DATED 202**[x]**

1. **[APPLICANT]**
2. **SUFFOLK COUNTY COUNCIL**

**[NAME OF DEVELOPMENT CONSENT PROJECT]**

**PLANNING PERFORMANCE AGREEMENT**

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**PLANNING PERFORMANCE AGREEMENT**

**DATED 202[X]**

**PARTIES**

1. **[APPLICANT]** whose registered office is [**XXX**]and whose Registered Company No. is [**XXX**] (“**the Applicant**”), and
2. **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX (“**the Council**”).

**BACKGROUND**

1. This Planning Performance Agreement (“**PPA**”) concerns the Project, a nationally significant infrastructure project for the purposes of the 2008 Act and for which Development Consent is required.
2. The Council is a Local Authority for the purposes of the 2008 Act for the area in which the Project is proposed to be located.
3. The Applicant is the applicant for the Project.
4. The Council and the Applicant have entered into this PPA in recognition of their agreement to work collaboratively in respect of the Project and to provide for the Council to recover from the Applicant the full cost of any service it provides in respect of the Development Consent application.
5. This PPA is entered into by the Council under section 111 of the Local Government Act 1972 and section 93 of the Local Government Act 2003, which allows the Council to charge for providing discretionary services.
6. **INTERPRETATION**

2008 Act means the Planning Act 2008;

Bank Holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England;

Development Consent means development consent, as defined in section 31 of the 2008 Act;

Examination means the Examination for the purposes of Chapter 4 of Part 6 of the 2008 Act

Local Authority means a local authority, as defined in section 43(3)(a) of the 2008 Act;

Local Impact Report means a local impact report, as defined in section 60(3) of the 2008 Act;

Project means [insert description of the project e.g. the Sizewell C (Nuclear Generating Station) project];

Working Day means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

1. **DURATION**
	1. Subject to paragraph 2.2, this PPA is effective from its date until [[the end of the Examination.]]
2. **NO FETTER OF DISCRETION**
	1. Nothing in this PPA has the effect of fettering the Council’s discretion in respect of any advice, decision, representation, or response given or made by the Council in connection with the Project.
3. **OBJECTIVES**
	1. The objectives of this PPA are to –
		* + 1. Set out the Performance Standards for the Applicant and Council (Schedules 1 (the Applicant’s Performance Standards) and 2 (the Council’s Performance Standards), respectively).
				2. Set out the Project Programme, including meetings (Schedule 3 (the Project Programme)).
				3. Set out the Applicant’s and Council’s Project Team (Schedule 4 (the Project Teams)).
				4. Set out timeframes for a response from the Applicant and the Council (Schedules 1 and 2).
				5. Establish appropriate measures for monitoring compliance with this PPA.
				6. Establish regular review mechanisms.
4. **PERFORMANCE STANDARDS**
	1. The Applicant agrees to use its reasonable endeavours to achieve the performance standards set out in Schedule 1 (the Applicant’s Performance Standards).
	2. The Council agrees to use its reasonable endeavours to achieve the performance standards set out in Schedule 2 (the Council’s Performance Standards).
5. **PROJECT PROGRAMME**
	1. The Project Programme (Schedule 3 (the Project Programme)) provides –
		* + 1. a timeframe for providing advice before the application for Development Consent is submitted;
				2. a draft timetable of meetings which may be subject to change, as agreed.
	2. Meetings shall be carried out in accordance with the Performance Standards set out in Schedule 3.
6. **CHARGING PRINCIPLES**
	1. The Applicant agrees to pay the Council’s costs in accordance with the following principles –
		* + 1. the Council may recover from the Applicant the full cost of any service it is authorised, but not required, by an enactment to provide, in connection with the application for Development Consent;
				2. the Council’s costs in connection with the application for Development Consent include, but are not limited to, its costs in responding to any consultation undertaken by the Applicant in respect of the Project, the preparation of a Local Impact Report, the preparation of any written representation by the Council in respect of the application for Development Consent, and participation in the Examination (including attendance at any issue specific hearing, compulsory acquisition hearing and open floor hearing);
				3. the cost of any external legal advice, or any other third-party professional advice, provided to the Council in connection with the Project (including, but not limited to, the matters listed in clause 7.1(b));
				4. taking one financial year with another, the income from charges for the Council’s services must not exceed the Council’s costs of providing them;
				5. any costs and disbursements arising from the Project, which are additional to the sum mentioned in clause 8.1, are recoverable by the Council including, but not limited to, travel costs to meetings and site visits, and the cost to the Council of hosting any meeting not held in a Council building;
				6. no refund will be made on any payment once payment is made.
	2. Nothing in this PPA shall require the Applicant to pay –
		* + 1. the Council’s costs in respect of entering into an agreement with the Applicant pursuant to section 106 of the Town and Country Planning Act 1990 (which shall be recoverable pursuant to an undertaking provided by the Applicant’s solicitors, in the usual way);
				2. for any work covered by another agreement between the Applicant and the Council;
				3. any mitigation related to the Project (which shall be committed separately by the Applicant).
7. **CHARGES**
	1. The Applicant agrees to pay to the Council **[£XXX]** plus VAT to cover the Council’s anticipated costs as set out in Schedule 5 (Breakdown of the Council’s anticipated costs), in accordance with clause 8.2.]
	2. Unless otherwise agreed in writing by the Applicant and Council, the Applicant agrees to pay the Council the sum mentioned in paragraph 8.1 in [four] equal tranches on the following payment dates –
		* + 1. [The first tranche payment date: [XXX]]
				2. [The second tranche payment date: [XXX]]
				3. [The third tranche payment date: [XXX]]
				4. [The fourth tranche payment date: [XXX]]
	3. Within **[XXX]** Working Days of the Council receiving payment in accordance with a payment date mentioned in clause 8.2, the Council must provide the Applicant with an expenditure report which outlines the expenditure incurred by the Council for the period covered by the payment and which includes the information set out in Schedule 6 (Expenditure Report).
8. **REVIEW AND AMENDMENT OF PPA**
	1. From the first anniversary of the date of this PPA, the Applicant and Council may review its contents.
	2. Any amendment to this PPA must be agreed in writing between the parties.
9. **LEGAL STATUS**
	1. Save for clauses 7 (charges) and 8 (charging principles), this PPA is not binding or enforceable under the law of contract.
	2. Clauses 7 (charges) and 8 (charging principles) are expressly agreed by the Council and Applicant to be binding and enforceable under the law of contract and shall be governed by and construed in accordance with English law.
	3. The Contracts (Rights of Third Parties) Act 1999 shall not apply and no person other than the Parties (and any successors in title, assigns or successor bodies) shall have any rights under or be able to enforce the provisions of this PPA.

**[OR]**

* 1. This PPA is binding and enforceable under the law of contract and shall be governed by and construed in accordance with English law.
	2. The Contracts (Rights of Third Parties) Act 1999 shall not apply and no person other than the Parties (and any successors in title, assigns or successor bodies) shall have any rights under or be able to enforce the provisions of this PPA.
1. **COSTS OF PPA**
	1. The Applicant agrees to pay on completion of this PPA the legal costs reasonably and properly incurred by the Council for or in connection with the preparation and negotiation of this PPA.

**EXECUTION PAGE**

The common seal of **SUFFOLK COUNTY COUNCIL** )

was hereunto affixed in the presence of )

………………………………………..

Authorised Signatory

………………………………………..

Authorised Signatory

**[APPLICANT’S SEAL ETC.]**

**Schedule 1**

**The Applicant’s Performance Standards**

**[Note: it does not follow that each Performance Standard listed below will need to be included in each PPA].**

1. The Applicant agrees to –
2. Provide to the Council at least [[10]] Working Days before any meeting with all documents relevant to that meeting.
3. Provide to the Council within [[5]] Working Days of any meeting (a) the minutes and any action points arising from that meeting and (b) any documents the Applicant agreed to provide at the meeting.
4. Respond substantively to all emails within [[10]] Working Days and telephone calls within [[5]] Working Days, unless otherwise agreed with the Applicant.
5. Comply with any provisions of the Project Programme (Schedule 3 (the Project Programme)) which relate to the Applicant.
6. Provide the Council within such additional information as may be requested by the Applicant within [[10]] Working Days of that request.
7. Agree with the Council a timetable for sharing draft application documents on a confidential basis.
8. Use reasonable endeavours to enter into a communication protocol with the Council which will include, among other things, provision for sharing press releases before publication.
9. Agree such other Performance Standards as agreed by the Applicant and the Council.
10. Act with good faith towards the Council in all matters relating to this PPA.

**Schedule 2**

**The Council’s Performance Standards**

**[Note: it does not follow that each Performance Standard listed below will need to be included in each PPA].**

1. The Council agrees to –
2. Designate a Project Manager for the purposes of the application for Development Consent for the Project.
3. Respond substantively to all emails within [[10]] Working Days and telephone calls within [[5]] Working Days, unless otherwise agreed with the Applicant.
4. To ensure that the appropriate officer attends each meeting with the Applicant.
5. Review any document provided by the Applicant in accordance with paragraph 1(i) of Schedule 1 (the Applicant’s Performance Standards) to this PPA ahead of the meeting in question.
6. Comment on any minutes or action points provided by the Applicant within [[10]] Working Days of receipt.
7. Provide to the Applicant at least [[10]] Working Days before any meeting with all documents relevant to that meeting.
8. Work constructively and professionally with the Applicant throughout the duration of this PPA.
9. Comment on the Applicant’s “Statement of Community Consultation”.
10. Where requested by the Applicant, to comment on any environmental assessment being prepared by the Applicant for the purposes of the Project, including the provision of any information required by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
11. Submit a Local Impact Report to the Secretary of State.
12. Participate during the Examination.
13. Inform local communities and Council members of the way in which they can participate in the Development Consent process in connection with the Project.
14. Use reasonable endeavours to enter into a communication protocol with the Applicant which will include, among other things, provision for sharing press releases before publication.
15. Agree such other Performance Standards as agreed by the Applicant and the Council.
16. Act with good faith towards the Applicant in all matters relating to this PPA.

**Schedule 3**

**The Project Programme**

The Applicant and Council agree to use their reasonable endeavours to ensure the pre-application stage of the application for Development Consent is advanced in accordance with the following programme and meeting schedule –

**Project Programme**

|  |  |
| --- | --- |
| **Month / Year** | **Project milestone** |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

**Meeting Schedule**

|  |  |  |  |
| --- | --- | --- | --- |
| **Date** | **Meeting Topic** | **Draft Agenda Items** | **Attendees** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**Schedule 4**

**The Project Teams**

**The Applicant’s Project Team**

|  |  |  |
| --- | --- | --- |
| **Role** | **Organisation** | **Contact details** |
| Applicant |  |  |
| Environmental contact |  |  |
| Highways contact |  |  |
| Legal contact |  |  |
| Planning contact |  |  |
| Etc. etc. |  |  |

**The Council’s Project Team**

|  |  |
| --- | --- |
| **Role** | **Name and contact details** |
| Project Manager |  |
| Environmental contact |  |
| Highways contact |  |
| Legal contact |  |
| Planning contact |  |
| Etc. etc. |  |

**Schedule 5**

**Breakdown of the Council’s anticipated costs**

**[Note: This list is based on services typically involved in NSIPs within a County Council. Amend as required.]**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Person** | **Hour(s)** | **Scale** | **£ per hour** | **Cost** |
| Senior Management  |  |  |  |  |
| Programme Management  |  |  |  |  |
| Project Support  |  |  |  |  |
| Training for officers how the NSIP process works  |  |  |  |  |
| Archaeology  |  |  |  |  |
| Ecology  |  |  |  |  |
| Economic Development  |  |  |  |  |
| Joint Emergency Planning Unit  |  |  |  |  |
| Fire & Rescue  |  |  |  |  |
| Floods / LLFA  |  |  |  |  |
| Highways / Transport Strategy  |  |  |  |  |
| Highways Modelling Consultants  |  |  |  |  |
| Landscape  |  |  |  |  |
| Property  |  |  |  |  |
| PROW  |  |  |  |  |
| Public Health  |  |  |  |  |
| Planning  |  |  |  |  |
| Skills   |  |  |  |  |
| In-house Solicitors  |  |  |  |  |
| External Solicitors   |  |  |  |  |
| Counsel  |  |  |  |  |

**Schedule 6**

**Expenditure Report**

1. The expenditure report mentioned in clause 8.3 (charging principles) must include an outline of expenditure incurred by the Council during the period covered by the payment received in accordance with clause 8.2 (charging principles) and which includes details of –
2. Any service provided by the Council to the Applicant;
3. Any costs incurred by the Council in connection with the application for Development Consent;
4. Any third-party costs incurred by the Council;
5. Any meetings attended by the Council (including meetings with the Applicant, meetings with the Applicant’s representatives, internal meetings, meetings with the Council’s professional advisers); and
6. Any additional costs or disbursements incurred by the Council in accordance with clause 7.1(e) (charges).