

Dated _____ 2018

A FUNDING AGREEMENT

between

VALE OF WHITE HORSE DISTRICT COUNCIL

-and-

ABINGDON YOUTH FOOTBALL CLUB

**Further to various Agreements and Undertakings under
Section 106 of the Town and Country Planning Act 1990
(relating to contributions for P14/V1196/FUL)**

M Reed
Shared Head of Legal and Democratic Services
Vale of White Horse District Council
135 Eastern Avenue
Milton Park
Milton
OX14 4SB

This Funding Agreement is made the day of 2018

Between

1. **Vale of White Horse District Council** of 135 Eastern Avenue, Milton Park, Milton OX14 4SB (the “Council”) and
2. Abingdon Youth Football Club (an unincorporated organisation) of Southern Town Park, Lambrick Way, Abingdon, Oxon. OX14 5TJ (the “Recipient”)

WHEREAS

- A. The Council has received monies further to the Planning Obligation for use including towards the facilities comprising the Project.
- B. The Recipient, acting by its Members has applied to the Council for Financial Contributions towards the cost of the Project (as defined below).
- C. The Council has agreed to pay a Financial Contribution to the Recipient in the amount specified in Schedule 1 to this Funding Agreement for the purposes of the Project.
- D. The parties have agreed that the Financial Contribution shall be offered and received on the basis of the terms and conditions set out herein.

Now it is agreed

1. Definitions and Interpretation

“Community Use” means for the general benefit and in the interests of the social welfare of some or all the inhabitants of Abingdon-on-Thames parish including use for Community Use available to all such that restriction or exclusion from entry or use on arbitrary grounds is not permitted. In particular and without limitation, restriction or prohibition on entry or use for reasons relating to race, colour, ethnicity, sex, sexual orientation, disability, age, religion or political persuasion are likely to constitute arbitrary grounds and be prohibited.

“Establishment Plan” means that work will be undertaken to ensure the new seed is established correctly by weed spraying, fertilising, rolling and undertaking the first cut with spiking.

“Financial Contribution” means the amount specified in Schedule 1 being part of the monies paid to the Council further to the Planning Obligation.

“Financial Contribution Term”	means the length of the term that the Contributions will be available to be drawn down by the Recipient by 30 September 2021.
“Planning Obligation”	means the Agreement 15V41 dated 11 August 2015, and 13V30 dated 23 May 2013 relating to development at Land East of Drayton Road.
“Project Area”	means the Parish of Abingdon-on- Thames.
“Project”	means the ground improvement works project see Schedule 2. To undertake grounds maintenance work on the site to include filling in the hollows, levelling the ground and reseeding. To follow up with the Establishment Plan which includes ensuring the seed is established correctly and make ground ready for the first cut.
“Site”	means Abingdon Youth Football Pitches, Southern Town Park, Lambrick Way, Abingdon, Oxon. OX14 5TJ

2. The Financial Contribution Recipient’s Obligations

- 2.1 Prior to the commencement of the Project, the Recipient will obtain all necessary permissions and consents required for the implementation of the Project.
- 2.2 The Recipient shall maintain current and accurate records of works and services carried out in the delivery of the Project and such records shall include full details of expenditure of the Financial Contributions and if so required the Recipient shall provide the Council with access to such records and data and otherwise promptly provide to the Council on request such evidence as the Council may reasonably require in order to confirm expenditure of the Financial Contributions.
- 2.3 The Recipient shall otherwise fulfil its other obligations specified in this Agreement.
- 2.4 The Recipient shall ensure that the Financial Contribution is spent exclusively on the Project.

3. Community Use

- 3.1 The Recipient shall ensure that the Project is available for Community Use at all reasonable times. This obligation includes the obligation to promote actively the existence and availability of the Project as appropriate, but this shall not oblige the Recipient to incur expenditure in advertising the Project.

- 3.2 Notwithstanding the foregoing, the Recipient is not obliged to offer the Project for any use or activity that in its reasonable opinion is illegal, offensive or immoral, likely to cause annoyance or disturbance to existing or regular users of the Project or neighbouring properties or which is likely to damage the fabric or contents of the Project.

4. Sale or other Disposal of the Site

- 4.1 The Recipient shall not within 10 years of practical completion of the Project grant any charge, lease or other estate or interest in the Site without the prior consent in writing of the Council (such consent not to be unreasonably withheld or delayed).

- 4.2 If on:

- 4.2.1 the disposal referred to in clause 4.1 above (except for a commercial re-mortgage of the Property); or
- 4.2.2 a sale of whole or part of the Site within 25 years of practical completion of the Project;
(either event to be referred to as a "Disposal")

the Recipient is to make a Disposal for valuable consideration, the Council shall be entitled to compensation in accordance with the provisions of clause 4.3 below.

- 4.3 Save as set out below, upon completion of a Disposal, the Recipient shall repay in its entirety the total amount of the Financial Contributions received by the Recipient.
- 4.4 Where a Disposal is of a part of the Site which has not benefited from the implementation of the Project, the Council shall not be entitled to compensation in accordance with the provisions of clause 4.3.
- 4.5 In the event of any delay between the completion of a Disposal and the payment by the Recipient of the compensation anticipated by clause 4.3, the amount outstanding shall be subject to interest at the then current Bank of England base rate plus the RPI prevailing at the time of disposal, accruing from the effective date of Disposal until the date of actual payment.

5. Payment of Financial Contributions

- 5.1 The Council undertakes to pay the Financial Contribution of £66,845.02 for the Project to the Recipient in accordance with Schedule 1 and subject to the conditions outlined in this funding agreement.
- 5.2 In the event of serious or persistent breach of the Funding Agreement the Council shall be entitled to exercise its rights under clause 6 of this Funding Agreement.

- 5.3 Payment will be made by BACS payment only to the bank account in the name of the Recipient following compliance with the terms of this Funding Agreement.

6. Termination and Recovery of Funding

- 6.1 If in the Council's reasonable opinion, after consultation with the Recipient, the Council is of the view that the Recipient is in material or persistent breach of its obligations under this Funding Agreement, the Council may seek to recover all or a part of the Financial Contributions paid to the Recipient or on its behalf or terminate this agreement and refuse to make further payments.
- 6.2 In the event of closure of any part of the Project having the benefit of grant expenditure such that the said part of the Project is not available for Community Use the Council shall seek to recover all or part of the Financial Contributions.
- 6.3 Prior to exercising its right to recover under clause 6.1 above, the Council shall use all reasonable endeavours to discuss breaches with the Recipient to give the Recipient a reasonable opportunity to remedy a breach.
- 6.4 In the event of the Council requiring to seek recovery the Financial Contributions shall be amortised at the rate of 4% above the Bank of England base rate over a period of 10 years from the release date of the Financial Contributions or in the case of staged payments the first stage payment release date.

7. Expiry of Financial Contributions

- 7.1 The Financial Contributions shall remain available to be drawn down by the Recipient until 30 September 2021 (the "Financial Contribution Term").
- 7.2 Provided the Recipient is able to show that it is making due progress with the Project, in relation to any funds which have not been drawn down by the Recipient within the Financial Contribution Term, the Council shall use all reasonable endeavours to extend the term of availability of the Financial Contributions for such period as may be reasonably required to complete the Project.
- 7.3 If, during the Financial Contribution Term, the Recipient is unable to show sufficient progress in the pursuit of the Project such failure shall be treated as a breach for the purposes of clause 6.1 and dealt with in accordance with the provisions of clause 6 above.

8. Insurance

8.1 The Recipient shall ensure that at times during the Financial Contribution Term and following the completion of the Project it shall maintain at its own cost: -

8.1.1 Policies of insurance in respect of the full reinstatement value of the assets comprising the Project and all assets on the Site.

8.1.2 A policy or policies of insurance covering public liability for injury to persons or property with policy limits and provisions conforming to such requirements as are usual for organisations in the nature of the Recipient.

8.2 The Recipient agrees that it shall be responsible for the carrying out and cost of all ongoing maintenance of the Project including buildings and the Site and all safety inspections.

9. Good Faith

9.1 The Council and the Recipient agree and declare that during the term of this Funding Agreement, all transactions between them shall be conducted in good faith and that they shall at all times act in good faith towards each other in connection with all matters pertaining to this Funding Agreement.

10. Variations

10.1 No deletion, addition or modification or variation to this Funding Agreement shall be valid unless agreed in writing and signed by both parties.

11. Costs

11.1 The parties shall bear their own costs and expenses in connection with this Funding Agreement.

12. Indemnity

12.1 The Recipient will indemnify and keep indemnified the Council from and against all costs demands proceedings and liabilities arising in connection with any claim that the Contributions have not been applied in accordance with the Planning Obligation and/or that the Contributions are repayable further to the Planning Obligation.

13. Bar on Assignment

13.1 The Recipient shall not assign the benefit of this Funding Agreement in whole or in part.

14. Contracts (Rights of Third Parties) Act 1999

14.1 A person who is not a party to this Funding Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this agreement.

15. Jurisdiction and Interpretation

15.1 The Agreement shall be governed exclusively by the jurisdiction of England and Wales and interpreted in accordance with English law.

15.2 A reference to any Act of Parliament, order, regulation, statutory instrument or similar, shall include a reference to any amendment or replacement of it. Reference to any Act of Parliament shall also include any subsidiary legislation made under it.

15.3 The Funding Agreement represents the entire understanding between the parties in relation to the subject matter of the Funding Agreement. If any of the Conditions become or are declared by a court of competent jurisdiction to be invalid or unenforceable such invalidity or unenforceability shall in no way impair or affect any other Conditions all of which shall remain in full force and effect.

15.4 In the event of any inconsistency between the Conditions and the Schedules the former shall prevail.

This deed has been executed by the parties and is delivered and takes effect on the date at the beginning of this deed.

THE COMMON SEAL of **VALE OF WHITE HORSE DISTRICT COUNCIL**
was hereunto affixed in the presence of:

Designated Officer

Signed as a Deed for and on behalf of Abingdon Youth Football Club acting
by: Mark Hill and Chris Cording (being two of its Members)

*[Check with Legal – do we require an indication of what capacity the signatory
is?]*

Signature:

In the presence of:

Signature:

Name:

Address:

.....

.....

.....

Occupation:

[Check with Legal how many witnesses are required?]

Signature:

In the presence of:

Signature:

Name:

Address:

.....

.....

.....

Occupation:

DRAFT

Schedule 1

Details of Financial Contributions

An amount of £66,845.02 in respect of the Project.

Payment by the Council will be made in accordance with the table below.

At the end of each phase Abingdon Youth Football Club will provide the council with a copy of the agronomist report to confirm that each phase has been completed in accordance with the Sports England Natural Turf Guidelines.

Phase	Description	Amount	Timescale
One	Purchase of Health & Safety Equipment	£1650.17	To be purchased by the club before levelling work starts for all areas. Already completed or booked in for September 2018
	Establishment Plan on Area 1	£10,260.00	
Two	Pitch work and Establishment Plan for Area 2 plus Pitch Inspection for Area 2	14,460.00 £784.80	Due to start work 01.09.2018 Independent Grounds Person Report
Three	Pitch work and Establishment Plan for Area 3 plus Pitch Inspection for Area 3	£24,129.00 £806.40	Due to start work on 01/09/2019 Independent Grounds Person Report
Four	Pitch work and Establishment Plan for Area 4 plus Pitch Inspection	£13,926.00 £828.65	Due to start work on 01/09/2020 Independent Grounds Person Report
	Total Estimate	£66,845.02	

If the estimated scheme costs reduce the Financial Contributions will be reduced accordingly.

Expiry: The Financial Contribution Term will expire on 30 September 2021.

Schedule 2

The Project

The Abingdon Youth Football Club is seeking to enhance and expand the football pitches by using the correct sports grass so that the facilities are usable by more people and accessible to all.

To make the ground improvement needed. They will undertake grounds maintenance work on the site to include filling in the hollows, levelling the ground and reseeding. To follow up with the Establishment Plan which includes ensuring the seed is established correctly and make ground ready for the first cut. (see definition for Establishment Plan)

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