

ESSEX COAST RECREATIONAL DISTURBANCE AVOIDANCE AND MITIGATION STRATEGY (RAMS): PARTNERSHIP AGREEMENT 2020-2023

1 PURPOSE OF REPORT

- 1.1 Under the direction of Natural England, the Council has been an active member of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Steering Group, in partnership with Essex County Council, Basildon Borough Council, Brentwood Borough Council, Braintree District Council, Castle Point Borough Council, Chelmsford City Council, Colchester Borough Council, Maldon District Council, Tendring District Council and Uttlesford District Council.
- 1.2 The Council previously noted the final Essex Coast RAMS in April 2019 and has been using the RAMS to effectively discharge its responsibilities under the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), including in the undertaking of appropriate assessments at the planning application stage.
- 1.3 A joint supplementary planning document (SPD) has been prepared which would, if adopted, distil the relevant information from the RAMS into a more concise format, providing information to applicants on the need, process and mechanisms for applying the RAMS at the planning application stage.
- 1.4 The Council previously noted in October 2019 the draft SPD and approved a public consultation on the RAMS SPD. The consultation was undertaken by Place Services (the consultancy arm of Essex County Council) on behalf of the Essex Coast RAMS authorities in January and February 2020. As a result of the consultation a revised SPD has been produced with minor amendments taking into consideration consultation comments. The purpose of this report is to seek approval for the associated SPD Partnership Agreement which will enable collaboration on a range of topics through joint studies, strategy, and action.
- 1.5 The Partnership Agreement will set out the relationship (rights and obligations) between the parties and the organisation of the work.

2 INTRODUCTION

- 2.1 The Council's existing Core Strategy 2011 sets out the Council's commitment to the protection, promotion, and enhancement of biodiversity throughout the district.

-
- 2.2 The National Planning Policy Framework (NPPF) 2019 requires Plans to maintain the character of the undeveloped coast, while improving public access to it, where appropriate, and to protect, enhance and promote conservation of priority habitats. Furthermore, the NPPF requires Plans to promote the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.
- 2.3 The Council's existing planning policies, including policy ENV1 of the Core Strategy, require the Council to maintain the environmental quality in the district to protect its distinctive character.
- 2.4 The Council, as a competent authority, has legal obligations under the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') to ensure the effects of 'plans and projects' do not have an adverse impact on the integrity of habitat sites either individually or in combination with other plans and projects. For planning applications this means, where appropriate, undertaking Habitats Regulations Assessments (HRA) to identify any likely significant effects on the integrity of habitat sites and whether these can be avoided or mitigated.
- 2.5 The Essex coastline provides recreational opportunities for Essex residents and is home to internationally important numbers of breeding and non-breeding birds and their coastal habitats.
- 2.6 A large proportion of the Essex coastline is covered by international, European and national wildlife designations. A key purpose of these designations is to protect wildlife and habitats. Most of the Essex coast is designated under the Habitats Regulations as part of the European Natura 2000 network which includes Special Protection Areas (SPAs) and Ramsar sites. The protection of habitat sites is given emphasis in the National Planning Policy Framework (2019).
- 2.7 The habitat sites to which the RAMS applies are as follows, with those within Rochford District's authority area highlighted in bold:
- Essex Estuaries SAC
 - Stour and Orwell Estuaries SPA and Ramsar
 - Hamford Water SPA and Ramsar
 - Colne Estuary SPA and Ramsar
 - Blackwater Estuary SPA
 - Dengie SPA and Ramsar
 - **Crouch and Roach Estuaries SPA and Ramsar**

- **Foulness Estuary SPA and Ramsar**
 - Benfleet and Southend Marshes SPA and Ramsar
 - Thames Estuary and Marshes SPA and Ramsar
- 2.8 Evidence, described in detail in the RAMS, suggests that most of the recreational activity is undertaken by people who live in Essex.
- 2.9 The RAMS strategy explains the mitigation that is necessary to protect the wildlife of the Essex coast from the increased visitor pressure associated with new residential housing development in combination with other plans and projects and how this mitigation will be funded, as well as the implications for Rochford District's plan-making. The RAMS strategy highlighted a need for a per-dwelling tariff (£125.58 for 2020-21) to be applied to new residential developments in the district in order to effectively mitigate the resultant impacts on the integrity of Habitat sites.
- 2.10 The RAMS strategy applies to new residential dwellings where there is a net gain, that will be built in the Zone of Influence (Zol) of the Habitat sites. The Zol identifies the distance within which new residents are likely to travel to the Essex coast habitat sites for recreation. The entirety of Rochford District falls within one or more Zol.
- 2.11 The RAMS strategy explains that mitigation at this scale, and across several LPAs, is best tackled strategically and through a partnership approach to ensure maximum effectiveness of conservation outcomes and cost efficiency.
- 2.12 The Planning Policy Sub-Committee previously noted the RAMS Strategy in April 2019, and, following an interim period, the Council has been applying the RAMS in the determination of planning applications.

3 Summary of Partnership Agreement

- 3.1 In recognition of the continued benefits of a collaborative approach to the RAMS, Chelmsford City Council (CCC) has volunteered to become the nominated 'accountable body' for the RAMS for an initial fixed term of 3 years.
- 3.2 A 'Partnership Agreement,' that the Council has been invited to sign, has been prepared to cover how the 12 authorities will continue to work together and their respective roles and obligations under the partnership. The Partnership Agreement identifies CCC as the accountable body for the management of the RAMS on behalf of any other authorities signing the agreement and formalising the arrangements - including the establishment of a 'Delivery Officer' role.
- 3.3 The Partnership Agreement is a legal document. It provides for how CCC will administer the RAMS project for an initial fixed term of 3 years. CCC has offered to manage and administer the developer contributions collected as

part of the RAMS on behalf of all the RAMS authorities – thus avoiding the duplication of resources across the Councils and keeping administration costs to a minimum.

- 3.4 In its role as accountable body, CCC would hold two main responsibilities; these being:
 - Recruiting, appointing and holding legal and line management responsibility for the RAMS delivery officer; and
 - Holding and administering the RAMS contributions prior to expenditure on projects.
- 3.5 The existing RAMS steering group will continue with a single officer representative per authority. This steering group will meet quarterly to discuss and agree any projects recommended by the Delivery Officer.
- 3.6 The existing Essex Planning Officers Association (EPOA) Chief Officers Group will provide oversight to the steering group and approve, or otherwise, the programme of works and projects recommended by the steering group. The implementation of approved works and projects will then be overseen by the delivery officer reporting back to the steering group.
- 3.7 It will be for each Council to determine how best to report on proposed expenditure through the RAMS. However, it should be noted that the mitigation package has already been agreed as part of the RAMS strategy in May 2019, therefore in practice the expenditure is already committed. Furthermore, it is a legal requirement that developer contributions are used solely for mitigation on the Habitat sites they will impact. This will mean that, just as residents cross boundaries to visit habitat sites, developer contributions will need to 'cross boundaries' to mitigate impacts on Habitat sites in other local authority areas. It will be one of the responsibilities of the delivery officer to ensure that project identification directs mitigation to the Habitat sites affected by development in a way that is proportionate to the amount of development being delivered in that area.
- 3.8 In light of the above, plus the fact that much of the expenditure will be on 'shared' projects such as the delivery officer, branding and public information campaigns, rather than on physical or site-specific expenditure, the partnership is unlikely to have much discretion in terms of how the RAMS contributions are used. The process outlined above is therefore likely to be more one of co-ordination and reporting. To manage the Council's role in the partnership, it is recommended that the Assistant Director, Place and Environment be delegated authority to endorse the project expenditure, in liaison with the Portfolio Holder for Planning, with annual reports to Council.

3.9 There are a number of reasons why entering into this Partnership Agreement is considered to be advantageous to the Council:

- **Creation of a dedicated resource:** the mitigation package in the strategy envisages the creation of a dedicated delivery officer who would manage the RAMS on behalf of the partner authorities (under contract and supervision). If the authorities were to manage the RAMS individually, it is considered unlikely that the RAMS contributions collected by any one authority would be sufficient to pay for a dedicated delivery officer, which would mean existing officer time and resource would have to go into managing the RAMS locally in every authority.
- **Managing cross-boundary impacts:** as residents do not acknowledge local authority boundaries when visiting habitat sites, the RAMS legally requires developer contributions to be collected from developments in one authority area to protect habitat sites in other local authority areas. This approach provides a means to ensure that the RAMS contributions can be spent on the sites they relate to, irrespective of local authority boundary.
- **Economies of Scale:** by working together, contributions can be pooled to allow for more effective expenditure against the mitigation package, such as joint marketing and branding, and funding larger more impactful projects where they are needed most. This approach also means investment can go into the most effective mitigation measures, and that there is a simpler process for where development in one area is likely to impact habitat sites located in another
- **Efficiency of process:** by continuing to work together, the partner authorities will be able to more effectively apply the RAMS consistently across the county, making it simpler and easier to understand for applicants and developers. A disjointed or inconsistent approach between authorities is a risk to the local plan process if Natural England disagree with the approach taken by a particular authority.

3.10 The alternative (i.e. not to enter into this partnership) would see the Council managing the RAMS contributions it collects in isolation. As the sum of these contributions is unlikely to be significant relative to the total value of the RAMS mitigation package, it is considered very unlikely that the Council would be able to create a new dedicated officer resource. As a result, it would likely fall upon existing officers to manage the RAMS contributions on top of their existing responsibilities. Furthermore, not entering into the partnership would forfeit the opportunity to pool contributions with other partner authorities which may lead to an inefficient or unco-ordinated investment programme that represented poor value for money or led to abortive expenditure. This in itself would create a risk that Natural England may raise objections to the Council's approach through both the Local Plan and individual planning applications which may require significant additional work to overcome.

- 3.11 The Council will be able to withdraw from the Partnership Agreement with six months' notice for any reason.
- 3.12 If the Council chooses not to agree the Partnership Agreement it will still have an obligation to comply with the Habitats Regulations and will therefore have to put in place its own arrangements.
- 3.13 The Partnership Agreement document is set out in full at Appendix A.

4 RISK IMPLICATIONS

- 4.1 LPAs have the duty, by virtue of being defined as 'competent authorities' under the Habitats Regulations, to ensure that planning decisions do not adversely affect the integrity of habitat sites. The Council is not obliged to agree this Partnership Agreement; however, a decision not to do so would not remove the Council's duties under the Habitats Regulations and would not remove the need to implement the RAMS, or another appropriate strategy, to avoid or mitigate the impacts of new housing on the integrity of habitat sites.
- 4.2 Failure to avoid or mitigate the impacts of recreational disturbance arising from new housing in the determination of planning applications would leave decisions vulnerable to legal challenge. The RAMS strategy and accompanying Partnership Agreement are intended to ensure the Council's obligations under the Habitats Regulations are effectively discharged.

5 ENVIRONMENTAL IMPLICATIONS

- 5.1 The purpose of the RAMS project is to ensure that the integrity of habitat sites along the Essex Coast can be effectively preserved. The Partnership Agreement provides a means to implement the RAMS in a cost and resource effective way. In doing so, it will enable the Council to protect, enhance and conserve habitats and species through the planning process more effectively.

6 RESOURCE IMPLICATIONS

- 6.1 The majority of costs associated with the Partnership Agreement will be met by RAMS developer contributions received to date and those received in the future. However, each participating Council will be required to make a small additional contribution towards the Partnership Agreement costs which fall outside the scope of those contributions, totalling around £3,500 per year (reduced proportionately for the first period to April 2021). For Rochford these can be met from existing resources within the Council's planned use of its Local Development Framework reserve.

7 LEGAL IMPLICATIONS

- 7.1 LPAs have the duty, by virtue of being defined as 'competent authorities' under the Habitats Regulations, to ensure that planning decisions do not adversely affect the integrity of habitat sites. Furthermore, the NPPF, as

revised in 2019, requires decisions to *inter alia* promote the conservation and enhancement of the natural environment to taking a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or a landscape scale across local authority boundaries.

- 7.2 The Council is not obliged to agree this Partnership Agreement; however, a decision not to do so would not remove the Council's duties under the Habitats Regulations and would not remove the need to implement the RAMS, or another appropriate strategy, to avoid or mitigate the impacts of recreational disturbance arising from new housing in the determination of planning applications that would leave decisions vulnerable to legal challenge. The Partnership Agreement is intended to ensure the Council's obligations under the Habitats Regulations are effectively discharged.
- 7.3 The contents and provisions of the Partnership Agreement have been reviewed by the Council's legal team and changes have been sought where appropriate.

8 EQUALITY AND DIVERSITY IMPLICATIONS

- 8.1 An Equality Impact Assessment has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

9 RECOMMENDATION

- 9.1 It is proposed that the Committee **RECOMMENDS TO COUNCIL**
- (1) That the Council enters into the Partnership Agreement attached at Appendix A.
 - (2) That authority be delegated to the Assistant Director, Place and Environment to discharge the Council's responsibilities under the Partnership Agreement, in consultation with the Portfolio Holder for Planning.
 - (3) That it be agreed that the annual costs of around £3,500 be met from the existing Local Development Framework reserve.



Marcus Hotten

Assistant Director, Place and Environment

Background Papers: -

None.

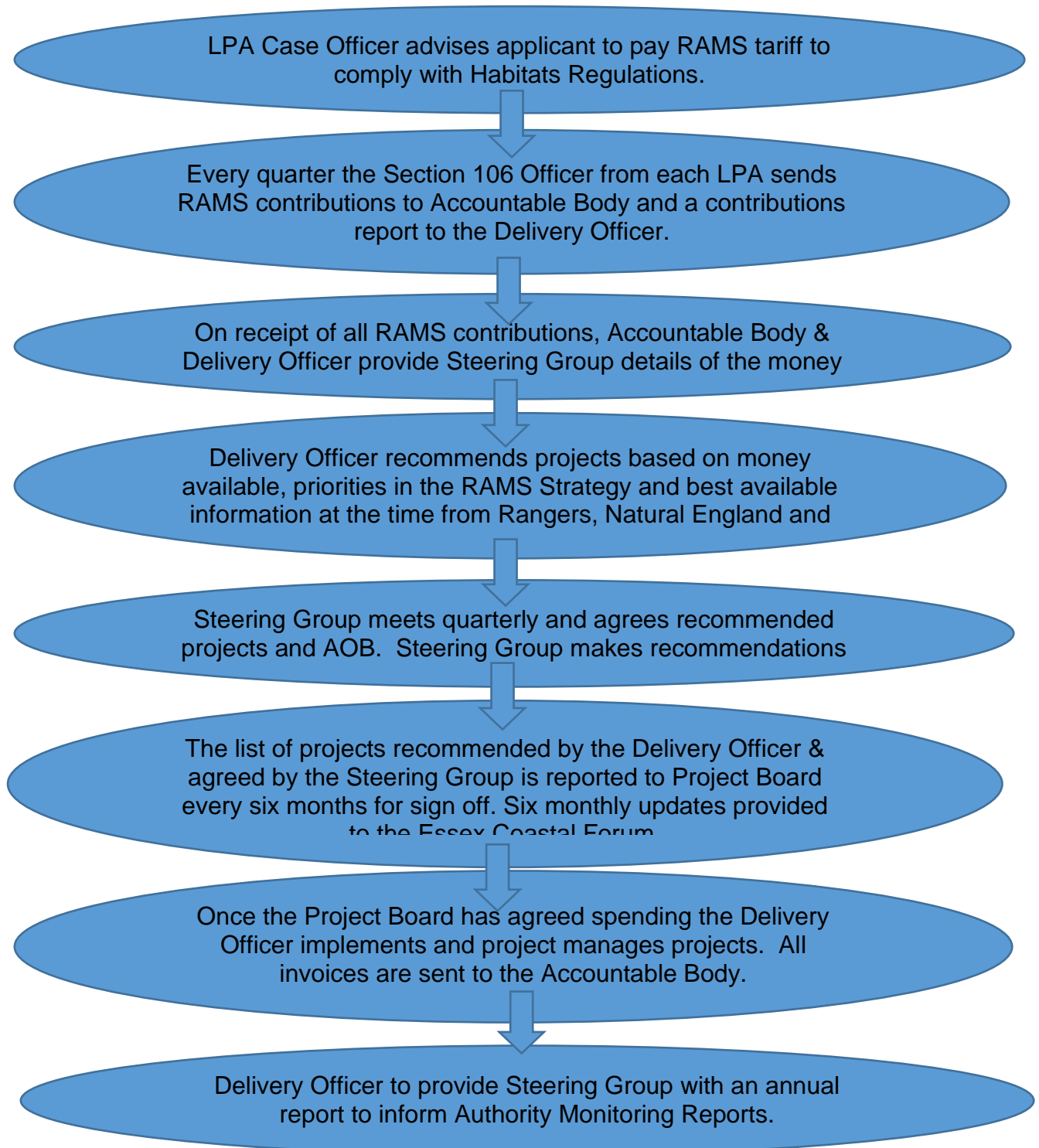
For further information please contact Daniel Goodman (Team Leader – Strategic Planning) on: -

Phone: 01702 318043

Email: Daniel.goodman2@rochford.gov.uk

If you would like this report in large print, Braille or another language please contact 01702 318111.

Annex I – Process under Partnership Agreement



DATED

2020

CHELMSFORD CITY COUNCIL

and

BASILDON BOROUGH COUNCIL

and

BRAINTREE DISTRICT COUNCIL

and

BRENTWOOD BOROUGH COUNCIL

and

CASTLE POINT BOROUGH COUNCIL

and

COLCHESTER BOROUGH COUNCIL

and

MALDON DISTRICT COUNCIL

and

ROCHFORD DISTRICT COUNCIL

and

SOUTHEND-ON-SEA BOROUGH COUNCIL

and

TENDRING DISTRICT COUNCIL

and

THURROCK COUNCIL

and

UTTLESFORD DISTRICT COUNCIL

RAMS PARTNERSHIP AGREEMENT

Chelmsford City Council
Legal & Democratic Services

CONTENTS

CLAUSE

PAGE NO

- 1.Definitions
- 2.Lead Institution
- 3.Purpose of the Partnership
- 4.Commencement and Duration
- 5.Overriding Conditions
- 6.Project Management
- 7.Project Resources
- 8.Responsibilities of the Parties
- 9.Addition of Parties to the Partnership
- 10.Removal or Withdrawal of Parties from the Partnership
- 11.Data Management
- 12.Confidentiality
- 13.Intellectual Property
- 14.Termination
- 15.Governing Law and Dispute Resolution
- 16.General Provisions

SCHEDULES

- | | |
|------------|--|
| Schedule 1 | RAMS Mitigation Strategy |
| Schedule 2 | RAMS Steering Group Terms of Reference |
| Schedule 3 | RAMS Delivery Flow Chart |
| Schedule 4 | Draft Duties of the Delivery Officer |

THIS AGREEMENT is made the day of 2020

BETWEEN:

1. **CHELMSFORD CITY COUNCIL** whose office is at Civic Centre, Duke Street, Chelmsford, Essex, CM11JE
2. **BASILDON BOROUGH COUNCIL** whose office is at The Basildon Centre, St. Martins Square, Basildon SS14 1DL
3. **BRAINTREE DISTRICT COUNCIL** whose office is at Causeway House, Bocking End, Braintree, Essex CM7 9HB
4. **BRENTWOOD BOROUGH COUNCIL** whose office is at Town Hall, Ingrave Road, Brentwood,
5. **CASTLE POINT BOROUGH COUNCIL** whose office is at Kiln Road, Thundersley Benfleet Essex SS7 1TF
6. **COLCHESTER BOROUGH COUNCIL** whose office is at Rowan House, Sheepen Road, Colchester, Essex, CO3 3WG
7. **MALDON DISTRICT COUNCIL** whose office is at Council Offices, Princes Rd, Maldon CM9 5DL
8. **ROCHFORD DISTRICT COUNCIL** whose office is at Council Offices South Street, Rochford, Essex, SS4 1BW
9. **SOUTHEND-ON-SEA BOROUGH COUNCIL** whose office is at Civic Centre, Victoria Avenue, Southend on Sea SS2 6ER
10. **TENDRING DISTRICT COUNCIL** whose office is at Town Hall, Station Road, Clacton on Sea, Essex C015 1SE
11. **THURROCK COUNCIL** whose office is at Civic Offices, New Road, Grays, RM17 6SL
12. **UTTLESFORD DISTRICT COUNCIL** whose office is at Council Offices, London Road, Saffron Walden, Essex, CB11 4ER

(hereinafter referred to individually as a "Party" and collectively as "the Parties")

RECITALS

- (A) The Parties to this Partnership Agreement are all Local Authorities who have joined together to continue certain activities as a partnership for the purposes set out in this Partnership Agreement.
- (B) The Parties wish to co-operate over the implementation of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) as described in more detail in Schedule 1 ("the RAMS Mitigation Strategy")
- (C) This Partnership Agreement sets out the relationship between the Parties and the organisation of the work.

IT IS HEREBY AGREED AS FOLLOWS:-

1. DEFINITIONS

1.1 In this Partnership Agreement, the following terms shall have the following meanings:

"Accountable Body"	will be Chelmsford City Council or such other Council being a party to this Partnership Agreement as nominated by the Parties following a review.
"Background IPR"	means all patents, designs, copyright (including copyright in software), database rights, and any other intellectual property rights excluding Foreground IPR, owned by any of the Parties, in the field and which are necessary for the exploitation of Foreground IPR in accordance with this Partnership Agreement.
"Business Day"	means any day other than a Saturday or Sunday or a public or bank holiday in the United Kingdom.
"Commencement Date"	means the2020.
"Confidential Information"	means all information that is marked as Confidential and that is disclosed by one Party to the others for the purpose of conducting the Project, including, without prejudice to the generality of the foregoing, any ideas; finance; financial, marketing, development or manpower plans; computer systems and software; products or services, including but not limited to know-how and information concerning relationships with other parties and all records, reports, documents, papers and other materials whatsoever originated pursuant to this Partnership Agreement.
"Delivery Officer"	means the person appointed by Chelmsford City Council as Lead Institution to run the day-to-day operation of the Project and thereafter appointed by subsequent Lead Institutions.
"Effective Date"	means the date when all Parties have signed this Partnership Agreement.
"EPOA Chief Officers Group"	means the regular meeting of the heads of the planning departments (or their nominated substitute) of the Parties who will govern and oversee the overall direction of the RAMS of such group as shall succeed it as the Project Board.
"Essex Coast RAMS"	means the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy which expression may be abbreviated to "RAMS".
"Foreground IPR"	means all patents, designs, copyright (including copyright in software), database rights and any other intellectual property rights arising as a direct result of and in the performance of this Partnership Agreement.

"Developer Contribution"	means a payment for every new qualifying dwelling to its Local Planning Authority. a payment a developer is required to make to its Local Planning Authority (in compliance with Conservation of Habitats and Species Regulations 2017/1012) in respect of consent for each new dwelling which is likely to have a significant impact on a natural habitat, the amount of which is set out in clause 6.2.3.5 of this Agreement.
"Intellectual Property Rights"	means patents, trademarks, trade names, design rights, copyright (including rights in computer software and moral rights), database rights, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world which expression may be abbreviated to "IPR".
"Lead Institution"	means Chelmsford City Council or such partner local authority nominated to the role of Lead Institution in accordance with terms of this Partnership Agreement.
"Local Planning Authority"	means the local authority whose duty it is to carry out specific planning functions for a particular area.
"Nominated Representative"	means a member/s of staff appointed by a Partner to attend the Steering Group meetings
"Partner"	means a party to this Agreement and shall include the expression "Party".
"Partnership"	means the Parties collectively.
"Personnel"	means any employee, director, agent, subcontractor or other person engaged by a Party.
"Project"	means the method by which Essex Coast RAMS and proposed Supplementary Planning Document (SPD) aims to deliver the mitigation necessary to avoid adverse effects on integrity from the impacts of residential development which will result in an increase of recreational disturbance to Habitats sites anticipated across the County of Essex thus protecting Habitats sites on the Essex coastline from adverse effects on integrity from new residential developments as set out in Schedule 1.
"Project Deliverables"	means the output of mitigations to be carried out by the Partnership as set out in Schedule 1.
"RAMS"	means the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy which expression may be used interchangeably with East Coast RAMS.
"RAMS contribution"	means the sum of all Developer Contributions received by a Partner payable to the Lead Institution in accordance with clause 6.2.3.7 which may also be described as a "RAMS tariff".
"RAMS tariff"	means a RAMS contribution.

"RAMS Delivery Flowchart"	means the flowchart setting out how the project is to be delivered at Schedule 3 to this Partnership Agreement.
"Section 106 Agreement"	means an Agreement pursuant to section 106 of the Town and Country Planning Act 1990, as amended.
"Steering Group"	means the Essex Coast RAMS Steering Group which is the committee appointed to be responsible for managing the Project whose individual members are set out in Schedule 2.
"Steering Group Terms of Reference"	means the terms of reference for the Essex Coast RAMS Steering Group as set out in Schedule 2 to this Partnership Agreement.

- 1.2 Headings contained in this Partnership Agreement are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.
- 1.3 Where the context so implies, words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and vice versa.

2. LEAD INSTITUTION

- 2.1 The Parties agree that Chelmsford City Council will be the lead institution ("Lead Institution") and Accountable Body responsible for the Partnership funds and authorises it as their agent to sign agreements in their name and on their behalf in relation to the Project. Without prejudice to its authority to contract on behalf of the Parties in relation to the Project the Lead Institution agrees to take all reasonable steps on every occasion to seek and obtain prior consent of each of the other Parties before signing agreements for the benefit of the Project and other Parties. The Lead Institution will provide financial systems and processes to enable the efficient and transparent operation of the Essex Coast RAMS activities. The Delivery Officer will provide the Steering Group with regular business plans and financial statements, including a year-end statement of account.
- 2.2 The Lead Institution, in consultation with the Parties, will determine an investment strategy and an allocation formula for the RAMS contributions for the benefit of the Partnership based on financial information provided by the Partners.
- 2.3 Every three years (3) years of this Partnership Agreement the Parties agree to elect one of the Partner local authorities to serve as Lead Institution for a further period of three years (3) years.

3. PURPOSE OF THE PARTNERSHIP

The purpose of the Partnership is:

- to specify the organisation of the work between the Parties in carrying out the Project and to set out the rights and obligations of the Parties;
- carry out the Project in accordance with the RAMS Delivery Flowchart at Schedule 3 and the RAMS Mitigation Strategy at Schedule 1 to produce the Project Deliverables as described in Schedule 1; and
- establish and adhere to the governance structure set out in this Partnership Agreement to ensure the Project is delivered.

4. COMMENCEMENT AND DURATION

- 4.1 This Partnership Agreement shall commence on the Effective Date and shall continue until the completion of the Project in 2038 subject always to the termination provisions at clause 14 of this Partnership Agreement.
- 4.2 The duration of this Partnership Agreement may be extended beyond 2038, at any time prior to that date, by written agreement of the Parties, for such period or periods as are deemed appropriate.

5. OVERRIDING CONDITIONS

- 5.1 All Partners have a responsibility to contribute towards and properly perform their roles and responsibilities in accordance with this Partnership Agreement.
- 5.2 It is the intention that the Lead Institution and the Partnership shall be responsible and liable in equal shares for all legal advice procured under this Partnership Agreement.
- 5.3 Should a Party become aware of a material change in its' annual income forecast for the RAMS contributions in any one financial year owing to a reduced number of developer schemes put forward for that financial year or a developer bespoke mitigation scheme is submitted then that Party will immediately notify the Accountable Body and Steering Group.
- 5.4 With regard to responsibility and liability for shared costs, the Lead Institution (Chelmsford

City Council) and each Party will contribute 9.1% save for Brentwood Borough Council and Uttlesford District Council who will contribute 4.5%. If Parties leave or join the Partnership, costs will be recalculated, with the amount/s to be determined at that time.

6. PROJECT MANAGEMENT

6.1 Steering Group

The details of the Steering Group including purpose, membership, governance, functions and procedures are set out in the Steering Group Terms of Reference at Schedule 2 to this Partnership Agreement.

6.2 Responsibilities of the Steering Group

6.2.1 Project Oversight

The Steering Group shall be responsible for the delivery of the project outcomes and to this end will keep the project plan, and progress towards meeting it, under review.

6.2.2 Appointment of Delivery Officer

- 6.2.2.1 The Steering Group and Partner Authorities shall be able to support the Lead Institution as Accountable Body in the recruitment and appointment of a Delivery Officer. Once appointed the Delivery Officer will have responsibility for the day to day management of the Project together with the delivery of Project Deliverables and will report to the Steering Group.
- 6.2.2.2 The Lead Institution as Accountable Body shall be responsible for recruiting, hosting and managing the day to day activities of the Delivery Officer at the offices of the Lead Institution or such other Partnership local authority offices as the Lead Institution considers appropriate.
- 6.2.2.3 The cost of appointing and funding the post of Delivery Officer will be primarily met by the RAMS tariff contributions such costs to include salary of the Delivery Officer, the provision of IT equipment, Personal Computer, laptop, mobile phone, uniform and on the job training. Except for the Lead Institution each Party will contribute ten percent (10%) of the annual cost of line managing the Delivery Officer save for Brentwood District Council and Uttlesford District Council who will contribute five per cent (5%) of the annual cost with such percentages to be reviewed on an annual basis. The annual cost to the Lead Institution as Accountable Body for line managing the Delivery Officer will be c£13,000 and subject to an annual review. Fees for the first six months will be c£8,370 based on an October 2020 commencement date.
- 6.2.2.4 For the avoidance of doubt the Lead Institution as Accountable Body will have the power to purchase / procure for the Delivery Officer such equipment and training as it deems necessary without obtaining prior approval from other Partnership authorities.
- 6.2.2.5 Following the appointment of the Delivery Officer the annual cost of maintaining the post of Delivery Officer will be met by the RAMS tariff contributions with the exception of certain employment costs related to the recruitment of the Delivery Officer such as redundancy, long term sickness and maternity pay as set out in clause 6.2.2.3 of this Agreement. Each Party will contribute 9.1% save Brentwood Borough Council and Uttlesford District Council who will contribute 4.5% towards any costs for the Project Delivery Officer should certain employment costs such as redundancy, long term sickness or maternity situation occur during the period of this Partnership Agreement. The draft duties of the Delivery Officer in pursuance of this Partnership Agreement are set out in Schedule 4.
- 6.2.2.6 Subject to clause 6.2.2.2 the Delivery Officer will be based at the offices of the

Lead Institution who will agree and devise a work programme and pattern for the Delivery Officer.

6.2.2.7 The Lead Institution as Accountable Body will not be responsible for the employment of ancillary and associated members of staff such as project wardens / rangers.

6.2.3 Financial Management

6.2.3.1 The Lead Institution and Accountable Body shall be responsible for holding and administering the RAMS contributions.

6.2.3.2 The annual costs to the Lead Institution as Accountable Body for holding and administering the RAMS contributions will be c£2,400 and subject to an annual review. Fees for the first six months will be c£1,200 based on an October 2020 commencement date. Except for the Lead Institution each Party will contribute ten percent (10%) of the annual cost to the Lead Institution for holding and administering the RAMS contributions save for Brentwood District Council and Uttlesford District Council who will contribute five per cent (5%) of the annual cost with such percentages to be reviewed on an annual basis. The RAMS contributions must be available to spend on Project Deliverables and will be sent quarterly from each Party to the Accountable Body. Each Partner will be responsible for monitoring contributions received and forecasting their future tariff income.

6.2.3.3 Requests for any RAMS contribution refunds already made to the Lead Institution as Accountable Body must be made as soon as possible by the Partner Local Planning Authority but any contribution will only be refunded where the Lead Institution as Accountable Body has sufficient funds available to make such refund.

6.2.3.4 The Steering Group may choose to take financial advice from third parties as required.

6.2.3.5 For Financial Year 2019 – 2020 (1st April 2019 to 31st March 2020) the RAMS Tariff will be One Hundred and Twenty-Two Pounds and Thirty Pence (£122.30) and for Financial Year 2020 – 2021 (1st April 2020 to 31st March 2021) the RAMS Tariff will be One Hundred and Twenty-Five Pounds and Fifty Eight Pence (£125.58) and thereafter such figure to be increased in line with the Retail Prices Index (RPI) published for the month of February. The increase in the RAMS Tariff will be agreed and set in March of each year to enable the mitigations budget programme to be agreed and implemented from the 1st April of each year.

6.2.3.6 The Partners agree to levy a RAMS Tariff in accordance with clause 6.2.3.5 of this Partnership Agreement on all residential dwellings which qualify for the imposition of the RAMS Tariff.

6.2.3.7 The Partners agree that they will pay the RAMS tariff to the Lead Institution upon being satisfied that the qualifying development, dwelling or dwellings will be constructed in accordance with the Planning Permission and legal agreements such as Section 106 Agreement and Unilateral Undertaking.

6.2.3.8 Where there is a shortfall / deficit in the RAMS Tariff contribution it will be the responsibility of the individual Partner Authority whose LPA has not enforced the contribution against the planning obligations which has resulted in the deficit to make good such shortfall and not the Lead Institution as Accountable Body or other Partner Authorities.

6.2.3.9 In the event the RAMS Tariff contribution is not spent correctly by the Project and a refund is required then Partners will be liable to repay the monies in line with the percentages set out in clause 6.2.2.3.

6.2.4 Publications and Press Releases

- 6.2.4.1 The Steering Group shall decide procedures for dissemination of publications and press releases relating to the Project through the Bird Aware website <https://essexcoast.birdaware.org/home>
- 6.2.4.2 The annual maintenance cost of the website will be funded by the RAMS tariff contributions and the responsibility of the annual maintenance cost of the website shall be Colchester Borough Council and the cost of responding to the enquiries shall be Braintree District Council until such time as the Delivery Officer has been appointed.

6.2.5 Commercial Exploitation Strategy

- 6.2.5.1 The Steering Group shall hold two Special Meetings, the first twelve months prior to the end of the Project, and the second at the end of the Project, whose business shall be exclusively to discuss the potential for the continued maintenance and development of the Project Deliverables. At these meetings the Steering Group shall review the Project Deliverables, discuss the potential for maintenance and development of mitigation strategies produced from the Project Deliverables, and develop a strategy for such development.

6.2.6 Exit Strategy

- 6.2.6.1 The Steering Group shall establish a Sustainability Sub-Group to plan for the future maintenance and development of the Project Deliverables'.
- 6.2.6.2 The Steering Group shall hold two special meetings, the first twelve months prior to the end of the Project, and the second at the end of the Project, whose business shall be exclusively to develop a suitable strategy or strategies for future development of the Project Deliverables, including the pursuit of additional funding from appropriate sources.
- 6.2.6.3 In the event that additional funding is secured for future development of the Project Deliverables, the Steering Group shall be responsible for making such financial and administrative arrangements as are necessary to secure the effective and efficient continuation of the Partnership including any necessary revisions of this Partnership Agreement, for approval by the Parties.

6.3 Steering Group Meetings

- 6.3.1 The Steering Group shall meet on a monthly basis in accordance with the Steering Group Terms of Reference at Schedule 2 but the frequency may be reduced at any time in accordance with the Steering Group Terms of Reference and upon the appointment of a Delivery Officer whereby Steering Group Meetings will be reduced to four times per year. Meetings will operate under the following rules:
- 6.3.2 At each meeting, the Steering Group will agree the date for the next meeting otherwise the Chair or his/her nominee, shall call meetings, giving notice that is reasonable in the circumstances.
- 6.3.3 The Chair shall circulate an agenda before the meeting. Each Party shall take it in turns to produce meeting minutes, until such time as the Delivery Officer has been appointed by the Partnership, who will then carry out this task.
- 6.3.4 Each Party (excluding any co-opted members) will have one vote, except the Chair who has a casting vote. A Party may not vote on matters concerning a dispute with the Partnership where the Party is the subject of the dispute. Where a Party has more than one member/officer present at a meeting, they will only be entitled to one vote.

6.3.5 The quorum for a meeting will be five (5) voting Parties.

6.3.6 With the approval of the Chair, Steering Group Parties may nominate a representative to attend meetings and vote on their behalf.

6.3.7 Votes, with the exception of a vote to terminate a Party's membership of the Partnership, which will be by two-thirds majority of the full Steering Group in accordance with clause 10.1 will be decided on the basis of a majority vote of those attending and eligible to vote.

6.4 Responsibilities of Individual Members of the Steering Group

6.4.1 In addition to the Steering Group's collective responsibility, individual members of the Steering Group will have specific responsibilities as determined by the Steering Group from time to time as set out in the Terms of Reference at Schedule 2.

7. PROJECT RESOURCES

7.1 Allocation

The total RAMS tariff contributions to be paid by the Parties to the accountable body is anticipated to be as follows:

(To be inserted prior to signing)

7.2 Distribution

7.2.1 RAMS tariff contribution payments to each Party made by developers shall be provided to Chelmsford City Council at the end of each quarter namely the 1st day of July, October, January and April. Thereafter the nominated Lead Institution will pool all of the RAMS tariff contributions received and shall apportion the budget to the agreed mitigation measures on the basis of financial plans prepared by the Project Delivery Officer and approved from time to time by the Steering Group and Project Board.

7.2.2 Each Partnership Local Planning Authority will provide the Delivery Officer with a quarterly report detailing the total contributions collected and for which Habitat Site so that the Delivery Officer will be able to identify the mitigation measures required to be undertaken for each Habitat Site, such reports to be delivered on the 1st January, April July and October of any one year.

7.3 Invoicing / Claims

7.3.1 Where claimable costs and expenses (that is, approved by Delivery Officer or Steering Group) are incurred, claims should be passed to the Delivery Officer as soon as they have been paid with supporting evidence of the expenditure attached. The Delivery Officer will be required to make financial reports to the Steering Group and Project Board from time to time.

7.3.2 To optimize the function of the Partnership the Parties shall permit the Lead Institution to procure external services in accordance with the Public Contracts Regulations 2015 and the Lead Institutions internal Contract and Procurement Rules.

8. RESPONSIBILITIES OF THE PARTIES

Performance

8.1 Each Party undertakes to each other Party to perform and fulfil on time the tasks

assigned to it by the Steering Group and all other of its obligations under this Partnership Agreement.

- 8.2 Towards the Steering Group and the Delivery Officer, each Party hereby undertakes to supply promptly to the Delivery Officer all such information or documents as the Delivery Officer and the Steering Group need to fulfil obligations pursuant to this Partnership Agreement.
- 8.3 Towards each other, each Party undertakes to:
- 8.3.1 notify each of the other Parties as a Party becomes aware of any significant delay in performance; or a significant change in a Parties ability to meet its funding and other commitments under this Partnership Agreement.
 - 8.3.2 inform other Parties of relevant communications and planning decisions it receives from third parties in relation to the Project e.g. planning appeals and Local Plan examination Inspector correspondence.
- 8.4 Each Party shall use all best efforts to ensure the accuracy of any information or materials it supplies hereunder and promptly to correct any error therein of which it is notified.
- 8.5 Subject to clause 6.2.4 of this Partnership Agreement each Party agrees not to issue any press releases or other such publicity materials relating to the work of the Partnership without obtaining prior approval from the other Parties.

Warranties and Undertaking

- 8.6 Each Party warrants that under its contractual relationships with each of its Personnel, any intellectual property rights arising out of or relating to work done by the Personnel for the Party will vest in such Party and that the Personnel will have no right, title or interest, whether legal or beneficial, in any such intellectual property rights. A Party shall, if so required by the Steering Group, produce written evidence of this to the Steering Group signed by its Personnel.
- 8.7 Each Party acknowledges that it is and shall remain liable for the consequences of any failure on its part or on the part of its Personnel to fulfil the tasks and work packages assigned to it under this Partnership Agreement and shall accordingly:
- 8.7.1 Procure and maintain its own insurance, with insurers of good repute, to cover its own liabilities and those on behalf of its Personnel;
 - 8.7.2 Comply and assist the Partnership, the Steering Group and the Delivery Officer in complying with all relevant statutes, laws, regulations and codes of practice relating to its tasks and work packages from time to time in force;
 - 8.7.3 Comply with all recommendations and requirements of its insurers; and
 - 8.7.4 Indemnify, keep indemnified and hold harmless the other Parties from and against all costs (including the costs of enforcement), expenses, liabilities, injuries, direct, loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which they incur or suffer as a result of a breach of this Agreement or negligent acts or omissions or willful misconduct of the Party and/or its Personnel including without limitation any resulting liability the Partnership has to the funder or to any third party.
- 8.8 Each Party agrees and undertakes at its own expense to make the Nominated Representative available to attend the Steering Group.

- 8.9 Each Party shall provide the Steering Group with quarterly statements of RAMS tariff contributions received.

Employment Liabilities:

- 8.10 All claims, including claims without limitation for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy or maternity, or sexual orientation discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims (whether in tort, contract, statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body), and of implementing any requirements which may arise from such investigation, and any legal costs and expenses.

9. ADDITION OF PARTIES TO THE PARTNERSHIP

- 9.1 Other local authorities may be invited to join the Partnership following any reviews of the project Zones of Influence only by the unanimous decision of the Steering Group and Project Board and on the condition that the new local authority becomes a party to this Partnership Agreement.

10. REMOVAL OR WITHDRAWAL OF PARTIES FROM THE PARTNERSHIP

Removal of Parties

- 10.1 Without prejudice to any other rights or remedies open to the Partnership, the Steering Group may, after a two-thirds majority vote of the full Steering Group meeting in favour of termination, ratified and via a written notice served on the Party, terminate a Party's membership of the Partnership, if the Party:
- 10.2 Is in material breach of any of the terms of this Partnership Agreement and, where the breach is capable of remedy, the Party fails to remedy such breach within 30 days' service of a written notice specifying the breach and requiring it to be remedied; or
- 10.3 In the opinion of a majority of the Steering Group, is incompetent, commits any act of gross or persistent misconduct and/or neglects or omits to perform any of its duties or obligations under this Partnership Agreement; or
- 10.4 Fails or refuses after written warning from the Steering Group to carry out the duties or obligations reasonably and properly required of it under this Agreement; or
- 10.4.1 ceases to operate its business or undertaking;
- 10.4.2 provides the Steering Group with any false or misleading information with regard to its ability to perform its duties or obligations under this Partnership Agreement; or
- 10.4.3 has done anything which brings or might reasonably be expected to bring the Parties or the Project into disrepute or otherwise damage other contractors, employees, agents, customers, other business associates or the general public including, but not limited to, committing an act of fraud or dishonesty, whether or not connected with the Project.

Conditions Consequent on Removal or Withdrawal

- 10.5 Without prejudice to any other rights or remedies open to the Partnership, any Party may withdraw from the Partnership for any reason provided they serve written notice to the Steering group at least six months prior to the date of their withdrawal. The withdrawing Party will still be bound to the terms of the Partnership up until the date of their withdrawal. In the event of withdrawal or expulsion of a Party, the Partnership will be liable to meet only the cost of any work undertaken up to the point at which a Party ceases to be a member of the Partnership. The balance of any payments made to the Party will be returned to the

nominated representative of the Lead Institution within 30 days of withdrawal or expulsion. Any repayment to a Partner will only be made in the event that no works have been undertaken to the dwelling or development to which the RAMS tariff applies. In all cases, the Partnership reserves the right of access to any work produced in the course of the Party's work as part of the Partnership.

11. DATA MANAGEMENT

Data Collection

- 11.1 In the course of the Project, each Party may be involved in the production and collection of data such as surveys or questionnaires. Data relevant to all partners are to be sent the Delivery Officer and stored in the project SharePoint site. Each Party agrees to ensure that all data submitted to the Delivery Officer are accompanied by documentation detailing the origin of the data, together with any necessary consents.

Data Maintenance

- 11.2 Chelmsford City Council hereby undertakes to set up and maintain a new project SharePoint site for the duration of the Project to replace the existing site hosted by Colchester Borough Council.

Data Protection

- 11.3 Each Party agrees to sign a Data Controllers Agreement and a Data Processing Agreement prior to processing personal data for the purposes of the Project in the event that any personal information needs to be shared or processed between Parties.

Freedom of Information

- 11.4 The Partnership acknowledge that the Lead Institution and the Parties are all subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) and shall assist and cooperate with the Lead Institution and with each other to enable them to comply with their information disclosure obligations.
- 11.5 A Party in receipt of a request for information shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Partnership Agreement or any other contract whether the confidential and /or any other information is exempt from disclosure in accordance with the (FOIA) or the (EIR).

12. CONFIDENTIALITY

- 12.1 Each Party hereby undertakes to the other Parties that it shall procure that its employees, agents and sub-contractors shall:
- 12.1.1 Keep confidential all information of a confidential nature (whether written or oral) concerning this Partnership Agreement and the business affairs of another Party that it shall have obtained or received as a result of the discussions leading up to or entering into or performance of this Partnership Agreement (the "Information");
 - 12.1.2 Not without the prior written consent of the relevant other Party disclose the Information either in whole or in part to any other person save those of its employees, agents and sub- contractors involved in the implementation or evaluation of the Project who have a need to know the same for the performance of their duties;
 - 12.1.3 Use the Information solely in connection with the implementation of the Project and not otherwise for its own benefit or the benefit of any third party.
 - 12.1.4 These provisions above shall not apply to the whole or any part of the Information to the extent that it can be shown by the receiving Party to be:

- 12.1.4.1 Known to the receiving Party prior to the date of this Partnership Agreement and not obtained directly or indirectly from any other party; or
- 12.1.4.2 Obtained from a third party who lawfully possesses such Information which has not been obtained in breach of a duty of confidence owed to any party by any person; or
- 12.1.4.3 In the public domain in the form in which it is possessed by any other party other than as a result of a breach of a duty of confidence owed to such other party by any person; or
- 12.1.4.4 Required to be disclosed by legal process, law or regulatory authority.

12.2 Each Party hereby undertakes to the other Parties to make all relevant employees, agents and sub-contractors aware of the confidentiality of the Information and provisions of this clause and without prejudice to the generality of the foregoing to ensure compliance by such employees, agents and sub-contractors with the provisions of this clause.

13. INTELLECTUAL PROPERTY

13.1 IPR Warranties

Each Party shall obtain the necessary assignments of Intellectual Property Rights or licences from all staff, agents, or sub-contractors involved in the development and production of the Project Deliverables on its behalf. Each Party warrants to the other Parties that it is the owner of the Intellectual Property Rights in the Project Deliverables, or that it is duly licensed to use the Project Deliverables, and that the use of the content of the Project Deliverables as contemplated in this Partnership Agreement does not infringe any Intellectual Property Rights or other proprietary or rights of any natural or legal person.

13.2 Background IPR

All Background IPR used in connection with this Partnership Agreement shall remain the property of the Party introducing the same or any other third parties. Each Party shall take responsibility for ensuring that all necessary permissions have been sought to use Background IPR.

13.3 Foreground Rights

All Foreground IPR arising from this Partnership Agreement shall belong to the Party generating the same.

13.4 Accuracy

Each Party shall use reasonable endeavours to ensure the accuracy of any information or materials that it supplies to the other Parties under this clause and shall promptly correct any error therein of which it is notified. The donating Party will provide no warranties to recipient Parties in respect of the information and materials, and the recipient Parties shall be entirely responsible for the use to which they put such information and materials.

13.5 Access Rights

- 13.5.1 Each Party hereby grants to the other a royalty-free, non-exclusive, worldwide, irrevocable, assignable, perpetual licence to use its (and third parties) Background IPR and Foreground IPR for the purpose of performing their part of the Project.
- 13.5.2 Each Party hereby indemnifies the other Parties against any liabilities, loss, claims or expenses brought against or incurred as a result of its use of and/or sale of products containing the other Parties' Background IPR and/or Foreground IPR.
- 13.5.3 After completion of the Project all Parties shall continue to have the right to use their Foreground IPR at no cost for the purposes of exploiting the materials in the carrying out of their usual educational activities.

- 13.5.4 After completion of the Project the Partnership shall provide on request, to any educational institution (as defined by s.65 (5) of the Further and Higher Education Act 1992), a free copy of the Project Deliverables subject to a royalty free non-exclusive perpetual licence to use the Project Deliverables for non-commercial purposes.
- 13.5.5 Use of Background IPR and/or Foreground IPR by third parties other than Parties, and by educational institutions (as defined by s.65(5) of the Further and Higher Education Act 1992) for commercial purposes, shall be at the discretion of the Parties owning such Background IPR and/or Foreground IPR.
- 13.5.6 Each Party hereby grants to the Lead Institution a royalty-free, non-exclusive, worldwide, irrevocable, assignable, perpetual licence to use all Background IPR and Foreground IPR of the Parties for the purpose of performing its obligations under Clause 2 and in order to licence to the Higher Education Funding Council for England (HEFCE) the rights as set out in the (HEFCE) Licence.
- 13.5.7 Each Party hereby indemnifies (HEFCE) against any liabilities, loss, claims or expenses brought against or incurred as a result of its use of the Deliverable in accordance with the (HEFCE) Licence.

14. TERMINATION

- 14.1 This Agreement may be terminated at any time by the unanimous written agreement of the Parties:
- 14.1.1 By serving six months' written notice on Partner Authorities.
- 14.1.2 There is a material change in circumstances, policy, legislation which renders the Partnership unworkable.
- 14.2 Chelmsford City Council may terminate this Partnership Agreement at any time by serving Partner Authorities sixth month's written notice or in the event Chelmsford City Council as Accountable Body are unable to recruit a person suitable to carry out the role of Delivery Officer.
- 14.3 The termination of this Partnership Agreement, howsoever arising, is without prejudice to the rights, duties and liabilities of the Parties accrued due prior to termination. The provisions in this Partnership Agreement which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

15. GOVERNING LAW AND DISPUTE RESOLUTION

- 15.1 This Partnership Agreement shall be governed by and construed in accordance with English law and the parties irrevocably agree that any dispute arising out of or in connection with this Partnership Agreement will be subject to and within the jurisdiction of the English courts.
- 15.2 All Parties shall each be under a general obligation to use all reasonable endeavours to negotiate in good faith and to settle amicably any dispute of whatever nature arising in connection with this Partnership Agreement. If the Parties are unable to resolve a dispute(s) in an informal manner the dispute will be escalated by referring to the EPOA Chief Officers Group (Project Board) for resolution.
- 15.3 Having followed the procedure set out in clause 15.2 and the dispute in question has not been resolved where the Parties agree that a dispute arising out or in connection with this Partnership Agreement would best be resolved by the decision of an expert, they will agree upon the nature of the expert required and together appoint a suitable expert by agreement.
- 15.4 Any person to whom a reference is made under Clause 15.3 shall act as expert and not as an arbitrator and his decision (which shall be given by him in writing and shall state the reasons for his decision) shall be final and binding on the parties except in the case of manifest error or fraud.
- 15.5 Each party shall provide the expert with such information and documentation as he may

reasonably require for the purposes of his decision.

- 15.6 The costs of the expert shall be borne by the Parties in such proportions as the expert may determine to be fair and reasonable in all circumstances or, if no determination is made by the expert, by the Parties in equal proportions.

16. GENERAL PROVISIONS

16.1 Sole Agreement

Subject to Clause 5 of this Partnership Agreement contains all the terms which the Parties have agreed in relation to the subject matter of this Partnership Agreement and supersede any prior written or oral agreements, representations or understandings between the Parties relating to such subject matters. No Party to this Partnership Agreement has been induced to enter into this Partnership Agreement by a statement or promise which it does not contain save that this clause shall not exclude any liability which one party would otherwise have to the other in respect of any statements made fraudulently by that party.

16.2 Schedules

The Schedules shall have the same force and effect as if expressly set in the body of this Partnership Agreement and any reference to this Partnership Agreement shall include the Schedules.

16.3 Waiver

No failure or delay by any Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

16.4 Severability

If any clause or part of this Partnership Agreement is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from this Partnership Agreement and shall be ineffective without, as far as is possible, modifying any other clause or part of this Partnership Agreement and this shall not affect any other provisions of this Partnership Agreement which shall remain in full force and effect.

16.5 Force Majeure

No Party will be deemed to be in breach of this Partnership Agreement, nor otherwise liable to the other for any failure or delay in performance of this Partnership Agreement if it is due to any event beyond its reasonable control other than strike, lock-out or industrial disputes but including, without limitation, acts of God, war, fire, flood, tempest and national emergencies and a Party so delayed shall be entitled to a reasonable extension of time for performing such obligations.

16.6 Assignment

Save as permitted for under this Partnership Agreement, neither this Partnership Agreement nor any of the rights and obligations under it may be sub-contracted or assigned by any party without obtaining the prior written consent of the other parties. In any permitted assignment, the assignor shall procure and ensure that the assignee shall assume all rights and obligations of the assignor under this Partnership Agreement and agrees to be bound to all the terms of this Partnership Agreement.

16.7 Variation

This Partnership Agreement may be amended at any time by written agreement of the Parties. No variation to this Partnership Agreement shall be effective unless in writing signed by a duly authorised officer of each of the written Parties.

16.7 Notice

Any notice in connection with this Partnership Agreement shall be in writing and may be delivered by hand,

pre-paid first class post or Special Delivery post (but not by e-mail), addressed to the recipient at its registered office or its address or as the case may be (or such other address, or as may be notified in writing from time to time).

The notice shall be deemed to have been duly served:

16.8.1 if delivered by hand, when left at the proper address for service;

16.8.2 if given or made by prepaid first-class post or Special Delivery post, 48 hours after being posted or in the case of Airmail 14 days after being posted (excluding days other than Business Days);

provided that, where in the case of delivery by hand, such delivery occurs either after 4.00 p.m. on a Business Day, or on a day other than a Business Day, service shall be deemed to occur at 9.00 a.m. on the next following Business Day (such times being local time at the address of the recipient).

16.9 Rights of Third Parties

It is agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that this Partnership Agreement is not intended to, and does not, give to any person who is not a party to the Agreement any rights to enforce any provisions contained in this Partnership Agreement except for any person to whom the benefit of this Partnership Agreement is assigned in accordance with clause 16.6 (Assignment).

16.10 Counterparts

This Partnership Agreement may be executed in one or more counterparts and any party may enter into this Partnership Agreement by executing a counterpart. Any single counterpart or set of counterparts executed in either case by all the parties shall constitute one and the same agreement and a full original of this Partnership Agreement for all purposes.

IN WITNESS whereof the Parties hereunto have affixed their Common Seal the day and year first before written

THE COMMON SEAL of CHELMSFORD CITY COUNCIL

Was hereto affixed in the presence of:

Executed as a Deed by affixing
THE COMMON SEAL of
BRAINTREE DISTRICT COUNCIL
In the presence of:-

Authorised Signatory

.....
Mayor

.....
Authorised Officer

THE COMMON SEAL of OTHER LOCAL AUTHORITIES

DRAFT

SCHEDULE 1 – RAMS Mitigation Strategy

Attachment to be embedded on page.

DRAFT

SCHEDULE 2 - Essex Coast Recreational disturbance Avoidance & Mitigation Steering Group

TERMS OF REFERENCE

July 2020

1. Purpose of the Steering Group

1.1 The purpose of the Steering Group is to facilitate joint working by the partner local authorities to the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (the Essex Coast RAMS).

1.2 The Steering Group will work together to:

- Publish, monitor and update the completed Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
- Adopt, monitor and update an Essex Coast RAMS Supplementary Planning Document (SPD)
- Implement and monitor the necessary mitigation measures, and
- Facilitate liaison and information sharing between the partners.

1.3 The Steering Group will liaise with other organisations which are undertaking related activities in order to exchange information and best practice and avoid duplication of work including Natural England, Essex Wildlife Trust and the RSPB.

2. Steering Group Membership

2.1 The Steering Group comprises the following local authority (LA) partners:

- Basildon
- Braintree
- Brentwood
- Castle Point
- Chelmsford
- Colchester
- Maldon
- Rochford
- Southend-on-Sea
- Tendring
- Thurrock
- Uttlesford

2.2 An officer representative from each of the organisations will attend meetings of the Steering Group. Each LA will notify the Chair of any substitute in advance of Steering Group meetings and that will be eligible to cast that partners vote. The Chair will be rotated from July 2020. The Chair will circulate an agenda before the meeting. Each LA partner shall take it in turns to produce meeting minutes until the Delivery Officer is in post. Each LA partner will have one vote, except the Chair who has a casting vote. A LA partner may not vote on matters concerning a dispute with the Partnership where the Party is the subject of the dispute. Where a Party has more than one member/officer present at a meeting, they will only be entitled to one vote.

2.3 Representatives from Natural England and Essex County Council will also attend the meetings to provide guidance and advice. Representatives from Places Services involved in the production of the RAMS and SPD will also attend the meetings until these documents are adopted by all partner LPAs. Any representatives from Natural England, Essex County Council and Places Services will not be eligible to vote. The quorum for a meeting will be five (5) voting LA partners.

2.4 At the discretion of the Steering Group Chair, any staff and contractors employed to undertake the work of the Partnership may be invited to attend meetings of the Steering Group where appropriate. Any representatives will not be eligible to vote.

3. Governance

3.1 The work of the Steering Group will be overseen by the EPOA Chief Officers Group (the Project Board) which will approve the annual work programme and priorities. EPOA Chief Officers Group will invite the Delivery Officer and Chair of the Steering Group to its meetings where the work of this Partnership is to be discussed. The Essex Coastal Forum which comprises Officers and Members from partner LAs, will also discuss the Essex Coast RAMS at bi-annual meetings.

4. Steering Group functions and procedures

4.1 The Steering Group shall have the following functions:

- To promote, monitor and update (as appropriate) the Recreational disturbance Avoidance and Mitigation Strategy (RAMS) as the technical strategy to support the RAMS Supplementary Planning Document (SPD)
- To adopt, promote, monitor and update (as appropriate) the RAMS Supplementary Planning Document (SPD)
- To provide a single point of contact for information and advice on the project
- To receive regular reports from the Delivery Officer on the implementation and monitoring of the RAMS and SPD and the effectiveness of the necessary mitigation measures and, where appropriate, to recommend appropriate action to the EPOA Chief Officers Group
- To facilitate liaison and information sharing between the partners
- To appoint and manage staff employed to undertake the project activities, including the project Delivery Officer and Rangers, subject to verification by the EPOA Chief Officers Group
- To approve studies and works relating to the delivery and implementation of the RAMS and SPD
- To receive from the Accountable Body and Project Delivery Officer half yearly accounts relating to the collection and administering of developer contributions received and the allocation and expenditure of funds
- To receive from the appointing Partner and Project Delivery Officer reports as appropriate relating to the management of other staff employed to deliver the RAMS (e.g. Rangers)
- To report on the Steering Group's activities and seek approval of the future work programme and expenditure, as necessary and at least annually, to the EPOA Chief Officers Group and Essex Coastal Forum Officer and Members Group
- To approve and publish documents relating to the RAMS
- To keep these terms of reference under review and make appropriate amendments as necessary.

4.2 The Steering Group will meet monthly until the Project Delivery Officer has been appointed (anticipated in mid-2020). The Steering Group will then meet quarterly. The Chair will be elected annually from amongst the nominated representatives of the partner LAs.

4.3 The Steering Group may establish small project or working groups, resourced as necessary, to progress particular aspects of its work. Representatives of organisations who have a recognised interest in the planning or management of the RAMS but are not Steering Group members may be invited to join such groups.

5. Accountable Body

5.1 The Steering Group shall recommend the appointment of one of the partner local authorities to hold and administer the RAMS contributions and to employ and manage the Delivery Officer.

5.2 The RAMS contributions will be sent quarterly from each LA to the Accountable Body. Invoices will be paid as advised by the Delivery Officer. Each LA will be responsible for monitoring contributions received and forecasting their future tariff income. Each partner LA will be responsible for ensuring that only RAMS contributions that are available to spend are sent to the Accountable Body and for arranging any requests for refunds.

5.3 The LA Partners will nominate a single point of contact for the accountable body e.g. their S106 monitoring officer.

5.4 The Accountable Body will be rotated between the partners LPAs every 3 years.

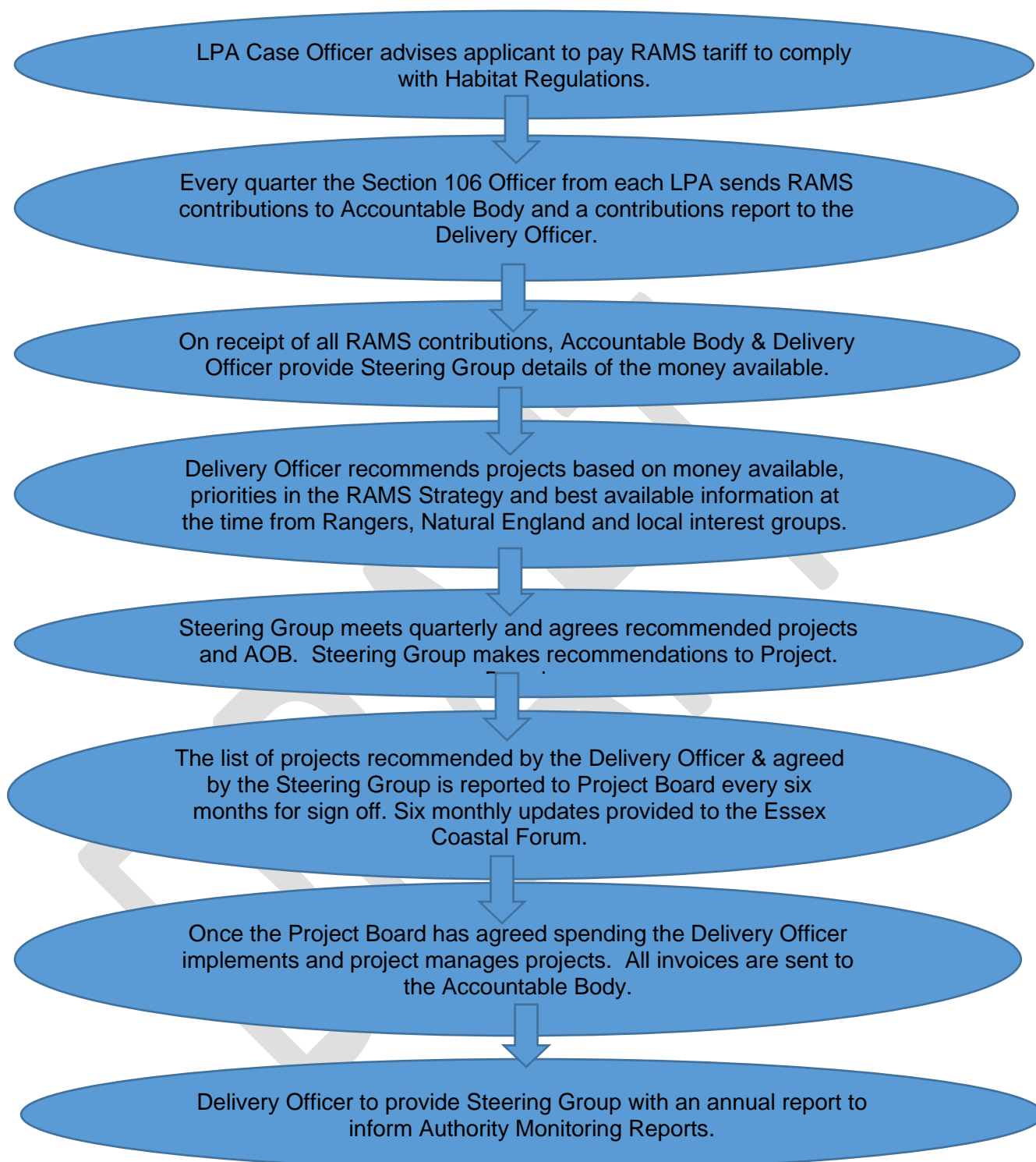
6. Communications

7.1 The Steering Group shall appoint one of the partner local authorities to oversee the project communications until a project Delivery Officer is appointed.

SCHEDULE 3 – RAMS Delivery Flow Chart

The flowchart overleaf sets out the steps for the governance and delivery of the Essex Coast RAMS. Some of the terms referred to in the flowchart are defined, below.

- **Accountable Body:** One Local Authority (LA) who sets up the governance & delivery arrangements, holds and administers the RAMS contributions, provides advice and guidance on financial matters, and employs and manages the Delivery Officer. The RAMS contributions will be sent quarterly from each LA to the Accountable Body. Invoices will be paid as advised by the Delivery Officer. Each LA will be responsible for monitoring contributions received by Habitat Site and for forecasting their future tariff income.
- **Delivery Officer:** A full time Officer employed to project manage the implementation of the RAMS. To be based at the Accountable Body offices although other LAs can request that they spend time working from their offices if desired. The Delivery Officer will manage two part-time Rangers. Project staff salaries including NI, overheads and annual increments will be paid out of RAMS contributions. Line management costs, maternity cover long-term sickness and redundancy costs (if incurred) will be shared between the LPs. Rangers can be employed by any partner LA.
- **Steering Group:** The existing Steering Group is made up of a Nominated Representative from each LA. The Steering Group will meet quarterly to discuss and agree the projects recommended by the Delivery Officer. The Steering Group will continue to include representative(s) from Natural England and Essex County Council. Sub-groups may be formed at any time as desired and could include local conservation groups.
- **Project Board:** This will govern and oversee the overall direction of the RAMS. The Project Board will be asked to agree recommended projects proposed by the Delivery Officer and Steering Group every six months. The Project Board will comprise the Lead Officers who are currently the EPOA Chief Officers Group. The Project Board shall determine its own membership during the term of this Agreement ensuring that the interests of each current Partner are at all times represented by a Lead Officer.
- **Essex Coastal Forum:** This will provide a high-level Elected Member oversight into the project. The Forum will receive project reports every six months. The Forum has been in existence for some time and has expanded its terms of reference to include representatives from all partner LAs.



SCHEDULE 4 – Draft Duties of the Delivery Officer

CHELMSFORD CITY COUNCIL

DRAFT JOB DESCRIPTION

Job Title	Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Delivery Officer
Service	Town Planning
Directorate	Sustainable Communities
Grade	9
Responsible to	Spatial Planning Services Manager
Responsible for	Project Rangers x 2 and Volunteers

1. Main Purpose of the Job

To coordinate the implementation and monitoring of the Essex Coast RAMS.

2. Duties and Responsibilities

2.1 Coordinating strategy implementation, including:

- Coordinate all the Essex Coast RAMS Partnership's workstreams to ensure they are working towards the same overall vision and timetable
- Line manage, steer and coordinate the work of project rangers and other staff that may be employed by the project in the future
- Initiate and facilitate meetings of the Essex Coast RAMS Steering Group and meetings with external bodies to ensure coordination including preparing meeting agenda and papers
- Report progress on implementation of the Essex Coast RAMS at the Project Board and Essex Coastal Forum
- Prepare and issue tender documentation for consultancy support, evaluate tenders received, steer the work of the appointed consultancy and ensure satisfactory outputs
- Prepare and issue for agreement an annual programme of mitigation projects
- Prepare and actively manage the programme of mitigation projects to ensure that allocated money is spent, by regularly monitoring project progress and bringing forward reserve schemes if necessary
- Produce regular quarterly reports on progress with their implementation and costs
- Investigate potential new funding sources for projects as they arise and prepare bids for funding where appropriate.

2.2 Monitoring strategy implementation, including:

- Maintain an overview of authorities' implementation of the Strategy
- Report any divergences from the Strategy to the Steering Group and/or Project Board
- Set up and manage a system for collating information quarterly from partner local authorities on the number of planning permissions granted subject to a developer contribution, developer contributions received against each Habitats Site and forecast future income
- Work with CCC Accountancy to ensure contributions are received quarterly from partner local authorities

- To set up in-perpetuity arrangements and to create an in-perpetuity investment fund to fund mitigation measures beyond 2038
- To prepare and issue guidelines on criteria for Suitable Alternative Natural Greenspaces (SANGs).

2.3 Monitoring the effectiveness of the strategy, including:

- Prepare and issue an Essex Coast RAMS Monitoring Strategy and annual monitoring statement for use by partner councils in their Authority Monitoring Report
- Ensure the timely commissioning of consultants to undertake a review of the Essex Coast RAMS Strategy and Supplementary Planning Document (SPD)
- Ensure the timely commissioning of consultants to undertake monitoring surveys
- Prepare and issue tender documentation for those surveys, evaluate tenders received, steer the work of the appointed consultancy and ensure satisfactory outputs.

2.4 Partnership coordination, including:

- Prepare agendas and papers for, and minutes of, all meetings of the Steering Group. Provide advice at the meetings and initiate the necessary follow-up actions.
- Prepare agendas and papers on the Essex Coast RAMS for relevant meetings of the Project Group. Provide advice at the meetings and initiate the necessary follow-up actions.
- Prepare the Partnership's Annual Report
- Prepare twice-yearly reports to the Essex Coastal Forum (which provides the political governance for the Partnership)
- Keep the Project Board and Steering Group Chairs briefed on progress and significant events between meetings
- Establish and keep under review relevant procedures, protocols and other key documents for the Steering Group to ensure that it operates on a sound legal and administrative footing.

2.5 Budget and financial monitoring, including:

- Prepare the draft annual budget in consultation with the Partnership's accountant (CCC)
- Approve expenditure proposals and validate claims for payment by the Partnership's accountant (CCC).

2.6 Communication, including:

- Maintain and when necessary update the Partnership's website (Bird Aware)
- Deal with and monitor requests from external organisations and the media for information about the project and its activities
- Organise and implement seminars/events for officers and/or Members of partner organisations
- Deliver presentations on the project work at project events and to external forums.

3. Work Location

You will normally be based at the Civic Centre, Chelmsford, but may be required to work from other locations should circumstances make it necessary, including other partner council main offices.

4. General Conditions

- A. This Job Description is subject to your conditions of Employment, which, in the event of conflict, shall take precedence. The post holder will carry out the duties specified above and such other duties as may be required from time to time. The Job Description may be reviewed and amended in the light of any changes that are made.
- B. It may be necessary, from time to time, for you to work hours in excess of, or differing from, your normal working hours.

- C. It may be necessary for you to be trained in, and use, new technology as it is introduced into the Council's activities.
- D. It is a condition of employment that you may be required to assist in the organisation and running of elections or referenda that take place in the City, relating to Parish Councils, the City Council, the County Council, Parliament and the European Parliament, or other similar bodies. You will normally only be required to carry out election and referenda duties when there are insufficient experienced volunteers from within the Council's service who are available for and able to carry out such duties.
- E. You will carry out your responsibilities with due regard to the Council's Equal Opportunities Policy.
- F. You will be aware and undertake training as required in line with your responsibilities set out in the Council's Safeguarding children and vulnerable adults' policy.

PERSON SPECIFICATION

Job Title: Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Delivery Officer

	ESSENTIAL	DESIRABLE
Education/Qualifications A degree or higher level/further qualification in a relevant discipline (e.g. planning, geography, environmental management, urban development, urban economics, law) or an equivalent level of previous experience gained through working in a related field	E	
Knowledge A high level of numeracy, and the ability to undertake financial planning, costing and preparation of budgets and letting of contracts	E	
A good understanding of mainstream computer packages such as Microsoft Word, Outlook etc	E	
Knowledge/ experience of the planning system and the relevant regulations, including those relating to CIL, Section 106 agreements, unilateral undertakings, and other potential sources of funding		D
Knowledge of European and UK legislation and policies which apply to the coast, and of the Habitats Regulations and Habitats Regulations Assessments		D

Experience

Experience of partnership working with senior officers at a policy/strategic level	E	
Experience in managing staff	E	
Experience of making presentations to large audiences		D
Knowledge/ experience of the planning system and the relevant regulations, including those relating to CIL, Section 106 agreements, unilateral undertakings, and other potential sources of funding		D
Experience of working with elected members		D
Experience in a similar role		D
Experience of complex project management	E	
A working knowledge of health and safety legislation and undertaking risk assessments	E	
Possessing Project Management skills	E	

Personal Qualities and Attributes

Candidates will be expected to demonstrate the following qualities and attributes in relation to the job:

Excellent written and verbal communication skills	E	
The ability to present technical information to a non-technical audience, both in writing and orally	E	
The ability to undertake financial planning and to write reports, tender documents, funding bids, and business plans	E	
The ability to build and maintain relationships with and be trusted by other team members, and by officers and members of partner authorities	E	
The ability to work under own initiative and organise own time to meet deadlines	E	
Proven abilities in diplomacy, negotiation and mediation		D

Circumstances

The ability to work flexibly and willing/able to travel	E
---	---