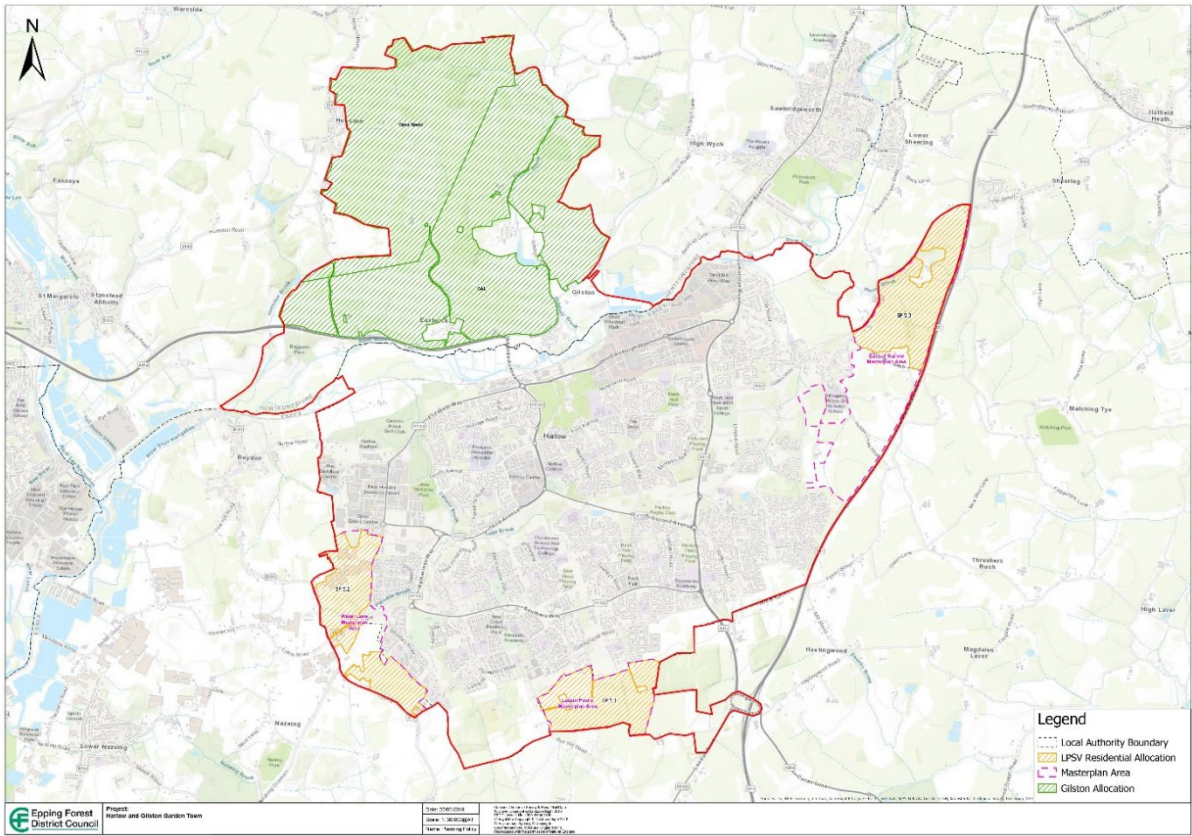
**Services** means the services to be provided by the Accountable Body as set out in Schedule 3 (Services).

**STC Network** means the sustainable transport corridors and other specific highway improvements which will connect the four strategic sites forming the HGGT and support the delivery of sustainable residential development as detailed in the Adopted Local Plans of EHDC and HDC and the draft local plan of EFDC.



# SCHEDULE 2

## HGGT Area



## **SCHEDULE 3**

### **SERVICES**

Core on-going Services required to ensure that the Accountable Body can provide the required due diligence in providing financial and legal oversight to the Partnership

#### **Democratic Services**

Publishing Agendas and minutes

#### **Legal Services**

Support on all matters relating to contracting, report comment and supporting meetings of the Joint Committee as required including Joint Committee specific advice to the Accountable Body

#### **People Services**

Support on all HR matter relating to recruitment and management of the HGGT Delivery Team and the HGGT Director

Support for Learning & Development and retention of the HGGT Delivery Team and the HGGT Director

#### **Technology Services**

Core Service including annual licences for Microsoft, Oracle plus a data consumption allowance

Provision of Laptop, mobile phone (if required as agreed by HGGT Director) licences and set up of new users

Service support as part of Core Service

#### **Finance Services**

Budget Holder Support, including support for in-year forecasting and budget preparation  
Preparation of budget and forecast summaries to support reporting to the Board on a quarterly basis

Preparation of the annual accounts of the partnership and support the Audit of the Accounts

Financial advice to the Partnership; Review and comment on the Board papers; provide briefings for the Section 151 officer and the Accountable Body representative

Treasury Management

#### **Internal Audit**

Annual Audit of Governance and Funding arrangements of the Partnership

#### **External Audit**

Audit of the Partnership Accounts if required

#### **Insurance**

No specific insurance required but HGGT employees covered under Accountable Body arrangements



## **SCHEDULE 4**

### **ANNUAL CHARGES**

Costs based on typical on-going service requirements set out above

<b>Service</b>	<b>Primary Role</b>	<b>Cost</b>	<b>Comments</b>
<b>Democratic Services</b>	Democratic Services Manager	£652	Support for publishing Agendas & minutes and attending four (4) meetings in person per year
<b>Legal Services</b>	Supervising Associate	£1 538	Support for four meetings per annum
<b>People Services</b>	People Business Partner	£954	Support for quarterly meetings per annum
<b>Technology Services</b>	Technology Services	£1 361	Excludes costs of licences
<b>Finance Services</b>	Finance Business Partner with oversight from Senior Finance Business Partner as required	£7 224	Support for monthly meetings with HGGT Director and adhoc advice
<b>Internal Audit Services</b>	Senior Auditor	£ 560	
<b>External Audit Services</b>	External procurement	tba	To be agreed when/if required for capital fund monitoring
<b>Insurance</b>	Accountable Body existing arrangements will cover	Nil	
<b>TOTAL</b>		<b>£12,289</b>	



## **SCHEDULE 5**

### **EXIT PROVISIONS**

1. In the event of any one or more Partner Authority giving notice to withdraw from the Joint Committee pursuant to paragraph 5.3 of the Joint Committee Terms of Reference then:
  - a. the Joint Committee shall (unless an earlier date is agreed) meet within one month of the service of any such notice of withdrawal for the purpose of preparing an implementation plan for the withdrawal;
  - b. the Partner Authorities shall each act reasonably in co-operating with each other and facilitate the disaggregation of the Joint Committee in such a manner (including entering into any transitional arrangements) so as to:
    - i. cause the least disruption;
    - ii. agree arrangements for the transfer of staff and avoid redundancies wherever possible;
    - iii. facilitate the transfer of data and records; and
    - iv. mitigate costs so far as practicable.
2. Save as mentioned in paragraph 3:
  - a. the Partner Authority giving notice of withdrawal from the Joint Committee (or if there is more than one such Partner Authority then each of them in equal shares) shall bear all costs arising out of or in connection with such withdrawal and shall indemnify the remaining Partner Authorities against all costs and expenses incurred or to be incurred by them arising out of or in connection with that withdrawal including (without prejudice to the generality of the foregoing):
    - i. costs of redundancy or re-deployment of any staff;
    - ii. termination of any lease or licence for the occupation of any premises or use of any equipment including ICT hardware or software agreements (all such matters to be at the discretion of the Partner Authorities other than those that have given notice to withdraw from the Joint Committee);
    - iii. procurement of any alternative accommodation or relocation of any services or staff; procurement implementation or reconfiguration of any equipment, ICT hardware or software reasonably required for the provision of the on-going shared service by the remaining Partner Authorities;
    - iv. preparation, disaggregation and transfer of any data and records;
    - v. staff costs and administrative overheads in connection with any of the above.

- b. The Partner Authority giving notice of withdrawal (or if there is more than one such Partner Authority then each of them) shall be liable for the costs set out in paragraph 2(a) as if they had not given notice of termination until the later of three years after the date of its withdrawal from the Joint Committee.
  - c. If the Accountable Body ceases to be Accountable Body but remains a Partner Authority, then the provisions paragraphs 2(a) and 2(b) shall not apply unless and until that party withdraws as a Partner Authority.
3. In the event that:
- a. all the Partner Authorities agree to discontinue the Joint Committee; or
  - b. one or more Partner Authorities have given notice of withdrawal pursuant to paragraph 5.3 of the Joint Committee Terms of Reference and there are not at least two Partner Authorities wishing to continue with the provision of the Joint Committee,
- then the Partner Authorities shall cooperate to close the Joint Committee and:
- c. all costs as mentioned in paragraph 2 above shall be deemed to be costs of the Joint Committee and apportioned equally amongst all the Partner Authorities; and
  - d. the Partner Authorities shall seek to agree how any Assets held by the Accountable Body at the date of termination of this Agreement should be distributed between them.



## **SCHEDULE 6**

### **CONSEQUENCES OF TERMINATION**

Upon termination of this Agreement howsoever caused and for whatever reason:

1. All amounts due under this Agreement to the Accountable Body (in its role as Accountable Body) including amounts which have accrued but have not yet been invoiced by the Accountable Body shall become immediately due and payable by the relevant Partner Authorities.
2. The Accountable Body shall repay to the relevant Partner Authorities any Charges paid by such Partner Authorities in respect of Services not received at the date of termination.
3. The Partner Authorities shall have no claim against Accountable Body for compensation for loss of profit, loss of goodwill or any similar loss.
4. Any access to a Partner Authority's IT systems by any other Partner Authority shall cease immediately and each Partner Authority shall return any equipment, materials or property belonging to any other Partner Authority as soon as practically possible and in any event within one month from the date of termination unless the parties agree otherwise.
5. Any right or licence by the Accountable Body to the Joint Committee or the Partner Authorities to use the Accountable Body's Intellectual Property shall cease to have effect unless the parties agree otherwise.
6. Each Partner Authority shall return any Accountable Body equipment within a reasonable time, and in any event within one month from the date of termination, unless the parties agree otherwise.
7. Subject as otherwise provided in this Agreement and to any rights or obligations which have accrued prior to termination, no Partner Authority shall have any further obligation to the other Partner Authorities under this Agreement.



**SCHEDULE 7**

**NOT USED**



## SCHEDULE 8

### DATA SHARING SCHEDULE

#### (1) Background

The Partner Authorities have determined that they are Joint Controllers in relation to the Shared Personal Data and accordingly this Data Sharing Schedule sets out the arrangements between them for the purposes of the Data Protection Legislation. The parties agree to share and use Personal Data with each other within the UK for the Agreed Purposes on the terms set out in the Agreement and this Data Sharing Schedule.

#### (2) Agreed terms

##### 1 INTERPRETATION

The following definitions and rules of interpretation apply in this Data Sharing Schedule.

<b>“Agreed Purposes”</b>	has the meaning given to it in paragraph 2 of this Data Sharing Schedule.
<b>"Business Day"</b>	a day other than a Saturday, Sunday or public holiday in England when banks are open for business.
<b>"Commencement Date"</b>	has the meaning given at the beginning of the Agreement.
<b>"Criminal Offence Data"</b>	means Personal Data relating to criminal convictions and offences or related security measures to be read in accordance with section 11(2) of the DPA 2018.
<b>"Data Protection Legislation"</b>	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 and any successor legislation.
<b>“EIR”</b>	the Environmental Information Regulations 2004, as amended from time to time.
<b>“GDPR/UK GDPR”</b>	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act.



2018.

<b>“FOIA”</b>	the Freedom of Information Act 2000, as amended from time to time.
<b>“ICO”</b>	means the Information Commissioner’s Office or any replacement or successor supervisory body within the United Kingdom.
<b>“Personal Data Breach”</b>	a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Shared Personal Data.
<b>“Public Authority”</b>	shall have the meaning as set out in section 7 of the Data Protection Act 2018.
<b>“Shared Personal Data”</b>	the Personal Data to be shared between the parties under paragraph 3 of this Data Sharing Schedule.
<b>“Special Category Personal Data”</b>	the categories of Personal Data set out in Article 9(1) of the UK GDPR.
<b>“Subject Access Request”</b>	the exercise by a data subject of his or her rights under Article 15 of the UK GDPR and the DPA 2018.
<b>“Term”</b>	the timeframe from the Commencement Date up until the Agreed Purposes have been fulfilled.

- 1.1 Controller, Joint Controllers, Processor, Data Subject, Personal Data, Processing, and appropriate technical and organisational measures shall have the meanings given to them in the Data Protection Legislation.
- 1.2 Paragraph headings shall not affect the interpretation of this Data Sharing Schedule.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.



1.5 A reference to writing or written includes email but not fax.

## 2 PURPOSE

- 2.1 This Data Sharing Schedule sets out the framework for the sharing of Personal Data when a Partner Authority (the “**Data Discloser**”) discloses Personal Data to the other Joint Controllers (the “**Data Receiver(s)**”). It defines the principles and procedures that the parties shall adhere to and the responsibilities the parties owe to each other.
- 2.2 Each Partner Authority is a Public Authority and considers this data sharing initiative necessary to progress the Harlow and Gilston Garden Town Project which will benefit the local population of East Hertfordshire through the creation of new accommodation, schools, employment as well as improved infrastructure and town centre enhancement and regeneration.
- 2.3 The Partner Authorities agree to only process Shared Personal Data, for the following purposes and by the following means:
- 2.3.1 To facilitate public and organisational consultations and newsletters / updates / HGGT Communications. To allow FOI requests relevant to HGGT to be enacted. To allow data collected on behalf of HGGT to be enacted. To facilitate public and organisational consultations and newsletters / updates / HGGT Communications. To allow FOI requests relevant to HGGT to be enacted. To allow data collected on behalf of HGGT to be accessed and used by all Partner Authorities. To allow Health and Safety obligations to staff working on the HGGT project to be met.
- 2.3.2 Sharing data would be electronic, via emails with spreadsheets, Word documents and databases via phone calls or in person / via hard copy. Shared electronic filing systems may also be developed.

The Partner Authorities shall not process Shared Personal Data in a way that is incompatible with the purposes described in this paragraph.

- 2.4 Notwithstanding paragraph 2.3, if and to the extent that the Partner Authorities determine in respect of any Processing of Personal Data that the relationship between them is not one of Joint Controllers because it is between Controllers, or between Controllers and Processors, then they will cooperate in agreeing and documenting appropriate arrangements for that other relationship or those other relationships

## 3 SHARED PERSONAL DATA

- 3.1 The following types of Personal Data will be shared between the Partner Authorities during the Term of the Agreement:
- 3.1.1 employee contact details from each of the parties;
- 3.1.2 complainants and other individuals in relation to a complaint or query;



- 3.1.3 job applicants and their current and former staff and volunteers; and referee contact details
- 3.1.4 contractors and other professionals appointed to assist with the Agreed Purposes; and
- 3.1.5 visitors to their websites.
- 3.1.6 Consultation responses with the public carried out by or relating to the HGGT project including surveys of individuals or businesses or monitoring of services
- 3.2 Special Category Personal Data and Criminal Offence Data will not be shared between the Partner Authorities for the Agreed Purposes.
- 3.3 The Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purposes.

#### **4 LAWFUL, FAIR AND TRANSPARENT PROCESSING; JOINT CONTROLLER RESPONSIBILITIES**

- 4.1 Each Partner Authority shall ensure that it processes the Shared Personal Data fairly and lawfully in accordance with paragraph 4.3 during the Term of the Agreement.
- 4.2 Each Partner Authority shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by one Partner Authority shall, if not remedied within 30 days of written notice from one or more Partner Authorities, give grounds to that Partner Authority to terminate its participation in this Data Sharing Schedule with immediate effect.
- 4.3 Each Partner Authority shall ensure that it has legitimate grounds under the Data Protection Legislation for the processing of Shared Personal Data.
- 4.4 The Data Discloser shall, in respect of Shared Personal Data, ensure that it provides clear and sufficient information to the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Article 13 of the GDPR including if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the data subject to understand the purpose and risks of such transfer
- 4.5 The Data Receivers undertake to inform the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will process their Personal Data, the legal basis for such purposes and such other information as is required by Article 14 of the GDPR including if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer.
- 4.6 Each Partner Authority shall comply with its obligations under Article 26 of the GDPR and shall make available to Data Subjects the essence of the arrangements





contemplated by this Data Sharing Schedule, acknowledge that Data Subjects may exercise their rights under the GDPR in respect of and against each and agree to provide to each other party such cooperation as may reasonably be required to assist that other party in compliance with its obligations under Article 26 of the GDPR.

## **5 DATA SUBJECTS' RIGHTS**

- 5.1 The Partner Authorities each agree to provide such assistance as is reasonably required to enable the other parties to comply with requests from Data Subjects to exercise their rights under the Data Protection Legislation within the time limits imposed by the Data Protection Legislation.
- 5.2 Each Partner Authority is responsible for maintaining a record of individual requests for information, the decisions made and any information that was exchanged. Records must include copies of the request for information, details of the data accessed and shared and where relevant, notes of any meeting, correspondence or phone calls relating to the request.
- 5.3 Notwithstanding the foregoing, each Partner Authority acknowledges and accepts that each other party is subject to the requirements of the FOIA and EIR and shall assist and cooperate with the other Partner Authorities to facilitate any required disclosure under the FOIA and EIR and UK GDPR.

## **6 DATA RETENTION AND DELETION**

- 6.1 The Data Receivers shall not retain or process Shared Personal Data for longer than is necessary to carry out the Agreed Purposes.
- 6.2 Notwithstanding paragraph 6.1, the Partner Authorities shall continue to retain Shared Personal Data in accordance with any statutory or professional retention periods applicable to local authorities.
- 6.3 The Data Receiver shall ensure that any Shared Personal Data are returned to the Data Discloser or destroyed on termination or expiry of the Agreement, termination of the Data Discloser's participation in the provision of this Data Sharing Schedule, or once processing of the Shared Personal Data is no longer necessary for the Agreed Purposes.
- 6.4 Following the deletion of Shared Personal Data in accordance with paragraph 6.3, the Data Receivers shall notify the Data Discloser that the Shared Personal Data in question has been deleted.

## **7 INTERNATIONAL DATA TRANSFERS**

The Partner Authorities shall not make a transfer of Personal Data outside the EEA.



## **8 SECURITY AND TRAINING**

- 8.1 The Partner Authorities shall only provide the Shared Personal Data to the other Partner Authorities by methods that afford the proper protection and privacy to the Shared Personal Data.
- 8.2 The Partner Authorities each undertake to have in place (and to regularly review and update) throughout the Term appropriate technical and organisational security measures, taking into account the cost of implementation and the state of the technological development, to:
- 8.2.1 prevent unauthorised or unlawful processing of the Shared Personal Data and the accidental loss or destruction of, or damage to, the Shared Personal Data; and
- 8.2.2 ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and the nature of the Shared Personal Data to be protected.
- 8.3 Each Partner Authority shall ensure that its staff members are appropriately trained to handle and process the Shared Personal Data in accordance with this paragraph and any other applicable data protection laws.

## **9 PERSONAL DATA BREACHES AND REPORTING PROCEDURES**

- 9.1 Each Partner Authority shall comply with its obligation to report a Personal Data Breach to the ICO and (where applicable) data subjects under Article 33 of the GDPR and shall each inform the other parties of any Personal Data Breach irrespective of whether there is a requirement to notify the ICO or data subject(s).
- 9.2 The Partner Authorities each agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.

## **10 REVIEW AND TERMINATION OF DATA SHARING SCHEDULE**

- 10.1 The Partner Authorities shall review the effectiveness of this Data Sharing Schedule regularly and on the addition and removal of a party, having consideration to the aims and purposes set out in paragraph 2. The Partner Authorities shall continue, amend or terminate the Data Sharing Schedule depending on the outcome of this review.
- 10.2 Each Partner Authority reserves its rights to inspect any other Partner Authority's arrangements for the processing of Shared Personal Data and to terminate the Partner Authority's participation in the Data Sharing Schedule where it considers that another Partner Authority is not processing the Shared Personal Data in accordance with this Data Sharing Schedule.
- 10.3 In the event that any Partner Authority terminates its participation, or has its participation terminated, in this Data Sharing Schedule, its obligations under the Agreement (with the exception of this Schedule 8) shall continue unaffected.



## **11 RESOLUTION OF DISPUTES WITH DATA SUBJECTS OR THE ICO**

- 11.1 In the event of a dispute or claim brought by a data subject or the ICO concerning the processing of Shared Personal Data against any or all of the Partner Authorities, the Partner Authorities will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
- 11.2 The Partner Authorities agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the ICO. If they do participate in the proceedings, the Partner Authorities may elect to do so remotely (such as by telephone or other electronic means). The Partner Authorities also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.
- 11.3 Each Partner Authority shall abide by a decision of a competent court of the Data Discloser's country of establishment or of the ICO.

## **12 WARRANTIES**

- 12.1 Each Partner Authority warrants and undertakes that it will:
- 12.1.1 Process the Shared Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments that apply to its personal data processing operations;
  - 12.1.2 make available on request to the Data Subjects who are third party beneficiaries a copy of this Data Sharing Schedule, unless the Data Sharing Schedule contains confidential information;
  - 12.1.3 respond within five (5) working days and as far as reasonably possible to enquiries from the ICO in relation to the Shared Personal Data;
  - 12.1.4 respond to Subject Access Requests in accordance with the Data Protection Legislation;
  - 12.1.5 where applicable, maintain registration and/or pay the appropriate fees with all ICO to process all Shared Personal Data for and by the Agreed Purpose; and
  - 12.1.6 take all appropriate steps to ensure compliance with the security measures set out in paragraph 8 above.
- 12.2 The Partner Authorities warrant and undertake that it (when acting as a Data Discloser) is entitled to provide the Shared Personal Data to the Data Receivers and it will ensure that the Shared Personal Data is accurate and will continually monitor and update the Shared Personal Data where necessary.
- 12.3 Except as expressly stated in this Data Sharing Schedule, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.



### 13 INDEMNITY

Each Partner Authority shall indemnify the others (to the extent and proportion that each indemnified party is not at fault) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct and reasonably foreseeable indirect or consequential losses, and all interest, penalties and legal costs and all other reasonable and properly professional costs and expenses) suffered or incurred by the indemnified party arising out of the breach of the Data Protection Legislation or this Data Sharing Schedule by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.



## SCHEDULE 9

### MEMORANDUM OF UNDERSTANDING

### MEMORANDUM OF UNDERSTANDING

relating to

### THE HARLOW & GILSTON GARDEN TOWN ROLLING INFRASTRUCTURE FUND

#### PARTIES

- (1) EAST HERTFORDSHIRE DISTRICT COUNCIL
- (2) EPPING FOREST DISTRICT COUNCIL
- (3) ESSEX COUNTY COUNCIL
- (4) HARLOW DISTRICT COUNCIL
- (5) HERTFORDSHIRE COUNTY COUNCIL

each a “**Council**”, and together “**the Councils**”.

#### INTRODUCTION

- A The Councils are collaborating to facilitate the delivery of the Harlow and Gilston Garden Town (“**Garden Town**”).
- B HCC, on behalf of all the Councils, successfully submitted a bid to the Ministry for Homes, Communities and Local Government (acting through Homes England) for approximately £171 million funding of the Housing Investment Grant to forward fund infrastructure in the Garden Town area. HCC subsequently entered into the Grant Determination Agreement in respect of the funding.
- C In the Grant Determination Agreement, HCC committed to the establishment of a Rolling Infrastructure Fund (“**RIF**”), through which the HIG Funding would be recovered from developers and made available for forward funding of and completing the wider Garden Town sustainable transport corridor network and



other infrastructure in the Garden Town area; where possible that funding would also be recycled, creating a rolling basis for infrastructure investment.

- D The Councils are entering into this Memorandum of Understanding (“**Memorandum**”) to record and set out the basis on which they will collaborate with each other to establish and operate the RIF.
- E The Councils acknowledge that the arrangements described in this Memorandum will require development over time, to reflect both changing circumstances and the further detail the parties will need to agree in due course in respect of operation and governance of the RIF. Any such development will be subject to agreement of all the Councils.

## 1. DEFINITIONS

In this Memorandum, the following terms shall have the meanings given below:

“Agreed Proportions”	has the meaning given in paragraph 5.2
“CIL”	means a community infrastructure levy or similar
“District Councils”	means, together, East Hertfordshire District Council, Epping Forest District Council and Harlow District Council (and “District Council” means each of them)
“Garden Town Board”	means the board established by the Councils, and including a representative from each Council, to promote and facilitate cooperative working to oversee delivery of the Garden Town
“Garden Town Development”	means a development or proposed development within the area of the Garden Town for which a planning application is (or has been) submitted
“Grant Determination Agreement”	means the agreement dated 31 March 2021 and entered into between HCC and Homes England relating to provision of the HIG Funding
“HCC”	means Hertfordshire County Council
“HIG Bid”	means the bid for the HIG Funding, as referred to in paragraph B of the Introduction to this Memorandum
“HIG Funding”	means the funding made available or to be made available to HCC by Homes England under the Grant Determination Agreement secured by the Councils from the Housing Investment Grant towards the Initial Projects, which as at the date of this Memorandum is expected to be in the region of £171 million



“Infrastructure Delivery Plan”	means the infrastructure delivery plan developed jointly by the Councils in relation to Garden Town infrastructure, as updated from time to time
“Initial Projects”	has the meaning given in paragraph 4.1
“Section 106 Obligations”	means planning obligations imposed by a Council under section 106 of the Town and Country Planning Act 1990
“STC”	means the Sustainable Transport Corridor network intended to be created at the Garden Town

## **2. ESTABLISHMENT OF THE ROLLING INFRASTRUCTURE FUND**

- 2.1 Each Council agrees to the establishment of the RIF.
- 2.2 Each Council agrees that the RIF will be built from payments secured by the Councils from developers of Garden Town Developments in contribution to the cost of the STC and other Garden Town infrastructure, in accordance with this Memorandum. The first such payments will arise in respect of the Initial Projects, which will be unlocked by the HIG Funding.
- 2.3 For practical reasons, the RIF will not initially be held by a single entity. Each Council that receives relevant payments from developers will hold those sums as a separately-identifiable interest-bearing fund. The aggregate of all such funds will constitute the RIF.
- 2.4 The Councils acknowledge that they will seek, over time, to put governance arrangements in place that will allow these disparate funds to be brought together and held and managed by a single entity for the benefit of and on behalf of the Councils. Development of such arrangements will form part of the ongoing review of the RIF to which paragraph 9 refers. This Memorandum does not commit any Council to this arrangement which shall be subject to a separate decision.

## **3. ROLLING INFRASTRUCTURE FUND GOVERNANCE**

- 3.1 If any decision is required in relation to the RIF (in particular in relation to expenditure from the RIF) which impacts a Council, such Council shall follow its own decision making process to determine the decision to be taken. The Garden Town Board may make a non-binding recommendation to such Council(s). Such Council(s) shall consult with the remaining parties to this Memorandum prior to taking such decision to the extent that such decision impacts on the recovery of the HIG Funding.
- 3.2 Any amendment to the terms of this Memorandum will require the unanimous approval of all five Councils.
- 3.3 Any decisions taken in respect of the RIF shall take due account of any relevant provisions of the Grant Determination Agreement and the Delivery Agreements.



#### 4. INITIAL PROJECTS – FORWARD FUNDING

4.1 In accordance with the Grant Determination Agreement and subsequent discussions, the HIG Funding will be used to fund delivery of the following projects:

4.1.1 the expansion of Central Crossing (5th Avenue) to extend the STC between the Gilston Area and Harlow Town Railway Station and Burnt Mill Roundabout;

4.1.2 the Eastern Stort River Crossing, comprising:

(a) realignment of the Eastwick Road and new junction allowing access to Terlings Park and Pye Corner;

(b) Pye Corner bypass including junction between north-south section and east-west section;

(c) remainder of Eastern Crossing including River Way Bridge;

(Note: It is proposed that funding is provided for the Eastern Stort Crossing both directly and indirectly, through being made available to the relevant developer to fund on-site works within the Gilston Area thereby allowing the developer to prioritise development cash flow for the completion of delivery of the Crossing works. This has been agreed due to the time constraints of the HIG funding availability)

4.1.3 the extension of the STC from Burnt Mill Roundabout through to the Town Centre; and

4.1.4 the new Cambridge Road/River Way junction,

(together, the “**Initial Projects**”).

4.2 The Councils acknowledge that HCC has entered into the Grant Determination Agreement with Homes England and that HCC is the contracting body in respect of the HIG Funding.

4.3 The Councils further acknowledge that, in order to secure delivery of the Initial Projects, HCC has entered into delivery agreements with:

4.3.1 Places for People, pursuant to which Places for People will be obliged to deliver the projects referred to in paragraphs 4.1.1 and 4.1.2; and

4.3.2 Essex County Council, pursuant to which Essex County Council will be obliged to deliver the projects referred to in paragraphs 4.1.3 and 4.1.4,

(each a “**Delivery Agreement**”).

4.4 HCC hereby confirms its intention to draw down the HIG Funding in accordance with the Grant Determination Agreement, to pay such funding to the relevant counterparty in accordance with each Delivery Agreement, and to enforce its





rights under each Delivery Agreement to secure delivery of the relevant infrastructure.

- 4.5 In the event of any conflict between this Memorandum and either the Grant Determination Agreement or any of the Delivery Agreements, the Grant Determination Agreement or Delivery Agreement (as relevant) shall take precedence.

## 5. INITIAL PROJECTS – RECOVERY OF CONTRIBUTIONS

- 5.1 The Councils acknowledge that it is their collective intention:

- 5.1.1 to seek to recover 100% of the HIG Funding, for inclusion in the RIF;
- 5.1.2 that such amounts will be recovered from developers promoting relevant Garden Town Developments, pursuant to section 106 of the Town and Country Planning Act 1990; and
- 5.1.3 that such amounts will be recovered from developers in the Agreed Proportions.

- 5.2 The “**Agreed Proportions**” are (as applicable):

- 5.2.1 those set out in the Infrastructure Delivery Plan or other associated evidence (as updated from time to time);
- 5.2.2 those set out in any “Developer Contribution Guidance” or related policy applicable to the Garden Town that is developed and agreed by the Councils; or
- 5.2.3 (if relevant) the proportions required by the relevant District Council’s planning policy.

- 5.3 In respect of Section 106 Obligations (whether by way of bilateral agreement or unilateral undertaking) relating to a planning application for a relevant Garden Town Development, each District Council will:

- 5.3.1 use its reasonable endeavours to ensure that the Section 106 Obligations require the relevant developer to make financial contributions towards the cost of the Initial Projects in the Agreed Proportions (either directly or by reference to a separate agreement under which the developer is obliged to repay the applicable portion of the Initial HIG Funding over time);
- 5.3.2 use its reasonable endeavours to enforce the terms of such Section 106 Obligations in order to recover monies due from the developer in respect of the Initial Projects; and
- 5.3.3 retain the contributions received from developers pursuant to Section 106 Obligations (or related agreements) which form part of the RIF as separately-identifiable funds.



- 5.4 Each District Council agrees to work with the other Councils and the Garden Town legal advisers to develop standard clauses for use within section 106 agreements and undertakings in respect of the payment of contributions. To the extent such clauses are developed and agreed, each District Council agrees to use reasonable endeavours to ensure the clauses are included in relevant section 106 agreements /undertakings.
- 5.5 If a District Council, in negotiating Section 106 Obligations, considers that it would be appropriate to agree with a developer an amount lower than the Agreed Proportions (such that there would be a shortfall in payments back to the RIF), that Council shall consult with the other partner Councils and have due regard to their representations before coming to a decision. The Councils acknowledge that this should be avoided wherever possible and that the recovery of contributions for the RIF should be treated in accordance with the importance set out in the Infrastructure Delivery Plan.
- 5.6 The Councils recognise that adoption by a District Council of a CIL could affect the value of contributions sought from development and the process for agreeing how collected CIL monies are allocated and spent for the funding of infrastructure and other projects. Any Council that considers the adoption of a CIL will consult with the other partner Councils and have due regard to their representations before coming to a decision regarding the adoption of a CIL charging schedule and how collected CIL monies are allocated to the Initial Projects and subsequent projects.
- 5.7 If the existing Planning Bill introduces new Infrastructure Levy arrangements, the District Councils will work cooperatively with the other Councils to put measures in place which ensure that contributions continue to be made to the RIF in line with the principles set out in this Memorandum.
- 5.8 Without prejudice to the preceding provisions of this paragraph 5, in the event of any conflict between this Memorandum and any agreement entered into by a Council pursuant to section 106 of the Town and Country Planning Act 1990, the section 106 agreement shall take precedence.

## **6. SUBSEQUENT PROJECTS**

- 6.1 The Councils acknowledge that, at the present time, the following projects (listed in no particular order of timing or priority) have been identified in the HIG Bid as priorities for future RIF funding as set out in Schedule 1:
- 6.1.1 replacement of Central Crossing Rail Bridge (excluding such works included within the widening and subject to outcome of structural assessment indicating it as necessary and according to the timescale of that necessity);
- 6.1.2 Eastern STC between Town Centre, Enterprise Zone and East Harlow Garden Community;
- 6.1.3 Western STC between Town Centre, National Institute for Health Protection/Pinnacles and Water Lane Garden Community;



- 6.1.4 Southern STC between Town Centre and Latton Priory Garden Community; and
- 6.1.5 to the extent not covered by paragraphs 6.1.2 to 6.1.4, the Town Centre STC and any associated interchange and hub.
- 6.2 The Councils acknowledge that the STC network, where located outside of the allocated new garden community sites, is treated in the Infrastructure Delivery Plan as a single item of infrastructure (as represented by the schemes referred to in paragraph 4.1.3 and parts of those referred to in paragraphs 6.1.2 – 6.1.5). The total cost of this off-site STC infrastructure will exceed the total of the contribution provided by HIG for the STC and the amount recovered into the RIF. The Councils each agree to cooperate in an effort to close this funding gap including using reasonable endeavours to secure developer contributions for this purpose (including by way of section 106 or Community Infrastructure Levy contribution from Garden Town Developments both referred to and those not referred to in the Infrastructure Delivery Plan). The Councils agree that such Developer Contributions will be allocated to the RIF and will seek to act in accordance with paragraphs 5.3.2 and 5.3.3 in respect of the same.
- 6.3 The Councils agree to use reasonable endeavours to secure additional grant or revenue funding for the delivery of the STC network and, where appropriate, to allocate such funding to the RIF, subject always to any terms and conditions attaching to such funding.
- 6.4 The Councils commit to work together to develop an investment strategy to guide future decisions about which projects should benefit from RIF funding beyond the Initial Projects including but not necessarily exclusive to those set out in paragraphs 6.1.1 to 6.1.5. The Councils acknowledge that the projects funded by the RIF may vary from those listed in paragraphs 6.1.1 to 6.1.5.
- 6.5 The Garden Town Board will be responsible for recommending to the Councils infrastructure schemes for funding from the RIF in future. In making any recommendation the Garden Town Board will principally seek to use the RIF for measures to achieve the active and sustainable mode share targets of the Garden Town and to unlock the provision of further new homes, and will have regard to the Infrastructure Delivery Plan (as updated from time to time) and other associated evidence, the investment strategy agreed by the Councils and the amounts available in the RIF.
- 6.6 Unless otherwise agreed by all the partner Councils in any particular case, RIF funding will only be allocated to projects if arrangements are put in place for the recovery of the funding from developer contributions (or other sources) over time, in line with the principles in paragraph 5, with the aim of ensuring that the RIF is continually replenished.
- 6.7 Any proposal for expenditure from the RIF beyond the Initial Projects will require the unanimous approval of all partner Councils (unless otherwise agreed by the Councils).



## 7. FUND HOLDERS' OBLIGATIONS

- 7.1 As noted in paragraph 2.3, initially the RIF will not be held by a single entity. Each Council that receives relevant payments from developers will hold those sums as a separately-identifiable fund. The aggregate of all such funds will constitute the RIF.
- 7.2 Specifically:
- 7.2.1 in respect of the infrastructure referred to in paragraphs 4.1.1 and 4.1.2, HCC will receive and hold the payments made by the Gilston Area Villages 1-6 landowners (Places for People and/or any successors) pursuant to HIG recovery payments secured through s.106 obligations assumed by those parties associated with relevant planning consents;
  - 7.2.2 each of the District Councils and/or County Councils may receive and hold payments made in respect of section 106 obligations (or, if relevant, the Community Infrastructure Levy) in relation to the infrastructure referred to in paragraphs 4.1.1 and 4.1.2 and the STC network, which includes the infrastructure referred to in paragraphs 4.1.3 and 4.1.4, and that referred to in paragraphs 6.1.2 to 6.1.5; and
  - 7.2.3 any of the Councils may receive and hold payments made in respect of section 106 obligations (or, if relevant, the Community Infrastructure Levy) in relation to subsequent infrastructure projects funded by the RIF.
- 7.3 Each Council that receives payments from developers in relation to the Initial Projects or any subsequent projects funded by the RIF will:
- 7.3.1 retain such payments as a separately-identifiable interest-bearing fund, acknowledging that relevant funds form part of the RIF and can be used only in accordance with this Memorandum and the purpose for which they were provided;
  - 7.3.2 provide to the other Councils full transparency of all such amounts received, and all amounts held as part of the RIF at any particular time; and
  - 7.3.3 not permit any RIF monies to be expended other than in accordance with this Memorandum and the purpose for which they were provided (and if money is paid out in breach of this commitment, the relevant Council shall replenish the RIF as soon as practicable upon becoming aware of the same).
- 7.4 Any interest earned in relation to RIF monies held by any Council shall itself be considered part of the RIF and each Council shall add any such interest to the RIF monies it is holding from time to time.
- 7.5 As Contracting Authority, HCC will seek to ensure that all costs to administer the HIG programme will be met within the £171m funding envelope. In the event that HCC incurs reasonable and evidenced costs and expenses in respect of its



role as contracting body to the HIG Funding beyond the contracted completion date of 31 March 2025, HCC will in the first instance seek additional funding for administrative costs required to maintain a scaled down functional service until the Infrastructure Works as set out in Part 1 Schedule 1 of the Grant Determination Agreement have been completed. If such costs and expenses cannot be recovered via the Grant Determination Agreement (and/or the connected back-to-back agreements) HCC shall be entitled to retain an appropriate portion of any monies it receives from developers in accordance with this paragraph 7 as reimbursement for the costs and expenses it incurs as contracting body to the HIG Funding. Following an assessment of the current administrative requirements, it is anticipated that as the Works referred to above relate specifically to activities after the funded programme which ceases on 31 March 2025, they will be evaluated over a financial year and be no greater than £80,000 per annum. All requests will be fair and reasonable and supported with appropriate evidence.

- 7.6 HCC shall produce all evidence as is reasonably required by the other Councils to demonstrate the quantum and appropriateness of such retention as detailed in clause 7.5. HCC shall provide the evidence at the request of the other Councils but provided that HCC shall not be obliged to provide such evidence more than twice in any calendar year. Any evidence supplied by HCC shall be presented in accordance with generally accepted accounting standards and practice
- 7.7 Notwithstanding any other provision of this Memorandum, HCC will not be entitled to recover costs or make a claim to recover its costs from the RIF to the extent that it has already recovered them pursuant to any other sources, agreements (including but not limited to Homes England and/or the GDA) or has received or is able to apply for funding in relation to them. HCC will recover its costs from Homes England or alternative sources before seeking to recover them from the RIF; it is acknowledged and agreed that alternative sources do not include HCC's own funding.
- 7.8 In the event that any of the Councils objects to the quantum of the retention made pursuant to paragraph 7.5, such dispute shall be resolved in accordance with paragraph 12.

## **8. DURATION**

- 8.1 This Memorandum shall remain in place until such time as:
- 8.1.1 the Councils agree that it should be superseded by an alternative agreement or arrangement which sets out the manner in which the RIF will be operated by the Councils; or
- 8.1.2 this Memorandum is terminated pursuant to paragraph 8.2.
- 8.2 This Memorandum may be terminated only by unanimous agreement of all five Councils. Any such agreement must specify how funds remaining in the RIF at the relevant time are to be allocated between the Councils. Such funds must be spent in accordance with the Grant Determination Agreement and section



106 of the Town and Country Planning Act 1990 on infrastructure to unlock housing developments.

## **9. REVIEW AND DEVELOPMENT OF THE RIF**

9.1 The Councils will request the Garden Town Board to review the terms of this Memorandum and the operation of the RIF on a six-monthly basis (or at such other frequency as the Councils may agree), and to report its findings and any recommendations to the Councils.

9.2 The Councils acknowledge that there is potential to develop the manner in which the RIF is governed and operated in order to improve its effectiveness as a vehicle to enable the forward funding of infrastructure delivery in the Garden Town. The Councils will work together in good faith to explore ways in which this might be achieved, including consideration of the ability to forward fund infrastructure in reliance on future developer contributions.

## **10. NO FETTER**

Nothing in this Memorandum shall fetter the discretion of any Council in the exercise of any of its statutory rights, powers, duties, discretions or functions, including in particular its role as local planning, highway or education authority.

## **11. STATUS**

11.1 This Memorandum is not intended to be legally binding and no legal obligations or legal rights shall arise between the Councils as a result of this Memorandum. Each Council enters into this Memorandum intending to honour all of its commitments but shall not be bound by them.

11.2 No legal partnership is created or intended to be created by the terms of this Memorandum.

## **12. DISPUTE RESOLUTION**

12.1 Any dispute arising in relation to the quantum of the retention made pursuant to clause 7.5 ("Dispute") shall be resolved in accordance with this paragraph 12.

12.2 If a Dispute cannot be resolved by the Councils within 10 working days of the dispute arising, any Council can, by written notice to the other Councils, require the Dispute to be escalated. In such circumstances the Dispute will be referred to the respective Chief Executives of the Councils who shall consult in good faith in an attempt to come to an agreement in relation to the disputed matter.

12.3 If the Dispute is not resolved by consultation under paragraph 12.2 within 10 working days of the Dispute being escalated, any Council may invite the others to attempt to resolve the dispute through mediation. The other Councils shall act reasonably in deciding whether or not to accept such invitation. A mediator will be selected by agreement of the Councils.

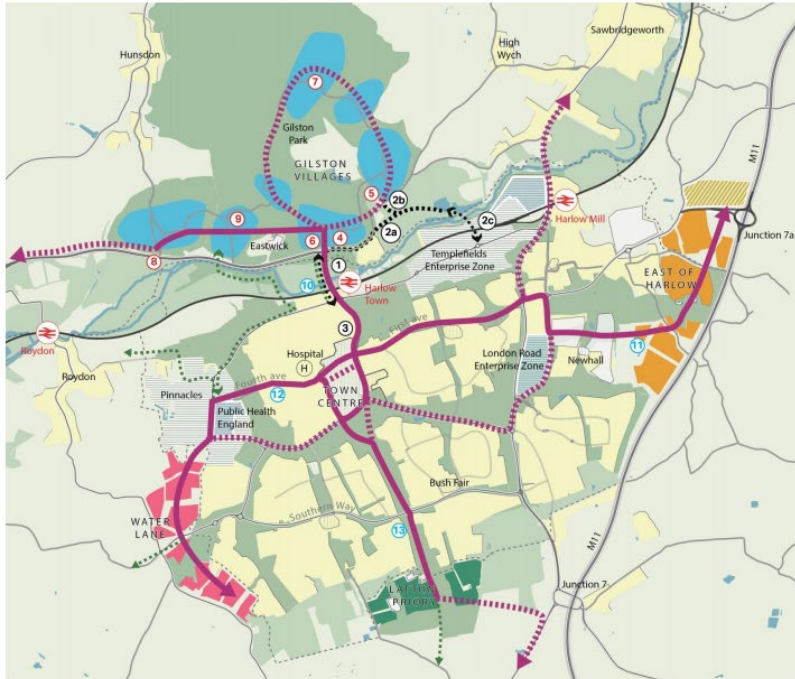
12.4 If:






- 12.4.1 the consultation required by paragraph 12.2 has taken place and the dispute remains unresolved;
- 12.4.2 the Councils are unable to reach agreement to proceed with mediation;  
or
- 12.4.3 following such mediation the dispute remains unresolved,
- any Council may refer the matter for expert determination.
- 12.5 An expert (“Expert”) is a person appointed in accordance with paragraph 12.6 to resolve a dispute arising in relation to the quantum of the retention made pursuant to paragraph 7.5.
- 12.6 The Councils shall agree on the appointment of an independent Expert and shall agree with the Expert the terms of their appointment.
- 12.7 If the Councils are unable to agree on the identity of the Expert or the terms of their appointment within seven days of a Council serving details of a suggested expert on the others, any Council shall be entitled to request the President of the Chartered Institute of Arbitrators to appoint an Expert with experience in determining the quantum of costs.
- 12.8 The Councils are entitled to make submissions to the Expert and will provide (or procure that the other Councils provide) the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision.
- 12.9 The Expert shall act as an expert and not as an arbitrator. The Expert shall provide to all the Councils his written decision on the dispute, within 28 days of appointment (or such other period as the Councils may agree). The Expert’s written decision on the matters referred to them shall be final and binding on the Councils in the absence of manifest error or fraud
- 12.10 Each Council shall bear its own costs relating to the reference of the Dispute to the Expert. The Expert’s fees and any costs properly incurred by them in arriving at their determination (including any fees and costs of any advisers appointed by the Expert) shall be borne by the Councils equally or in such other proportions as the Expert shall direct.
- 12.11 The Councils shall continue to comply with, observe and perform all their obligations hereunder regardless of the nature of the Dispute and notwithstanding the referral of the Dispute under this paragraph 12 and shall give effect forthwith to every decision of the Expert.



**SCHEDULE 1 – Extract from HIG Bid - Plan indicating the infrastructure to be funded by the HIG, Developer and the RIF**



1. Expansion of Central Crossing to extend Sustainable Transport Corridor (STC) between Gilston Area and Railway Station and Burnt Mill Roundabout.
2. Eastern Stort River Crossing (comprising Items 2a, 2b and 2c below)
  - 2a. Realignment of the Eastwick Road and new junction allowing access to Terlings Park and Pye Corner.
  - 2b. Pye Corner bypass including junction between north-south section and east-west section
  - 2c. Remainder of Eastern Crossing including River Way Bridge
3. Extension of STC from Burnt Mill Roundabout through the Town Centre.
4. Enhanced sustainable transport hub in Village 1.
5. Access to Gilston Area Village 2.
6. Access to Gilston Area Village 1 (north of Eastwick junction) and creation of STC link within Village 1.
7. Gilston Area STC "inner loop" connection to Villages 3, 4, 5
8. Access to Village 7.
9. Gilston Area STC "inner connection" opening up sustainable access and highway between Village 7 and Village 1.
10. Replacement of Central Crossing Rail Bridge.
11. Eastern STC between Town Centre, Enterprise Zones and Harlow East Garden Community.
12. Western STC between Town Centre, PHE/Pinnacles and Water Lane Garden Community.
13. Southern STC between Town Centre and Lattin Priory Garden Community.

-  Funded by the HIF
-  Funded by the Developers
-  Funded by rolling infrastructure fund



## SCHEDULE 10

### JOINT COMMITTEE TERMS OF REFERENCE

#### 1. The Partner Authorities:

- (1) East Hertfordshire District Council (“**EHDC**”)
- (2) Epping Forest District Council (“**EFDC**”)
- (3) Harlow District Council (“**HDC**”)
- (4) Essex County Council (“**ECC**”)
- (5) Hertfordshire County Council (“**HCC**”)

#### 2. Status:

- 2.1. The Partner Authorities are local authorities for the purposes of the Local Government Act 1972 and best value authorities for the purposes of the Local Government Act 1999.
- 2.2. Under section 102 (1) (b) of the Local Government Act 1972 and Regulations 10 and 11 of The Local Authorities (Arrangements for the Discharge of Functions) England Regulations 2012, local authorities may arrange for the discharge of their functions by a Joint Committee comprising members of their authorities.
- 2.3. All of the Partner Authorities have introduced Executive Arrangements under section 9EA of the Local Government Act 2000.
- 2.4. The Executives of each of the Partner Authorities have agreed to establish a Joint Committee for the purposes of section 101 of the Local Government Act 1972 to be known as the Joint Committee for the Harlow and Gilston Garden Town (the “Joint Committee”).
- 2.5. The Partner Authorities have agreed to form a Joint Committee to co-ordinate and facilitate the delivery of 16,000 homes in the HGGT by 2033, and 7,000 homes in the years after that along with associated infrastructure.
- 2.6. The Joint Committee and its proceedings are bound by the provisions of Schedule 12 of the Local Government Act 1972 but shall be expected to operate in accordance with the local arrangements set out in these Terms of Reference.
- 2.7. The only functions exercisable by the Joint Committee are those set out in Appendix 3 to these Terms of Reference.
- 2.8. The Accountable Body will act as the ‘accountable body’ for the Joint Committee and any sub-committee. The Accountable Body will provide secretariat support and accountable body services to the Joint Committee and any sub-committee as set out in an Inter-Authority Agreement dated on or about the date of this Agreement.



### 3. Definitions

**Functions** means the functions exercised by the Joint Committee as set out in Appendix 3 to these Terms of Reference.

**Independent Facilitator** means a member of the HGGT Delivery team employed or contracted for the purposes of supporting the Chair and facilitating meetings of the Joint Committee.

**Inter-Authority Agreement** means this Agreement to which these Terms of Reference are a schedule to that sets out the services which the Accountable Body will deliver to the Joint Committee and the respective role and responsibilities of the Partner Authorities in respect of associated matters related to the application and allocation of the Project Funding and Recoverable Cost Funding.

**Local Plans** means the adopted local plans prepared by a local planning authority in consultation with its community and which form part of the statutory development plan.

**Reserved Decisions** has the meaning given to it in paragraph 4.6.

### 4. Joint Committee

4.1. This Agreement sets out how the Joint Committee shall operate in seeking to deliver the overarching purpose, the functions it holds, and how decisions are made and procedures are followed to ensure that the Joint Committee operates efficiently, effectively and is both transparent and accountable.

4.2. The remit of the Joint Committee is to jointly discharge the functions (“Functions”) set out in Appendix 3 to these Terms of Reference in relation to the HGGT, the exercise of which have been delegated to the Joint Committee by the Partner Authorities subject to the limitation set out in paragraph 4.6.

4.3. The purpose of the Joint Committee is to provide the unified leadership required to deliver the ambitious spatial growth proposals set out in the Local Plans of HDC, EHDC and EFDC, supported by ECC and HCC to align and maximise the opportunities for new residents and the existing residents and communities in Harlow, Epping Forest and East Hertfordshire.

4.4. The Joint Committee will oversee the vision for the HGGT in order to maximise the opportunities for new residents in the HGGT and existing residents in the surrounding area recognising that, through a collaborative approach, the Partner Authorities will be best placed to deliver their vision for the HGGT promoting healthy and sustainable growth with ambitious net zero targets.

4.5. The primary aims of the Joint Committee will be to:

- 4.5.1. develop, approve and maintain a vision for the HGGT;
- 4.5.2. develop and maintain an overview of the delivery of the vision for the HGGT;
- 4.5.3. monitor and report to the Partner Authorities on progress against the master programme of delivery;



- 4.5.4. receive information on a quarterly basis regarding programme delivery;
  - 4.5.5. have an overall view on milestones and dependencies;
  - 4.5.6. maintain oversight of the strategic risks of delivery and develop mitigations as necessary;
  - 4.5.7. develop a strategy for the RIF including monitoring the spend of payments from the RIF; and
  - 4.5.8. receive updates and reports from the Partner Authorities in respect of (but not exclusively) the areas below which are deemed critical to the success of the HGGT:
    - Modal Shift, Transport Infrastructure and Sustainable Transport Corridors
    - RIF
    - Planning Policy, Infrastructure & Developer Contributions
    - Economy & Jobs
    - Town Centre Regeneration
    - Housing
    - Communication and Community Engagement
    - Green and Blue Infrastructure
    - Stewardship
    - Programme Management.
- 4.6. Decisions which a Partner Authority is required to make in accordance with its own constitution are “Reserved Decisions” and must be referred back to the Partner Authorities for decision within such timescales as the Joint Committee may by written resolution determine or, in the absence of the same, within twelve (12) weeks. The Partner Authorities acknowledge that:
- 4.6.1. any decisions which are inconsistent with any Partner Authority’s budget and/or policy frameworks (without limitation) are Reserved Decisions;
  - 4.6.2. any decisions that result in the delegation of the transport and highways powers vested in ECC and HCC as highways authorities are Reserved Decisions;
  - 4.6.3. agreement to the strategy for the RIF is a Reserved Decision; and
  - 4.6.4. agreement by a Partner Authority to the Partner Authority Contribution is a Reserved Decision.
- 4.7. Any decision of the Joint Committee in relation to a Reserved Decision will not take effect or be deemed to take effect at any time unless and until it has been approved and ratified by all the Partner Authorities.

## 5. Term

- 5.1. The Joint Committee shall come into effect from the date upon which the Inter-Authority Agreement is signed on behalf of all Partner Authorities.
- 5.2. The Partner Authorities intend for the Joint Committee to be in place until at least 2033.
- 5.3. Subject to paragraph 5.4 an individual Partner Authority must give notice of at least twelve (12) months (or such shorter period as the parties may agree) of its intention to leave the Joint Committee and exit the terms of the Inter-Authority Agreement.



5.4. In the event that the Chair exercises his or her casting vote in a way that an individual Partner Authority disagrees with then such Partner Authority shall have the right to leave the Joint Committee and exit the terms of the Inter-Authority Agreement within three (3) months of providing notice of the same to the Chair.

## **6. Review of these Terms of Reference**

6.1. The Joint Committee is required to undertake a review of these Terms of Reference:

6.1.1. at least every five (5) years;

6.1.2. whenever a Partner Authority gives notice of withdrawal under paragraph 5.3 or paragraph 5.4; or

6.1.3. at such times as a Partner Authority may request on reasonable notice.

## **7. Executive Officer Group**

7.1. The Executive Officer Group will be chaired by the HGGT Director (or, in exceptional circumstances, the HGGT Director's deputy).

7.2. The Executive Officer Group will consist of a senior officer representative from each Partner Authority (or, in exceptional circumstances, such senior officer's deputy).

7.3. The Executive Officer Group will prepare all papers going before the Joint Committee.

7.4. The Executive Officer Group will be delivery focussed providing coordination and enabling services to the Joint Committee.

7.5. The Executive Officer Group will provide annual reports on activity to the Joint Committee.

## **8. Membership**

8.1. The Joint Committee shall consist of one elected councillor appointed by each Partner Authority in accordance with that Partner Authority's constitution. To be eligible for membership of the Joint Committee, a councillor must either be: (i) a member of the Cabinet of his/her appointing authority; or (ii) a relevant Portfolio Holder within his/her appointing authority; or (iii) an appointed deputy to either the Leader or a member of the Cabinet with relevant portfolio of his/her appointing authority.

8.2. Each Partner Authority may appoint a substitute. The substitute may attend any meeting of the Joint Committee or any of its sub-committees and may vote in place of that Partner Authority's principal member if notice that the substitute will attend and vote is given to the Secretary of the Joint Committee by the Partner Authority concerned in advance of such meeting.



- 8.3. Where a substitution notice is in effect with respect to a particular member at a particular meeting, the substitute shall be a full member of the Joint Committee for the duration of the meeting in place of the principal member.
- 8.4. Each Partner Authority may remove its appointed member and appoint a different member by giving written notice to the Secretary to the Joint Committee.
- 8.5. Each appointed member shall be entitled to remain on the Joint Committee for so long as the appointing Partner Authority so wishes.
- 8.6. Any casual vacancies will be filled as soon as reasonably practicable by the Partner Authority from which such vacancy arises giving written notice to the Secretary to the Joint Committee.

## **9. Co-Opted Members**

- 9.1. The Joint Committee may co-opt any other person whom it thinks fit to be a non-voting member of the Joint Committee. The Joint Committee may from time to time make rules as to:
  - 9.1.1. registration and declaration of interests by co-opted members; and
  - 9.1.2. standards of behaviour required to be observed by co-opted members when acting as such.

## **10. Chair, Vice-Chair and Independent Facilitator**

- 10.1. The Chair of the Joint Committee will be appointed by the members of the Joint Committee at its first meeting. The Chair of the Joint Committee shall hold that office until another member is appointed. The appointment of the Chair shall take place annually by the Joint Committee, beginning with the first annual meeting with subsequent appointments falling not later than twelve (12) months after the first annual meeting of the Joint Committee in the relevant years.
- 10.2. The Vice-Chair of the Joint Committee will be appointed from time to time by the members of the Joint Committee. The Vice-Chair of the Joint Committee shall hold that office until another member is appointed. The appointment of the Vice-Chair shall take place annually, beginning with the first annual meeting.
- 10.3. The Vice-Chair shall preside in the absence of the Chair. If there is a quorum of members present but neither the Chair nor the Vice-Chair is present at a meeting of the Joint Committee, the other members of the Joint Committee shall choose one of the members of the Joint Committee to preside at the meeting.
- 10.4. An independent facilitator may be appointed by the Joint Committee and co-opted to the Board on a three (3) year term. The Independent Facilitator will not have voting rights. The Independent Facilitator will assist in the facilitation of meetings by reviewing the draft agenda, facilitating the meetings, monitoring progress of the outcomes of the Joint Committee and working closely with the members of the Joint Committee to ensure the outcomes of the Joint Committee are met.

## **11. Secretarial**



11.1. The Accountable Body shall nominate a person to undertake the role of the Secretary of the Joint Committee. The Joint Committee shall be provided with the following secretariat support:

11.1.1. putting together of the agendas for meetings;

11.1.2. gathering of reports from the report writers;

11.1.3. publishing of the agenda(s) with the reports through the ModGov portal of the Accountable Body;

11.1.4. notifying the Democratic Services Manager of the other Partner Authorities of the link to the Joint Committee papers;

11.1.5. attendance at four (4) Joint Committee board meetings per year in person;

11.1.6. providing constitutional advice and guidance to the Joint Committee at those meetings;

11.1.7. production of actions, decisions and minutes from the Joint Committee; and

11.1.8. publication of actions, decisions and minutes from the Joint Committee on the ModGov portal of the Accountable Body.

## **12. Sub-Committees and Working Groups**

12.1. The Joint Committee may appoint such sub-committees from among its membership as it thinks will help it to enable it to fulfil its remit. The Joint Committee may delegate its responsibilities to such sub-committees. Sub-Committees may co-opt non-voting members.

12.2. The Joint Committee may set up working groups to advise it on matters within its remit. Such working groups may be formed of members or officers of the constituent Partner Authority or any other third party as the Joint Committee sees fit. Such working groups are advisory only and the Joint Committee may not delegate its responsibilities to such working groups.

## **13. Code of Conduct**

13.1. Each member of the Joint Committee and any Sub-Committee shall comply with any relevant code of conduct of their Partner Authority when acting as a member of the Joint Committee.

## **14. Notice of Business**

14.1. The Chair may direct the Secretary to the Joint Committee to call a meeting and may require any item of business to be included in the summons.

14.2. Any four (4) members of the Joint Committee may by notice in writing require the Chair to call a meeting to consider a particular item of business and if the Chair fails to do so within 20 working days of receipt of the notice then those four (4) members



may direct the Secretary to the Joint Committee to call a meeting to consider that business.

## **15. Time and Place of Meetings**

- 15.1. All meetings of the Joint Committee will take place on a date and time that the Joint Committee shall determine. It is the expectation of the Partner Authorities that most meetings will be held in the evenings.
- 15.2. All meetings of the Joint Committee will take place at the offices of Harlow District Council unless otherwise agreed by the Joint Committee.
- 15.3. The Joint Committee may, if the law permits, arrange for attendance at meetings via video conferencing. Any such attendance shall be in accordance with the law and any other requirements imposed by the Joint Committee from time to time.
- 15.4. Any Section 151 Officer or Monitoring Officer is entitled to attend all parts of all meetings of the Joint Committee or of any sub-committee appointed by the Joint Committee.

## **16. Frequency of Meetings**

- 16.1. The Joint Committee will meet at least four (4) times per year including the annual meeting.

## **17. Notice of and Summons to Meetings**

- 17.1. The Secretary to the Joint Committee will give notice to the public of the time and place of any meeting in accordance with Part VA of the Local Government Act 1972. At least five (5) clear days before a meeting, the Secretary to the Joint Committee will send a summons by email and, if a member of the Joint Committee so requests, by post to every member at their last known address. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **18. Quorum**

- 18.1. The quorum of a meeting will be the 5 members who are entitled to attend and vote.
- 18.2. If there is no quorum present at the start of the meeting, the meeting may not commence. If after one (1) hour from the time specified for the start of the meeting no quorum is present, then the meeting shall stand adjourned to another time and date determined by the Secretary to the Joint Committee.

## **19. Voting**

- 19.1. Each elected member shall have one vote.
- 19.2. Co-opted members and the Independent Facilitator will not have a vote.



- 19.3. Any matter will be decided by a simple majority of those members of the Partner Authorities represented in the room at the time the question is put. In the event of equality of votes the person presiding at the meeting will be entitled to a casting vote under sections 39(1) and 44 of Schedule 12 of the Local Government Act 1972.
- 19.4. The members will agree a way of working protocol with the aim of ensuring that decisions should only be put to the vote if such decision is likely to result in at least four votes in favour. In the event of any conflict between this paragraph and paragraph 19.3 above, paragraph 19.3 will take precedence.
- 19.5. The member appointed as a substitute shall have the same voting rights as the member for whom he or she is substituting. Where notice of substitution has been given for a particular meeting, the principal member may not vote unless the notice of substitution is withdrawn before the start of the meeting.
- 19.6. The Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 19.7. The minutes of the meeting shall record how a member of the Committee voted on a particular question if, at the time that the vote is taken or immediately thereafter, that member asks the Secretary to the Joint Committee or his or her representative at the meeting to record his vote.

## **20. Minutes**

- 20.1. The Secretary to the Joint Committee shall arrange for written minutes to be taken at each meeting of the Joint Committee and shall present them to the Joint Committee at its next meeting for approval as a correct record. At the next meeting of the Joint Committee, the Chair shall move that the minutes of the previous meeting be signed as a correct record. If this is agreed, the Chair of the Joint Committee shall sign the minutes.
- 20.2. Draft minutes or a summary of the decisions taken at the meeting and a note of the actions arising shall be circulated to the Joint Committee and to each Partner Authority by email no later than seven (7) working days after the date of the meeting.
- 20.3. Minutes of the meeting shall be published by the Accountable Body to the extent required by Part VA of the Local Government Act 1972.

## **21. Access for Elected Members of the Partner Authorities**

- 21.1. Any elected member of the Partner Authorities who is not a member of the Joint Committee may speak at a meeting of the Joint Committee if the Chair of the Joint Committee invites him or her to do so but an elected member of the Partner Authorities who is not a member of the Joint Committee shall not be entitled to vote at a meeting of the Joint Committee.

## **22. Public Access**





- 22.1. Meetings of the Joint Committee shall be open for members of the public to attend unless the Joint Committee determines that it is necessary to exclude members of the public in accordance with Part VA of the Local Government Act 1972 or the Joint Committee determines that it is necessary to close the meeting to the public because of a disturbance.
- 22.2. Copies of the agenda for meetings of the Joint Committee and any reports for its meetings shall be open to inspection by members of the public at the offices of the Partner Authorities with the exception of any report which the Secretary to the Joint Committee determines relates to items which in his or her opinion are likely to be considered at a time when the meeting is not to be open to the public.
- 22.3. If a member of the public interrupts proceedings, the Chair will warn the person concerned. If that person continues to interrupt, the Chair will arrange for that person to be removed from the meeting room and will suspend the meeting until the member of the public has left or been removed.
- 22.4. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

### **23. Communications**

The Joint Committee may agree a protocol for communications.

### **24. Overview and Scrutiny**

- 24.1. Each Partner Authority has overview and scrutiny committees which have the right to scrutinise the operation of the Joint Committee. The Joint Committee and the Accountable Body will co-operate with reasonable requests for information from any of the Partner Authorities' overview and scrutiny committees.
- 24.2. The Partner Authorities acknowledge that decisions of the Joint Committee shall be subject to call-in to comply with the Partner Authorities' legal duty to enable scrutiny of decisions.
- 24.3. The Partner Authorities agree that if an overview and scrutiny committee of any Partner Authority wishes to call-in a decision of the Joint Committee, it can do so subject to the normal procedures of that Partner Authority.
- 24.4. If any decision of the Joint Committee is subject to call-in by any Partner Authority:
- 24.4.1. the relevant Partner Authority shall notify the Secretary of the call-in as soon as reasonably possible;
  - 24.4.2. the Secretary shall notify all other Partner Authorities of the call-in as soon as reasonably possible; and
  - 24.4.3. the relevant Partner Authority shall notify the Secretary and each of the other Partner Authorities of the outcome of the call-in (and shall provide a copy of any report produced by the relevant overview and scrutiny committee to the Secretary and the other Partner Authorities) as soon as reasonably possible.



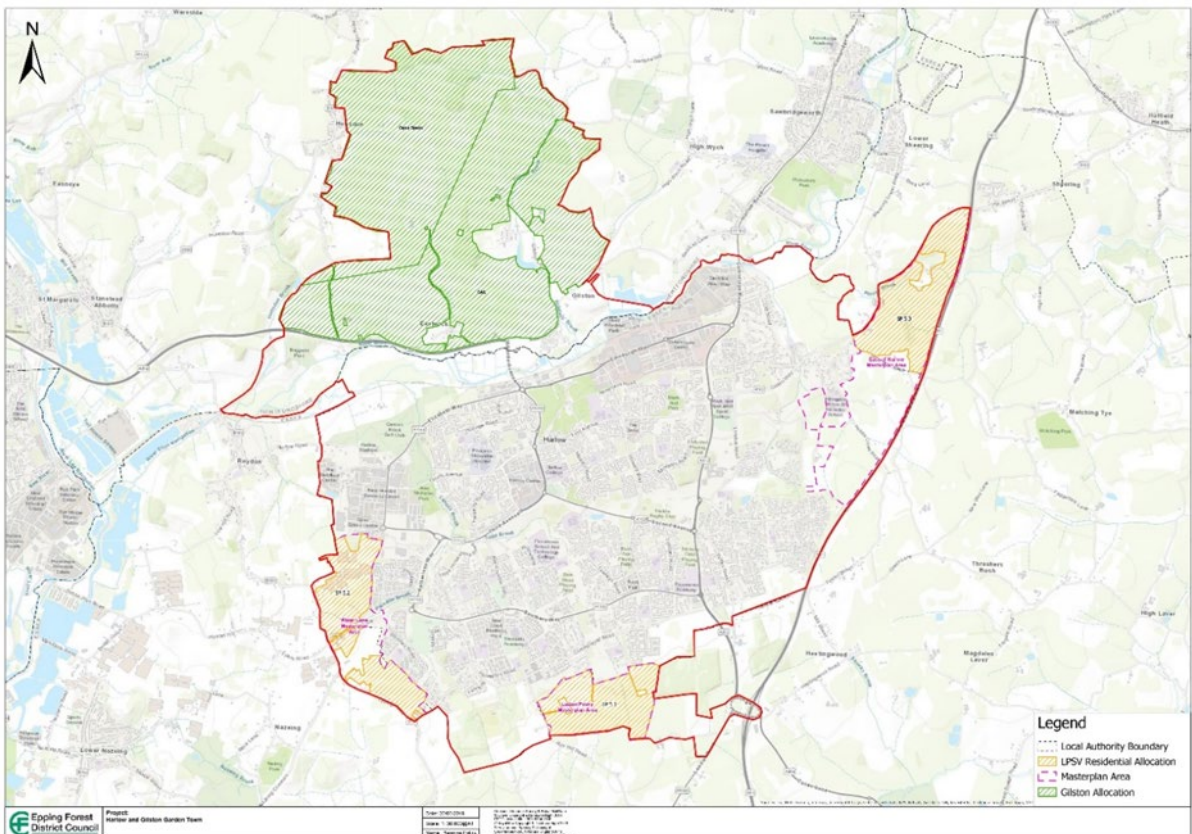
- 24.5. At the request of the HGGT Director, each Partner Authority and the Accountable Body shall ensure that appropriate officers attend any meeting of an overview and scrutiny committee which is considering matters falling within the remit of these Terms of Reference, regardless of which Partner Authority's overview and scrutiny committee has called-in the decision.
- 24.6. The Joint Committee will receive and consider any report or recommendations of any overview and scrutiny committee at a special meeting to be called as soon as reasonably possible after receipt of the same.
- 24.7. If the Joint Committee considers that a decision it has taken should be deemed urgent and in need of immediate implementation, the Joint Committee may recommend that each Partner Authority waive application of its call-in procedure in relation to that decision. Whether or not such a waiver is granted by a Partner Authority will be determined by the applicable rules of that Partner Authority.
- 24.8. The Joint Committee acknowledges that the Partner Authorities' audit teams and external auditors shall be entitled to access all relevant documents and records for conducting audits related to the operation of the Joint Committee.

## 25. Regulation of Business

- 25.1. Any ruling given by the Chair as to the interpretation of these Terms of Reference with respect to the regulation of proceedings at a meeting shall be final.
- 25.2. Subject to the law, the provisions of these Terms of Reference and the Inter-Authority Agreement and the terms of any contract, the Joint Committee may decide how it discharges its business.



## Appendix 1 HGGT Area



## Appendix 2

Except to the extent that such adoption is a Reserved Decision, the Joint Committee will on behalf of all Partner Authorities adopt key strategies and policies relating to the Garden Town including but not exclusively:

1. HGGT Vision
2. Economic Growth Strategy
3. Transport Strategy
4. Housing Strategy
5. Stewardship Strategy
6. Parking Strategy
7. Green and Blue Infrastructure Strategy
8. Rolling Infrastructure Fund
9. Design Guide
10. Sustainability
11. IDP refresh (bi-annual)
12. Land Assembly Strategy
13. Master plans (input and or design) for endorsement



## Appendix 3 Functions of the Joint Committee

### General Principles

Each Partner Authority will transfer the functions listed below, whether they are currently exercised by the executive or cabinet, individual members of the executive or officers within the Partner Authorities. This will include the authority to make key decisions in respect of these functions.

The functions of the Board are set out below and fall into the following categories:

**“Approve / Approval”** meaning that the Joint Committee has delegated authority from the Partner Authorities to make a decision on the matter before the Joint Committee, such decision to bind the Partner Authorities without further recourse to the Partner Authorities individually except where such matter is a Reserved Decision.

**“Recommend / Recommendation”** meaning that the Joint Committee has the remit to scrutinise, comment and make representations in relation to the matter before the Joint Committee, such as recommendations to be made to any or all of the Partner Authorities. Each Partner Authority will make its own decision as to whether to adopt such recommendation.

**“Overview and Awareness”** meaning the Joint Committee has the remit to review and consider matters, and for relevant information to be supplied in order for the Joint Committee to inform an overall Master Programme for the HGGT, identify interdependencies and risks, and make recommendations to any or all of the Partner Authorities.

**“Consultation”** meaning the Partner Authorities are added to consultation lists where other proposals, policies or plans affect the HGGT Area and that the Joint Committee consults with other Partner Authorities on HGGT matters that may affect them. Where the Joint Committee is able to be consulted and submit representations to local strategies, it might be necessary for the Partner Authorities that has prepared that document to remove their name from the response.

In accordance with the above, the Joint Committee has delegated authority to exercise the following functions:

### **HGGT Vision and Area**

1. To approve the HGGT Vision and any changes to the HGGT Vision.
2. To make recommendations to the Partner Authorities to amend the HGGT Area, being the red line boundary as set out in Appendix 1 to these Terms of Reference and to have the ability to revise it as necessary as the HGGT project progresses.

### **Funding**

3. To recommend the level of Partner Authority Contribution requested from each Partner Authority as a member of the Joint Committee to support its work.



## Programme Management

4. To approve, develop and maintain the Master Programme for delivery of the HGGT which sets out the overarching programme plan of key activities required to deliver the HGGT Vision, in particular housing and infrastructure.
5. To identify interdependencies and risks to the Master Programme along with mitigating actions to make recommendations to Partner Authorities as appropriate.
6. To make recommendations to Partner Authorities to maintain progress against the Master Programme.
7. To approve, develop and maintain a Forward Plan for all key decisions. Key decisions are any decisions of the Joint Committee which;
  - a. result in total expenditure or savings of £200,000 revenue funding or £2,000,000 capital funding;
  - b. significantly affect residents of more than 1 ward of the partner authorities.
8. No key decision will be made unless 28 days' notice of the making of the decision has been published in the forward plan unless:
  - a. the proper officer considers that giving 28 days' notice is not possible, has given notification to the chairs of the relevant overview and scrutiny committee of each of the Partner Authorities and published a notice of the intention to make the decision 5 days prior to the decision being made; or
  - b. if it is impracticable to comply with (a) above the proper officer has obtained the agreement of all five (5) Chairs of the relevant overview and scrutiny committees or, in their absence the Mayor or Chairmen of the five Partner Authorities.

In either case the proper officer must publish a notice of the reasons for the decision being made without giving 28 days' notice in the forward plan

## Rolling Infrastructure Fund (RIF)

9. Not used.
10. To develop and approve a strategy for the establishment and management of the RIF (the "RIF Strategy") including identification of the accountable body, monitoring receipts, agreeing spend, exploring commercial and investment options, and a process to forward fund infrastructure through borrowing in advance of contributions.
11. To manage and oversee the expenditure and activity from the RIF.
12. Not used
13. To allocate RIF funding to the Partner Authorities and approve the terms of such funding.
14. To implement the RIF Strategy providing leadership across the HGGT Area.
15. To ensure appropriate public expenditure controls and governance is in place to manage and control the RIF.



## **Modal Shift, Transport Infrastructure and Sustainable Transport Corridors**

16. To develop, approve and update the transport strategy relating exclusively to the HGGT Area (the “Transport Strategy”).
17. To oversee the implementation of the Transport Strategy providing leadership across the HGGT Area.
18. To be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relation to transport where it affects the HGGT Area.
19. To develop and recommend an operating model for public transport that can work across Partner Authorities administrative boundaries to provide a coherent system for customers and residents.
20. To make recommendations to any or all Partner Authorities concerning any transport matters exclusively or significantly impacting the HGGT including but not limited to strategies, plans, programmes, policies or projects.
21. To develop and maintain an overarching programme plan of key activities required to deliver modal shift, including the transport infrastructure identified for the HGGT Area such as the Sustainable Transport Corridors, and making recommendations to any or all of the Partner Authorities on strategic alignment and delivery progress.
22. For clarification, nothing in the Joint Committee’s remit is intended to nor will be interpreted as overriding or amounting to a delegation of the transport, highways or flood risk powers vested in ECC and HCC as local transport authorities, highway authorities or lead local flood authorities.

## **External Funding Applications**

23. To identify and recommend to any or all of the Partner Authorities that an application be made for external funding (including grant funding) where such funding could, in the opinion of the Joint Committee, be used to support the HGGT noting that such Partner Authorities will be obliged to comply with the terms associated with such funding and take its own decision as to whether to apply for and accept such funding.

## **Planning Policy, Infrastructure and Developer Contributions**

24. To develop, approve and maintain:
  - planning strategies, plans and programmes exclusively impacting the HGGT as set out in Appendix 2 (excluding masterplans which shall be endorsed by the Joint Committee)
  - design guides
  - sustainability guidance
  - infrastructure development plans including refresh
  - S106 planning obligations guidance
  - economic growth strategies
  - housing strategies
  - excluding:
    - development plan documents
    - Supplementary Planning Documents and Supplementary Plans



- Housing Strategies adopted by Local Housing Authorities

provided that the documents, guides, strategies and guidance listed in this paragraph 22 shall not override any other documents, guides, strategies and guidance issued by any of the Partner Authorities which shall remain material considerations for each Partner Authority when exercising its planning functions.

25. To make recommendations in respect of any spatial development plan being prepared by any Partner Authorities individually.

### **Economy and Jobs**

26. To develop and approve an economic growth strategy for the HGGT Area to create inclusive and sustainable economic growth for the HGGT that focuses on economic regeneration, renewal and growth and skills in Harlow and its hinterland (the “Economic Growth Strategy”).
27. To oversee the implementation the Economic Growth Strategy providing leadership across the HGGT Area, working in partnership with the wider functional economic area as necessary to achieve the aims.
28. To be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relations to economic development where it affects the HGGT Area.

### **Harlow Town Centre Regeneration**

29. To be consulted on masterplans, design briefs, development briefs, funding bids and planning applications relating to major developments in Harlow Town Centre.
30. To make recommendations to HDC in relation to the above in connection with interdependencies with the HGGT Programme.
31. To receive regular reports and not less than twice a year on the progress of the regeneration of Harlow Town Centre and provide comment on this to HDC.

### **Housing**

32. To consider and make recommendations to the Local Housing Authorities on their respective Housing Strategies.
33. To identify ways in which the development of the HGGT strategic sites can contribute to the renewal of existing neighbourhoods in Harlow and satisfy the housing need of the whole HGGT Area.

### **Green & Blue Infrastructure**

34. To develop and approve a Green and Blue Infrastructure Strategy for the HGGT Area.
35. To implement the Green and Blue Strategy providing leadership across the HGGT Area.





36. To be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relations to Green and Blue Infrastructure where it affects the HGGT Area.

### **Stewardship**

37. To develop and approve a stewardship strategy for the HGGT Area to create legacy arrangements for the management of infrastructure for those communities within the HGGT (the “Stewardship Strategy”).
38. To implement the Stewardship Strategy providing leadership across the HGGT Area.
39. To be consulted on relevant strategies and policies and initiatives of the Partner Authorities in relations to stewardship where it affects the HGGT Area.

### **Community Engagement & Communications**

40. To develop, approve and maintain a Communication and Engagement Strategy for the HGGT initiative.
41. To implement the communication and engagement strategy providing leadership across the HGGT Area.
42. To receive reports on Quality of Life indicators in Harlow and the new neighbourhoods on a regular basis.

### **HGGT Vision Assurance and Role of Independent Quality Review Panel**

43. To establish and approve a Quality Review Panel (“QRP”) to provide independent, objective, expert advice on master planning and planning applications for development proposals across the HGGT on the agreed terms of reference which can be found via the following link: [2022 Frame Harlow-and-Gilston-QRP ToR.pdf \(hggc.co.uk\)](#).
44. To oversee the effectiveness of the QRP.
45. To receive regular updates reports on the commissioning, remit, performance and outputs of the QRP.

### **Oversight Process for Strategic Masterplans and Planning Applications in the HGGT**

46. To make recommendations to provide effective vision assurance and ensure the consistent application of the HGGT Vision, Garden Town Principles, and oversight of emerging masterplans for sites forming part of the HGGT during early formative stages.
47. The Joint Committee will:
  - a. receive and consider regular update reports as to progress and / or completion of current strategic master-planning work;



- b. receive briefings on any masterplan for the HGGT prior to any decision by the relevant Local Planning Authority that the strategic master plan can be endorsed for consultation or approved;
- c. comment and make representations to the relevant Local Planning Authority in relation to any master plans;
- d. make recommendations in respect of planning applications for strategic sites within the HGGT. The Joint Committee will be consulted by the Local Planning Authority and will provide a response to ensure that the relevant Garden Town Principles, the HGGT Vision, and any other relevant guidance are considered by the Local Planning Authority.



# SCHEDULE 11

## GOVERNANCE STRUCTURE

