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Dated

2021

BID LEVY OPERATING AGREEMENT

(1) Bournemouth Christchurch and Poole Council

and

(2) Christchurch BID



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Agreement

THIS AGREEMENT is made on the day of 2021

BETWEEN

- (1) **BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL** of Civic Centre, Bourne Avenue, Bournemouth BH2 6DY (“**the Council**”); and
- (2) **Christchurch BID LIMITED (Company No: INSERT)** whose registered office is Christchurch Civic Offices, Bridge Street, Christchurch BH23 1AZ (“**the BID Company**”)

Recitals

- A. The Council is the billing authority for the purposes of the Local Government Act 2003 and is responsible for collecting the BID Levy and administering the BID Revenue Account which shall be used towards the operation of the BID within the area of the Council and the funding of the BID Arrangements.
- B. The BID Company is responsible for the operation of the BID and for using the BID Levy for the purposes of achieving the objectives and aspirations set out in the BID Arrangements.
- C. Both parties wish to confirm the arrangements by which the BID Levy shall be collected together with general arrangements as to the relationship to be established between the Council and the BID Company for the duration of the BID.
- D. The purpose of this Agreement is to:
 - (a) Establish the procedure for **setting** the BID Levy;
 - (b) Establish and maintain a **comprehensive and accurate** BID Levy Database;
 - (c) Confirm the basis and service levels upon which the Council or its agents will be responsible for **collecting** the BID Levy;
 - (d) Set out the **enforcement** mechanisms available for collection of the BID Levy;
 - (e) Set out the procedures for **accounting and transference** of the BID Levy;
 - (f) Provide for the **monitoring and review** of the collection of the BID Levy;

- (g) Provide a **detailed breakdown** of the **BID Levy Collection Fee and Expenses** and confirm the manner in which those fees and expenses shall be **fixed** during the BID Term, **incurred** and **paid**.

1. Definitions

Alteration Proposal means the same as the BID Proposal save that 'plan' shall be replaced with 'altered plan'

Annual Report means a report to be prepared by the Council or its agent which details the following:

- (a) The total amount of BID Levy collected during the relevant Financial Year;
- (b) Details of the success rate for the collection of the BID Levy;
- (c) The Council's proposals (if any) to help improve its efficiency in the collection and enforcement of the BID Levy;
- (d) Details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy; and
- (e) The Council's proposals for bad and doubtful debts

Bad or Doubtful Debts shall have the same meaning as further described in Part 2 of Schedule 3 of the Regulations

Ballot Result Date means the date upon which a successful ballot result has been declared in favour of putting in place the BID Arrangements

Baseline Agreement means the services already provided by the Council as set out in Appendix D

BID means the Business Improvement District which is proposed to be managed and operated by the BID Company and is covered by the BID Area

BID Area means that area within which the BID operates as defined within the BID Proposal – Appendix C

BID Arrangements means those arrangements to be put in place pursuant to the Regulations for the operation of the BID

BID Company Report means a report for each Financial Year to be prepared by the BID Company which details the following:

- (a) The total income and expenditure of the BID Levy;

- (b) Other income and expenditure of the BID Company not being the BID Levy;
- (c) A statement of actual and pending deficits; and
- (d) The various initiatives and schemes upon which the BID Levy has been expended by the BID Company

BID Levy means the charge to be levied and collected within the BID Area pursuant to the Regulations and Appendix A to this Agreement

BID Levy Collection Fee means the fixed fee of £40,807 charged by the Council for the BID Term

BID Levy Database means the database of the BID Levy Payer(s) to be created and maintained by the Council to ensure the efficient and comprehensive collection of the BID Levy

BID Levy Payer(s) means the non-domestic rate payers responsible for paying the BID Levy

BID Levy Rules means the rules set out in Appendix A which sets out how the BID Levy will be calculated, details of Exempt or Discounted Properties and other requirements related to the BID Levy (as may be amended by a successful alteration ballot)

BID Proposal means the plan voted for by the BID Levy Payers which sets out the objectives and projects of the BID

BID Revenue Account means the account which the Council will set up in accordance with Regulation 14 in order to hold BID Levy payments before payment to the BID Company in accordance with regulations and accounting codes of practice including Schedule 3 of the Regulations

BID Term means the period of five years from the Commencement Date

Chargeable Period means each Financial Year during the BID Term

Commencement Date means 1st November 2021

Commercially Sensitive Information: means information of a commercially sensitive nature relating to the BID Company, its intellectual property rights or its business or which the BID Company has indicated to the Council that, if disclosed by the Council would cause the BID Company significant commercial disadvantage or material financial loss

Contributors means the BID Levy Payers or other contributors making voluntary contributions to the BID

Data Controller shall have the same meaning as set out in the Data Protection Legislation

Data Protection Legislation means the General Data Protection Regulation (EU) 2016/679, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Data Protection Act 2018 and all applicable laws and regulations relating to processing of personal data and privacy as may come in to force from time to time, including where applicable the guidance and codes of practice issued by the Information Commissioner

Data Processor shall have the same meaning as set out in the Data Protection Legislation

Demand Notice shall have the same meaning ascribed to it as further set out in paragraph 3 of Schedule 4 of the Regulations

EIR means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations

Exempt or Managed Properties means those class or classes of properties as identified in the BID Levy Rules which shall be exempt either from any requirement to pay the BID Levy or are permitted a discount on the BID Levy

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

Financial Year means the financial year for the Council which runs from INSERT to INSERT in the following year

Information has the meaning given under section 84 of FOIA

Managed Shopping Centres means a group of hereditaments paying a management charge to occupy such *(BID to confirm, SVPP confirm that the legislation we follow for the administration and collection of NDR does not recognise the term 'managed shopping centres')*

Monitoring Group means the group to be set up to monitor the collection and enforcement of the BID Levy and consisting of Economic Development, SVPP and Finance representatives from the Council and representatives from the BID Company including the BID Manager

Monthly Report means the report to be prepared and supplied by the Council to the BID Company within 7 Working Days from the ending of each month during the Financial Year and the report shall contain the information pursuant to Clause 9.1

NNDR means National Non-Domestic Rates

Personal Data shall have the same meaning as set out in the Data Protection Legislation

Public Meeting means a public meeting held pursuant to regulation 18(1)(a)(ii) of the Regulations

Reminder Notice means the notice to be served pursuant to Clause 9.1 for the total amount outstanding

Renewal Proposal means the same as the BID Proposal save that 'plan' shall be replaced with 'renewed plan'

Request for Information means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIR

Regulations means The Business Improvement Districts (England) Regulations 2004 and such amendments to those regulations which may be made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time) and terms defined in the Regulations shall have the same meaning when used in this Agreement

Single Instalment Due Date means the date the BID Levy will be payable, in one lump sum, 14 days after the date of issue of the Demand Notice

Working Day means any day of the week other than a Saturday, a Sunday or a bank holiday in England

2. Statutory Authorities

2.1 This Agreement is made pursuant to Part IV of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers.

3. Commencement and Determination

3.1 This Agreement shall not take effect until after the Ballot Result Date and in any event shall determine and cease to be of any further effect in the event that:

- (i) The BID Company fails to secure approval of the BID Proposal, Renewal Proposals or Alteration Proposals in a ballot, renewal ballot, alteration ballot or rebalot;
- (ii) The Secretary of State declares void a BID ballot, renewal ballot, alteration ballot or rebalot;
- (iii) The Council exercises its veto and there is no successful appeal against that veto;
- (iv) The BID Term expires save where the BID Company secures approval of Renewal Proposals in a renewal ballot or Alteration Proposals in an alteration ballot or proposals in a rebalot in which event this Agreement shall continue, subject to a review of the terms of this Agreement by the parties to ensure that the terms of this Agreement accord with the Renewal Proposal or the Alteration Proposal as appropriate, until the expiry of the BID Term set out in the Renewal Proposals, Alteration Proposals or the proposals set out in the rebalot provided, in relation to Renewal Proposals and Alteration Proposals the Council consents to such continuation; or
- (v) The Council exercises its discretion to terminate the BID Arrangements in exercise of powers under regulation 18 of the Regulations.
- (vi) The BID proposes to undertake activities undertaken within the Baseline Agreements

3.2 If, at the end of the BID Term a renewal ballot is held and is successful then the terms of this Agreement shall be reviewed and agreed between the Council and the BID Company prior to the start of the new BID term.

4. Setting the BID Levy

4.1 As soon as is reasonably practicable following the Ballot Result Date the Council shall, in conjunction with the BID Company,:

- (i) Establish the BID Levy Database. One of the Council's primary obligations during the BID Term shall be the comprehensive maintenance of the BID Levy Database to ensure that all the BID Levy Payer(s) are accurately recorded. The BID Levy Database shall be the

primary record for the issuing of Demand Notices and enforcement action;

- (ii) Calculate the BID Levy due from each BID Levy Payer in accordance with the BID Levy Rules; and
- (iii) Confirm in writing to the BID Company the BID Levy payable by each BID Levy Payer.

5. The BID Revenue Account

- 5.1 As soon as is reasonably practicable following the Ballot Result Date the Council shall create a collection system and keep a BID Revenue Account in accordance with the Regulations and accounting codes of practice in force from time to time and provide written confirmation to the BID Company.
- 5.2 As soon as reasonably practicable following the Ballot Result Date the BID Company shall provide the Council with details of its bank account into which the BID Levy shall be transferred from the BID Revenue Account and any other details which the Council may reasonably require.
- 5.3 The Council, within twenty (20) Working Days of receipt of an invoice for the BID Levy, will pay to the BID Company each month of every Financial Year during the BID Term a sum equal to the monies collected in that month and properly credited to the BID Revenue Account but, subject to clause 5.4 below, net of any cost incurred by the Council by way of collection and refunds.
- 5.4 The Council shall, prior to making any payment to the BID Company pursuant to clause 5.3 above, deduct the BID Levy Collection Fee incurred by it in the collection of the BID Levy, taking account of the services to be provided as detailed in Appendix B, of the annual BID Levy for each Financial Year and any further agreed adjustments from payments properly credited to the BID Revenue Account.
- 5.5 Annually the Council will, by no later than **INSERT** of each Financial Year during the BID Term, pay to the BID Company or receive from it the balance of monies having taken account of the monthly account payments (net of refunds) and balance on the BID Revenue Account at the end of each Financial Year of the BID Term.
- 5.6 All sums will be subject to the addition of Value Added Tax (VAT) where applicable under VAT legislation and regulations in force at the time.
- 5.7 The BID Company and the Council as appropriate will issue VAT receipts, where applicable under VAT legislation and regulations in force at the time.

6. Collecting the BID Levy

- 6.1 As soon as reasonably practicable following the Ballot Result Date the Council shall confirm in writing to the BID Company the anticipated date of the despatch of Demand Notices for the initial Chargeable Period and the anticipated Single Instalment Due Date.
- 6.2 The Council shall serve a Demand Notice on each BID Levy Payer and thereafter shall continue to calculate the BID Levy and serve such Demand Notices as are relevant on BID Levy Payers throughout the BID Term.
- 6.3 The Council shall maintain a list of those BID Levy Payers who have paid the BID Levy and those BID Levy Payers who have not paid the BID Levy and shall make the list available to the BID Company by way of the Monthly Report.
- 6.4 The Council shall serve a Demand Notice or, as necessary, an amended Demand Notice on a BID Levy Payer as soon as reasonably practicable after the Council receives notice of a change that affects liability for the BID Levy.
- 6.5 The Council shall use reasonable endeavours to collect the BID Levy throughout the BID Term save that any enforcement action shall only be commenced following prior consultation with the BID Company.
- 6.6 The Council is not liable to pay the BID Company any sums not collected and/or which are written off by the BID Company.
- 6.7 No interest will be paid by the Council to the BID Company on money in the BID Revenue Account.

7. Procedures available to the Council for enforcing payment of the BID Levy

- 7.1 Procedures for the enforcement and recovery of the BID Levy will be in line with the Council's enforcement procedure for NNDR and the Regulations, subject to agreed exceptions, and the Council shall comply with these enforcement procedures (where appropriate) in enforcing payment of the BID Levy against BID Levy Payers and in consultation with the BID Company.

8. Enforcement Mechanisms in the event that the Council fails to enforce collection of the BID Levy

- 8.1 In the event that the Council fails to enforce payment of the BID Levy pursuant to Clause 7 the BID Company shall be entitled to:
 - (i) Require the Council to provide written confirmation of the action it is taking in relation to the sum which remains unpaid;

- (ii) Question whether the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the sum which remains unpaid;
- (iii) Require the Council to serve a Reminder Notice and/or issue a Demand Notice or commence enforcement action; and
- (iv) Provide written notice requesting that a meeting of the Monitoring Group take place in order to achieve a solution and/or agree a strategy to recover the sum which remains unpaid, such meeting to take place no later than 28 (twenty-eight) days from the date of the request.

9. Accounting Procedures and Monitoring

9.1 Within 21 Working Days of the end of the first quarter of the Financial Year (a **Quarter**) after the Commencement Date and every Quarter thereafter, for the duration of BID Term the Council shall provide the BID Company with:

- (i) The rateable value for each BID Levy Payer;
- (ii) The amount of the BID Levy for each BID Levy Payer;
- (iii) The amount of the BID Levy collected for each BID Levy Payer;
- (iv) Details of BID Levy Payers who have not paid the BID Levy;
- (v) Details of Reminder Notices issued; and
- (vi) Details of any further action taken to recover any sum unpaid.

9.2 Within one month of the start of each Financial Year the parties shall agree the dates when there will be meetings of the Monitoring Group and there will be at least two such meetings in each Financial Year throughout the duration of the BID Term and on all other occasions further meetings of the Monitoring Group shall be arranged by the service of written notice by either party, such notice to be served no less than twenty eight (28) days prior to the date of the proposed meeting (or such lesser period as may be agreed by the parties or may be necessary in the case of an emergency).

At each meeting the Monitoring Group shall:

- (i) Review the effectiveness of the collection and enforcement of the BID Levy;
- (ii) If required by either party review and assess information provided by the parties; and
- (iii) Consider the charges being made by the Council for the collection of the BID Levy.

9.3 Within 1 (one) month from the date of receipt of the Annual Report in each financial year (for the duration of the BID Term) the BID Company shall provide a BID Company Report to the Council.

9.4 The BID Revenue Account will be subject to the normal internal & external audit arrangements of the Council and the Council will make available to the BID Company and its appointed auditors such information, limited to the BID Revenue Account, as requested by the BID Company and its appointed advisors that they are able to request under legislation and the Regulations.

10. Termination

10.1 Where the Council is considering terminating the BID Arrangements under regulation 18(1)(a) of the Regulations it shall serve written notice on the BID Company and in addition to its obligations to hold a Public Meeting, shall meet with the BID Company as soon as is reasonably practicable to discuss and review the following:

- (i) The basis of the Council's concerns that the BID Company has insufficient funds to meet its liabilities for that period;
- (ii) The level of insufficient funds;
- (iii) Alternative means by which the insufficiency of the funds can be remedied in accordance with regulation 18(1) (a) (i) of the Regulations; and
- (iv) An appropriate period to resolve the issue.

10.2 Where the Council is contemplating terminating the BID Arrangements under regulation 18(1)(b) of the Regulations it shall, in addition to the consultation requirements contained in the aforesaid regulation 18(1)(b), serve written notice on the BID Company and shall meet with the BID Company as soon as is reasonable practicable to discuss and review the following:

- (i) The service it is no longer able to provide and the reasons why the service cannot be provided;
- (ii) The options available to the BID Company including alternative means of providing the services;
- (iii) Alternative services; and
- (iv) The period in which the issue is to be resolved.

10.3 In the event that the parties cannot reach agreement in relation to the issues detailed in clauses 10.1 or 10.2 above, the Council shall cause a Public Meeting to be held and subject to consideration of representations made by any BID Levy Payer at the Public Meeting the Council shall be permitted to terminate the BID Arrangements provided that notice by the Council to terminate the BID shall be provided to the BID Company no less than ninety (90) days prior to termination taking place.

10.4 Upon termination of the BID Arrangements the Council shall review whether there is a credit in the BID Revenue Account and in the event that there are sufficient funds

in the BID Revenue Account amounting to a refund of at least £5 for each BID Levy Payer (having already deducted a reasonable sum for the administration of such refund) to:

- 10.4.1 calculate the amount to be refunded to each BID Levy Payer;
 - 10.4.2 ensure that the amount to be refunded is calculated by reference to the amount payable by each BID Levy Payer for the last chargeable period; and
 - 10.4.3 make arrangements for the amount calculated to be credited against any outstanding liabilities of each BID Levy Payer or, where there are no such liabilities refunded to the BID Levy Payer.
- 10.5 Upon termination of the BID the Council shall notify the BID Levy Payers of such termination in accordance with regulation 18(6) of the Regulations together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy Payers in accordance with clause 10.4 above.
- 10.6 The BID Company shall not be permitted to terminate the BID Arrangements where:
- 10.6.1 The works or services under the BID Arrangements are no longer required; or
 - 10.6.2 The BID Company is unable, due to any cause beyond its control, to provide works and services which are necessary for the BID to continue,
- unless and until it has served a termination notice on the Council and thereafter carried out a process of consultation, which shall form part of the termination notice and be approved by the Council in writing, with all relevant representatives of the BID Area.
- 10.7 Upon termination of the BID Arrangements the BID Company shall notify the Council of such termination in accordance with regulation 18(6) of the Regulations together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy Payers in accordance with clause 10.4 above.
- 10.8 This Agreement may be terminated at will by the Council upon no less than 90 (ninety) days written notice to the BID Company. Notice shall be delivered in accordance with the provisions of clause 17 of this Agreement.

11. Freedom of Information

- 11.1 The Bid Company acknowledges that the Council is subject to the requirements of the FOIA and the EIRs and the BID Company shall:

- (a) provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and EIRs;
- (b) transfer to the Council all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 5 Working Days of receipt;
- (c) provide the Council with a copy of all Information belonging to the Council requested in the Request for Information which is in its possession or control in the form that the Council requires within 5 Working Days (or such other period as the Council may reasonably specify) of the Council's request for such Information; and
- (d) not respond directly to a Request for Information unless authorised in writing to do so by the Council.

11.2 The BID Company acknowledges that the Council may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the BID Company. The Council shall take reasonable steps to notify the BID Company of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Council shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

12. Data Protection

12.1 Both parties shall comply with the Data Protection clause appended to this agreement at Appendix E.

13. Force Majeure

13.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for twelve weeks, the party not affected may terminate this Agreement by giving fourteen days' written notice to the affected party.

14. Equalities

- 14.1 The BID Company shall perform its obligations under this Agreement (including those in relation to the BID Arrangements) in accordance with:
- (i) the Equality Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - (ii) the Council's equality and diversity policy as provided to the BID Company from time to time; and
 - (iii) any other requirements and instructions which the Council reasonably imposes in connection with any equality obligations imposed on the Council at any time under applicable equality law.

15. Dispute Resolution

- 15.1 If a dispute arises between the Council and the BID Company in relation to any matter which cannot be resolved between the parties either party may refer such dispute to the dispute resolution procedure set out in Clause 15.2 and 15.3 below.
- 15.2 In the first instance each of the Council and the BID Company shall arrange for senior representatives to meet solely in order to resolve the matter in dispute. Such meetings shall be minuted and conducted in such manner and at such venue (including a meeting conducted over the telephone) as to promote a consensual resolution of the dispute in question.
- 15.3 If the meeting(s) referred to in Clause 15.2 does not resolve the matter in question then the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure or any other model mediation procedure as agreed by the parties. In such circumstances the following shall apply:
- 15.3.1 to initiate a mediation the parties may give notice in writing (a "Mediation Notice") to the other requesting mediation of the dispute and shall send a copy thereof to CEDR or an equivalent mediation organization as agreed by the parties asking them to nominate a mediator;
 - 15.3.2 the mediation shall commence within 28 days of the Mediation Notice being served;
 - 15.3.3 neither party will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one hour. Thereafter paragraph 14 of the Model Mediation

Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the parties);

15.3.4 neither party to the mediation will commence legal proceedings against the other until 30 days after such mediation of the dispute in question has failed to resolve the dispute provided that a party shall not be prevented from taking action to protect any limitation periods; and

15.3.5 the parties will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and will pay his costs, as he shall determine or in the absence of such determination such costs will be shared equally.

15.4 This Clause 15 is without prejudice to the rights of the parties to apply for injunctive relief or to the rights of the parties in any future proceedings.

16. Confidentiality

16.1 Subject to Clause 11 the Council and the BID Company shall keep confidential and not divulge to any person without the prior written consent of the other party all information (written or oral) concerning the business affairs of the other nor any information which has been exchanged about the BID Levy Payers or Contributors or about other third parties which it shall have obtained or received as a result of operating the BID and this obligation shall survive the termination or lapse of the BID Arrangements.

17. Notices

17.1 Any notice or other written communication to be served or given to or upon any party to this Agreement to the other shall be in writing and shall be sent to the address provided for above or such substitute address in England as may from time to time have been notified by that party upon 7 days' written notice

17.2 A notice may be served by;

(a) Delivery to the Head of Strategic Planning and the Economy at the address of the Council specified above;

(b) Delivery to the Company Secretary at the address of the BID Company specified above;

(c) Registered or recorded delivery post to such addresses; or

(d) Electronic Communication (provided that it is in legible form and is capable of being used for subsequent reference) to such addresses.

17.3 Any notice served shall be deemed to have been validly served or given at the time when in the ordinary course of business it would have been received.

18. Contracts (Rights of Third Parties)

18.1 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

19. Severance

19.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

19.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

20. Governing Law and Jurisdiction

20.1 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

21. Miscellaneous

21.1 For the avoidance of doubt where any part of this Agreement is incompatible with the Regulations or any other regulations which the Secretary of State may issue pursuant to Part IV of the Local Government Act 2003 then such part shall be struck out and the balance of this Agreement shall remain.

21.2 Nothing in this Agreement or implied in it shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes bye-laws statutory instruments orders and regulations in the exercise of its functions as a local authority.

21.3 References to the Council include any successors to its functions as a local authority.

21.4 References to statutes bye laws regulations orders and/or delegated legislation shall include any such instrument re-enacting modifying, replacing or made pursuant to the same power.

21.5 The BID Company and the Council shall seek to reach an agreement on when the logo of each party shall be shown on advertising and branding material in respect of the joint projects of the parties and for this purpose the Council and the BID Company shall provide details regarding the size of their logo and guidelines for its use. For the avoidance of doubt neither party shall be entitled or permitted to use the logo of the other party on any material published by it without the prior written consent of the other party.

Signed by the Parties:-

SIGNED for and on behalf of

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL by

Authorised Signatory

Name

Position

SIGNED for and on behalf of **CHRISTCHURCH BID**

Authorised Signatory

Name

Position

Appendix A: BID Levy Rules

1. This is a first BID proposal to cover the period 1st November 2021 to 31st October 2026 inclusive and the BID would deliver services in addition to any public or private sector organisation.
2. All National Non-Domestic Ratepayers within the proposed boundary, as outlined within this Business Plan, would be liable to pay the BID Levy, with the exception of 1) Any hereditament with a rateable value below £5,000, 2) Any School or 3) Any Day Nursery, all three of which categories will be Exempt Properties . In the event of any queries regarding exempted status, the BID Board of Directors would make the decision.
3. The annual BID Levy is proposed at 1.75% of applicable rateable value payable in advance using the 2017 Rateable Value list, as updated on 1st October 2021 in year 1 and on 1st March in each subsequent year of the BID Term. In the event of government revaluation, then the prevailing rating list would be used. The proposed billing periods are therefore as follows:

BID year	Billing Period
1 (5 months)	1 st November 2021-31 st March 2022
1 & 2 (12 months)	1 st April 2022-31 st March 2023
2 & 3 (12 months)	1 st April 2023-31 st March 2024
3 & 4 (12 months)	1 st April 2024-31 st March 2025
4 & 5 (12 months)	1 st April 2025-31 st March 2026
5 (7 months)	1 st April 2026-31 st October 2026

4. Any tenant of a managed centre who are subject to a service charge would pay a reduced rate of 1.3% to reflect the fact that their service charge covers some of the services which would be provided by the BID. In the event of any queries regarding this status, the BID Board of Directors would make the decision.
5. The BID Levy would be charged on a daily basis and invoices would be issued to the BID payer as liability arises.

6. In the event of a change of occupation within part of a year, or billing period, liability would be calculated and, if there is an overpayment, it would be refunded and the new occupier, or liable party, would be charged for the remainder of the year, or billing period, with immediate effect. No refunds would be given in respect of rateable value changes which affect past billing periods.
7. Any new hereditament entered in the rating list, within the BID boundary during a billing period, not exempt under the BID rules would be subject to the BID Levy.
8. In year one of the operation of the BID, invoices would be issued on a pro-rata basis for 5 months to cover the period 1st November 2021 up to and including 31st March 2022. For the four subsequent years, invoices would be issued to cover the period 1st April up to and including 31st March. Final invoices would then be issued on a pro-rata basis for 7 months to cover the period 1st April 2026 up to and including 31st October 2026.
9. The liability for the BID Levy on any eligible vacant premises, or premises undergoing refurbishment, would revert to the liable party as defined under prevailing Non-Domestic Rates legislation, with no void period.
10. The BID Board may exercise the ability to raise the BID Levy on an annual basis for the duration of the BID, with such increases limited to the increase in the Consumer Price Index of the preceding year.
11. Non-Domestic Rate regulations would be used to collect any outstanding BID Levy and any write-offs would be submitted to the BID Board of Directors for approval.
12. Voluntary BID contributors would be welcomed, although will not be entitled to vote in the BID ballot. Such voluntary contributions would be paid by separate agreement with the BID Company
13. It is proposed that £28,565 of the costs of developing this BID proposal would be recovered from levy receipts as full repayment of the BID loan funding which was awarded to develop this proposal.

Appendix B: Service Specification for Collecting the BID Levy and managing the BID Revenue Account

Service Standards

The Council will provide the Services to the BID at a level of care and skill expected in accordance with industry standard and the resources available.. In the event that external specialist advice is procured, the Council will seek to ensure that the provider meets an equivalent standard.

Monitoring Information

The Council will provide the following monitoring information:

1. Provision of a timetable to show the anticipated date of despatch of Demand Notices and the anticipated single instalment date provided.
2. Provision of stats to show the amount of BID Levy paid in month and year to date.
3. Provision of stats to show the amount of BID Levy unpaid in month and year to date.
4. On a quarterly basis the provision of data to confirm the rateable value for each BID Levy Payer, the amount of the BID Levy for each payer, the amount of the BID Levy collected for each BID Levy Payer, details of BID Levy Payers who have not paid.
5. Provision of stats to show the number of Reminder Notices issued.

Key Contacts

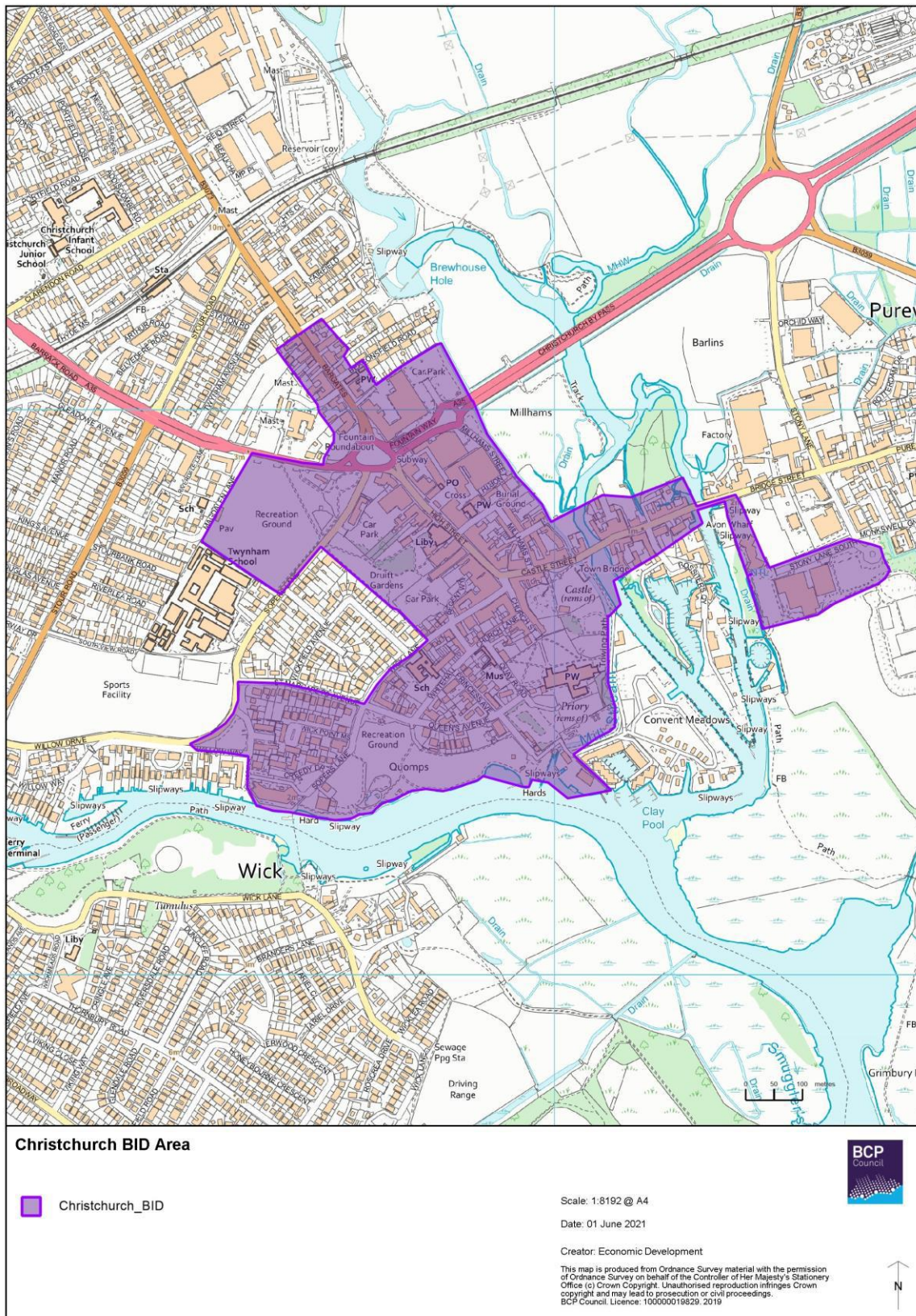
The following officers will be the BID Company's key points of contact:

1. BCP Council Economic Development Officer
2. SVPP Business Rates Officer

BID Levy Collection Fee charge for collection costs are as follows:

Year	Cost
1	£8,871
2	£7,984
3	£7,984
4	£7,984
5	£7,984
Total	£40,807

Appendix C: Christchurch BID Boundary



Appendix D: Baseline Agreement

- 1. **CCVT**
- 2. **Cleansing**
- 3. **Market**
- 4. **Parking**
- 5. **Regulatory Services**
- 6. **Tourism and Events**

Base Line activity: CCTV

Head of Service: Kelly Ansell

Date: July 2021

<p>Service provided / number of staff</p>	<p>The BCP CCTV Control Room operates a 24/7, 365 days service which includes CCTV monitoring and reviewing for the purpose of:</p> <ol style="list-style-type: none"> 1. To help prevent, detect, and reduce crime, disorder, public nuisance, and anti-social behaviour including drug and alcohol related violent crime 2. To reduce any apprehension of crime, anti-social behaviour and aggression and provide reassurance for all those that live, work, trade and visit the area therefore enhancing community safety and boosting the economy 3. To assist statutory agencies (police, council etc.) to deploy their resources effectively 4. To assist in the management of the public areas covered by CCTV and support a local authority’s civil enforcement and regulatory functions 5. To monitor traffic flow and assist in traffic management issues 6. Identify, apprehend and prosecute offenders in relation to crime, public order, road traffic accidents involving serious injury and all forms of harassment cases 7. To assist in civil emergencies and countering terrorism 8. To assist the emergency services in all aspects as appropriate, including major exercises relating to criminal activities and public safety 9. Provide the Police, the Council, and other authorised organisations with evidence upon which to take criminal and civil actions in the Courts including identifying witnesses
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	<p>10. Promote the objectives of Dorset Police and Community Safety Partnership.</p> <p>11. In appropriate circumstances, assisting the investigation of road traffic accidents.</p> <p>There are currently 575 fully functional cameras of various makes and models of which 30 are within the BID boundary area as per attached list. There are 10 CCTV operators who control and monitor the CCTV 24/7. The operators are trained to the national standard and licensed by the SIA for the operation of Public Space Surveillance CCTV.</p>
Specification	Camera images are relayed to the BCP Control room via a fibre optic transmission system which provides the transmission of video and telemetry signals between the cameras and the control room where images are controlled and monitored 24/7 by trained officers.
Performance Measure	We provide monthly, quarterly and annual reporting in relation to incidents recorded, proactive incidents, number of arrests and requests for footage. In addition to this we monitor camera usage to ensure we are adhering to the 12 Guiding Principles listed in the Home Office Surveillance Camera Code of Practice 2013. We share information with Dorset Police, BCP Licensing, ASB and Cleansing teams.
Non-compliance procedure	In the event that any of the cameras fail or we have a system failure BCP has a 24/7 maintenance contract in place which ensures the service is fully operational as soon as possible. The contract was renewed at the beginning of 2020 for 5 years.
Existing value of contract / service	There is a fully inclusive annual maintenance and monitoring contract in place for the maintenance of all cameras and monitoring in the BCP area.
Boundary areas	
Proposed BID additional activity	
Value of BID activity	

Base Line activity: CCTV Monitoring (for Safe and Sound, and Safer Business Schemes)

Head of Service: Kelly Ansell

Date: July 2021

Service provided / number of staff & equipment	<p>The BCP CCTV Control Room operates a 24/7, 365 days service which includes the monitoring of the radio system and interaction with members of the Safe & Sound for Bars and Safer Business retailers for the purpose of:</p> <ol style="list-style-type: none">1. To help prevent, detect and reduce crime, disorder, public nuisance and anti-social behaviour including drug and alcohol related violent crime2. To reduce any apprehension of crime, anti-social behaviour and aggression and provide reassurance for all those that live, work, trade and visit the area therefore enhancing community safety and boosting the economy3. To assist statutory agencies (police, council etc.) to deploy their resources effectively4. To assist in the management of the public areas covered by CCTV and support a local authority's civil enforcement and regulatory functions5. To monitor traffic flow and assist in traffic management issues6. Identify, apprehend and prosecute offenders in relation to crime, public order, road traffic accidents involving serious injury and all forms of harassment cases7. To assist in civil emergencies and countering terrorism8. To assist the emergency services in all aspects as appropriate, including major exercises relating to criminal activities and public safety9. Provide the Police, the Council, and other authorised organisations with evidence upon which to take criminal and civil actions in the Courts including identifying witnesses10. Promote the objectives of Dorset Police and Community Safety Partnership.11. In appropriate circumstances, assisting the investigation of road traffic accidents.
Specification	Camera images are relayed to the BCP Control room via a fibre optic transmission system which provides the transmission of video and telemetry signals between the cameras and the control room where images are controlled and monitored 24/7 by trained officers. Radio links are

	established between the CCTV Control Room, businesses and licensed premises.
Performance measure	We provide monthly, quarterly and annual reporting in relation to incidents recorded, proactive incidents, number of arrests and requests for footage. In addition to this we monitor camera usage to ensure we are adhering to the 12 Guiding Principles listed in the Home Office Surveillance Camera Code of Practice 2013. We share information with Dorset Police, BCP Licensing, ASB and Cleansing teams.
Non-compliance procedure	The Control Room has a fully inclusive maintenance contract in place to ensure that the loss of cameras, recordings or radio connection is covered. Where the loss of connection is outside of our control (i.e. radio at one of the establishments) this is reported to Town Centre management.
Existing value of contract / service	Fully inclusive maintenance contract, £7,864pa. Monitoring contract is £32,000pa. (Pro rata of whole contract value.
Boundary areas	
Proposed BID additional activity	To be determined
Value of BID activity	To be determined

Base Line activity: Cleansing

Head of Service: Kate Langdown

Date: July 2021

Service provided / number of staff	<p>The cleansing activities detailed below are focused around the retail and tourist sector of Christchurch High Street, Highcliffe, Mudeford and popular seafront area's such as Avon Beach, Christchurch Quay and Mudeford Quay. All activities are delivered by an 'in house' team, much of which operates from a location convenient to the centre of work. Subject to demand, the same resource will also be utilised in adjacent residential areas.</p> <p>Town Centre assets include, Cleansing Driver non LGV Two General Operatives, (gen ops) One Mini Sweeper One 7.5t Litter Vehicle and Driver Two Large Mechanical Sweepers 2 LGV Drivers 2 Cage Vans, One Hand Push Barrow Hand held blower and sucker equipment Various hand tools and equipment.</p> <p>The work is typical for cleansing and includes Mechanical sweeping General Litter picking Blowing out and sweeper support RTA and other emergency work Cleansing after high profile Special Events</p> <p>Cleansing work in Town Centre starts at 05:30 completing about 12.30. Litter vehicle services street bins and seafront areas throughout the day</p> <p>Two mechanical sweepers and two litter pickers start in the town at 05:30 working their way through the town centre high priority and retail areas .General operatives are tasked to carry out any cleansing needs within the area until 13:00 – the demands can change seasonally, to include extra bin servicing.</p> <p>Operatives check and empty the bins in the high priority areas and other known hot spots.</p> <p>During the weekend the Town is serviced by a multi skilled team that will at least include Litter Crew, Town Centre Operative, a further two man crew to service the street bins and litter pick. Roster crews start at 06:30 and work in designated areas till 11:00 Saturdays</p>
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Specification	<p>No formal specification exists for this area, However the Town Centre is classed as Zone 1 within the EPA code of practice and as such is closely monitored by Area Officers to maintain high standards of cleansing at all times. The work is based on Street Scene principles of see it do it, to ensure we meet our purpose: To improve the quality of life for the people of Christchurch.</p> <p>Promoting the health and wellbeing of our population, Supporting local people to take greater control of their communities to improve the quality of life at local level, Protecting and enhancing our natural and built environment,</p>
Performance Measure	<p>Internal performance monitoring procedures by Area Officers and resolving of issues and problems within designated time scales monitored and assisted by Area Officers. Lagan computer system is used to provide information and records of work and time scales works should be carried out within. This is monitored by Area Officers. Cleansing work is carried out to EPA (Environmental Protection Act 1990)</p> <p>This is also monitored by Area Officers who carry out daily inspections to ensure standards are always meet.</p>
Non-compliance procedure	Internal monitoring carried out by Area Officers.
Existing value of contract / service	Funded from the global cleansing budget, no specific allocation has been made as resources vary depending on demand.
Boundary areas	Eastern Boundary at Highcliffe to western Boundary at Tuckton Bridge, Northern Boundary at Bournemouth Airport. Includes all tourist hot spots as previously stated.
Proposed BID additional activity	Christchurch BID could have a cleansing squad to support with PM coverage at peak times of the year. Christchurch BID could also support with targeted jet washing and graffiti removal
Value of BID activity	£12k per annum (Collection dependant)

Base Line activity: Christchurch market

Head of Service: Cat McMillan

Date: July 2021

Specification	Currently provide the operation of the weekly Monday Market in the High Street which brings additional footfall to the area to the benefit of residents, retailers and visitors.
Performance Measure	No performance measures under the current contract.
Non-compliance procedure	Any issues or concerns raised are discussed with the operator Southern Market Traders Ltd and assessed and actioned where necessary.
Existing value of contract/service	Southern Market Traders Ltd operate the management of the market for an annual fee of £35,000. This contract operates until 31.03.23- we are intending to tender the operation of all market during the 22/23 financial year.
Boundary areas	Christchurch High Street and Saxon Square (on occasion)
Proposed BID additional activity	None
Value of BID activity	Nil

Base Line activity: Car Parking

Head of Service: Richard Pincroft

Date: July 2021

Service provided / number of staff	<p>Car parks provision and enforcement in Christchurch</p> <p>On-street and surface off-street pay and display</p> <p>Equipment: Metric Aura x38 and Accent x17 machines.</p> <p>Multi Storey Car Parks – Metric Accent x 6 machines 12 x frontline enforcement staff plus, Jade Security (part of Pivotal) Services Ltd: External cash collectors Multi-vendor Cashless Parking through RingGo, Pay By Phone and Just Park for on-street and surface car parks</p>
Specification	<p>Avon Beach 99 Spaces Avon Run road 222 spaces Bank close 156 spaces Bridge Street 51 spaces By-Pass 202 spaces Christchurch Quay 21 spaces Highcliffe Castle 102 spaces Highcliffe Top 424 spaces Leisure Centre 175 spaces Mayors Mead 156 spaces Mudford Quay 448 spaces Pit Site 91 spaces Priory 101 spaces</p>

	Purewell Dairy 28 spaces Saxon Square Multi-storey 265 spaces Southcliffe Road 200 spaces Steamer Point 168 spaces Wick Lane 187 spaces Willow way 74 spaces Wortley road 126 spaces
Performance Measure	Number of complaints about service Meeting health and safety regulations Equalities Act compliant Penalty Charge Notices cancellation rate
Non-compliance procedure	Increase in complaints Non-compliance of Health and Safety regulations Significant increase in PCN cancellation rate
Existing value of contract / service	BCP Council Parking budget for 21-22 Expenditure £7,681,700 Income (£17,683,700) Net Budget (£10,002,000)
Boundary areas	The whole of Christchurch (as part of BCP Council)
Proposed BID additional activity	None
Value of BID activity	Nil

Base Line activity: Regulatory Services

Head of Service: Peter Haikin

Date: July 2021

Specification	<p>Currently provide the following services to business within the town centre:</p> <ul style="list-style-type: none"> • Protection of the environment • Trading Standards • Food Safety • Licensing • Workplace health and safety • Covid-19 advice and enforcement <p>These services are predominately a statutory requirement, although they are designed around the demands, needs and expectations of business and their customers. The aim is to protect the health, safety and wellbeing of residents and visitors through regulating those traders who deliberately or negligently cause detriment to the environment, products & foods that are sold, or the places in which people work or spend their leisure time. Through applying regulatory advice, information, enforcement and licensing criteria, a level playing field is created for legitimate businesses to operate and flourish, whilst deterring irresponsible or rogue traders who cause detriment to the town centre and discourage visitors.</p>
Performance Measure	<p>The service maintains, interprets, and uses measures based on customer experience, end-to-end resolution times, process times, and whole systems outcomes. These measures relate to purpose and demonstrate variation over time. They help in understanding and improving performance and are used to act on and improve systems.</p>
Non-compliance procedure	<p>Monitoring and corrective actions via Team meetings, one-to-one meetings, Management Team meetings, analysis of the Risk Register, Performance Matrix, Training Plan, Team Plans, and Directorate plans.</p>
Existing value of contract/service	<p>Total budget: £2,621,500 Of which 5% approx. (£131k) is dedicated to the town centre. Total of 58 FTEs (about 3 FTEs for the town centre).</p>
Boundary areas	<p>Willow Way though the town centre to Stoney Lane South, and North from the Slipway to Bargates.</p>
Proposed BID additional activity	<p>None</p>
Value of BID activity	<p>Nil</p>

Base Line activity: Tourism & Events

Head of Service: Chris Saunders

Date: July 2021

Service provided / number of staff & equipment	<p>The Destination & Culture Events Team administers and manages events organised by external event organisers in public parks gardens and open spaces managed by BCP Council and under an agreement, on land owned managed by Town Councils. This is in addition to externally organised events on the Highway.</p> <p>The events team working with BCP's street lighting team also organise Christmas Lighting in Christchurch and Highcliffe town centres. This will change shortly and the Town / Parish Councils will be given a grant by BCP Council for them to provide their own Christmas lighting</p> <p>Destination Marketing is overseen by Destination and Culture and delivered by BCP Council's Corporate Marketing and Communications Team</p>
Specification	<p>Each event has different specifications, and these are detailed within the respective events management plans.</p> <p>Specifications for Christmas lighting is determined by the events team in consultation with relevant stakeholders – Town Council, Chamber of Trade.</p> <p>Destination Marketing – the management and development of content of a dedicated Christchurch website, plus a social media campaign via Love Christchurch together with collective campaigns across the BCP area e.g. Beyond the Beach, Enjoy Summer Safely.</p>
Performance measure	<p>Events are organised safely and adhere to all statutory regulatory requirements and relevant Council Policy.</p> <p>Feedback from stakeholders on the impact of the Christmas Lighting.</p> <p>Feedback from Tourism Industry in Christchurch, web and social media analytics - views, likes, reach.</p>
Non-compliance procedure	<p>All events have detailed event management plans with specific requirements that need to be met. Contingency actions are detailed should events need to be cancelled or curtailed (e.g. bad weather).</p> <p>An annual Marketing and PR plan is put together and reviewed through the Destination Management Board which includes representation from the Christchurch Tourism Industry</p>
Existing value of contract / service	<p>Delivery of events administration is conditional on achieving adequate event income to support the expenditure.</p>

	A budget of £20,000 is set aside for Christmas Lighting.
	A budget of £10,000 for destination marketing
Boundary areas	Previous Borough Boundary of Christchurch.
Proposed BID additional activity	
Value of BID activity	

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Appendix E: Data Protection

Definitions

- Party:** a Party to this Agreement
- Agreement:** this contract
- Law:** means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply
- Contractor Personnel:** means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement
- GDPR CLAUSE DEFINITIONS:** The following definitions and those in bold in round brackets elsewhere will apply to this [Clause/ Contract/ Agreement].
- Data Protection Legislation:** (i) unless/until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK (ii) any successor legislation to the GDPR or the Data Protection Act 1998; the LED and any Applicable national implementing Laws as amended from time to time; the DPA 2018 to the extent that it relates to processing of personal data and privacy; and (iii) Applicable Law about the processing of personal data and privacy which includes The Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), The Electronic Communications Data Protection Directive 2002/58/EC, The Privacy and Electronic Communications (EC Directive) Regulations 2003.
- Data Protection Impact Assessment:** an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Controller, Processor, Process, Processing, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer:

take the meaning given in the GDPR and their cognate terms shall be construed accordingly.

Data Loss Event:

any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

Data Subject Access Request:

a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018:

Data Protection Act 2018

GDPR:

the General Data Protection Regulation (*Regulation (EU) 2016/679*)

LED:

Law Enforcement Directive (*Directive (EU) 2016/680*)

Protective Measures:

appropriate technical and organisational measures which may include: pseudonym-ising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

Sub-processor:

any third Party being any person appointed by or on behalf of the Contractor to process Personal Data on behalf of the Contractor related to this Agreement being to Process Personal Data on behalf of the Council in connection with the Contract;

1 DATA PROTECTION

- 1.1. The Parties acknowledge that for the purposes of the Data Protection Legislation, *the Council is the Controller and the Contractor is the Processor*. The only processing that the Contractor is authorised to do is listed in Schedule A, appended to this Appendix E, by the Council and may not be determined by the Contractor.
- 1.2. Both Parties will comply with all applicable requirements of the Data Protection Legislation.
- 1.3. This clause 1.3 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.

- 1.4. Schedule A sets out the scope, nature and purpose of processing by the Contractor, the duration of the processing and the types of personal data and categories of Data Subject.
- 1.5. The Contractor shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation and shall not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the Data Protection Legislation..
- 1.5.1 The Contractor shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing or at any time. Such assistance may, at the discretion of the Council, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 1.5.2 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with Schedule A, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Council before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures to ensure a level of security appropriate to the risks, including, as appropriate, the measures referred to in Article 32(1) of the GDPR, which have been reviewed and approved by the Council as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature and scope as well as context and purposes of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;

- (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that:
- (i) the Contractor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule A);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
 - (iii) are aware of and comply with the Contractor's duties under this clause;
 - (iv) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
 - (v) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and
 - (vi) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU or European Economic Area unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:
- (i) the Council or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Council;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and

- (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;
- (e) at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the Agreement unless the Contractor is required by Law to retain the Personal Data.

1.5.3 Subject to clause 1.6, the Contractor shall notify the Council immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

1.5.4 The Contractor's obligation to notify under clause 1.5 shall include the provision of further information to the Council in phases, as details become available.

1.5.5 Taking into account the nature of the processing, the Contractor shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:

- (a) the Council with full details and copies of the complaint, communication or request;

- (b) such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Council following any Data Loss Event;
- (e) assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.

1.5.6 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause under the obligation in Articles 28(3)(h) and 30(2) GDPR. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

- (a) the Council determines that the processing is not occasional;
- (b) the Council determines (or the Contractor is aware that) the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and/or
- (c) the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

1.6. The Contractor shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.

1.7. The Contractor shall designate a data protection officer if required by the Data Protection Legislation.

1.8. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:

- (a) notify the Council in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the Council;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 1.9 (c) such that they apply to the Sub-processor; and

- (d) provide the Council with such information regarding the Sub-processor as the Council may reasonably require.
- 1.9. The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.
- 1.10. The Council may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement) per Articles 28(6), 28(7) and 28(8) GDPR.
- 1.11. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may on notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 1.12. Without prejudice to the rest of this clause 1.13, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this agreement process that Personal Data only on the written instructions of the Council unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to process Personal Data (Applicable Laws). Where the Contractor is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Contractor shall promptly notify the Council of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Contractor from so notifying the Council.
- 1.13. The Contractor shall fully indemnify the Council in respect of all losses, liabilities, claims, actions, proceedings, demands, costs, charges or expenses arising out of or in connection with any civil claim made in respect information subject to the Data Protection Legislation , which claims would not have arisen but for some act, omission or negligence in breach of this condition on the part of the Contractor, its employees, agents or any subcontractor or anyone acting on its or their behalf.
- 1.14. The Parties agree that on the termination of the Contract/Agreement, the Processor and any Sub-Processor shall, at the choice of the Controller, return all personal data and copies thereof to the Council or shall destroy all the personal data and certify to the Council that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

- 1.15. The Contractor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Processor who may have access to Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Personal Data, as strictly necessary for the purposes of the Contract, and to comply with Data Protection Legislation in the context of that individual's duties to the Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

2 Obligations after the termination of the Service

- 2.1 The provisions of this clause 1.17 shall apply during the continuance of the agreement and indefinitely after its expiry or termination.
- 2.2 The Parties agree that on the termination of the provision of the Service, the Data Processor and any Sub-processor shall, at the choice of the Data Controller, return all the personal data transferred and the copies thereof to the Data Controller or shall destroy all the personal data and certify to the Data Controller that it has done so, unless legislation imposed upon the Data Processor prevents it from returning or destroying all or part of the personal data transferred. In that case, the Data Processor warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

Schedule A, annexed to Appendix E

Schedule A to the GDPR Generic Standard Clauses

GDPR - The General Data Protection Regulation

Schedule of Processing, Personal Data and Data Subjects

1. The Contractor shall comply with any written instructions with respect to processing by the Council.
2. Any such further instructions shall be incorporated into this Schedule.

PROCESSING BY THE CONTRACTOR

A. Scope Description Details

Subject matter of the processing - Billing and collection of the BID levy.

B. Duration of the processing

The start of the BID term, 1st November 2021 for 5 year BID Term

C. Nature and purposes of the processing

Prepare documents showing the name of each non-domestic ratepayer and the address and rateable value of each hereditament which is occupied, or owned, in the geographical area of the BID for the administration, collection and recovery of the BID levy.

D. Type(s) of Personal Data

Name and address

E. Categories of Data Subject

Non-domestic ratepayers, hereditaments within the BID area.

F. Termination Provision

Plan for return and destruction of the data once the processing is complete UNLESS there is a requirement under EU or member state law to preserve that type of data or at the written direction of the Council, the Contractor shall delete or return Personal Data and copies thereof to the Council on termination of the agreement unless required by Applicable Law to store the Personal Data