

Dated 1st January 2020

DORSET COUNCIL

And

LYME REGIS COUNCIL

Agency Agreement

Under s.101 of the Local Government Act 1972 relating to specified highway functions

Legal Services
Dorset Council
South Walks House
South Walks Road
Dorchester
Dorset
DT1 1UZ

THIS AGREEMENT is made the 1st January 2020

BETWEEN

DORSET COUNCIL of South Walks House, South Walks Road, Dorchester, Dorset DT1 1UZ ("the Principal")

and

LYME REGIS TOWN COUNCIL of Town Council Offices, Guildhall Cottage, Church Street, Lyme Regis, Dorset, DT7 3BS ("the Agent")

BACKGROUND

(1) The Principal and the Agent are local authorities constituted by the Local Government Act 1972.

(2) For the purposes of the Highways Act 1980, the Principal is the highway authority for highways (other than trunk roads) situated in Dorset and for the purposes of the Road Traffic Regulation Act 1984, the Principal is a traffic authority and a local traffic authority,

(3) By virtue of Section 101 of the Local Government Act 1972 and, subject as provided therein, a local authority may arrange for the discharge of any of its functions by another local authority.

(4) This discharge of functions is made in accordance with Section 9EA of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.

(5) The Principal and the Agent have agreed that the Agent will act as agent for the Principal and discharge certain of the Principal's highway functions on the terms set out in this Agreement ('the Agency').

IT IS AGREED THAT:

1. TERM AND TERMINATION

1.1 This Agreement shall commence on the 1st January 2020 ('the commencement date') and shall continue until it is ended:

- 1.1.1 by either party giving a minimum of six months' written notice;
- 1.1.2 by the Principal under clause 11.1 (serious breach by the Agent).

2. PARTNERSHIP WORKING

2.1 The parties are committed to the efficient delivery and operation of the Agency for the benefit of the local community and will co-operate in a spirit of partnership to comply with their obligations under this Agreement.

3. PRINCIPAL

3.1. The Principal may continue to exercise the functions described in Schedule 1 , in accordance with s101(4) of the Local Government Act 1972.

- 3.2. In particular, the Principal will exercise those functions to the level and frequency set out in its Highways Maintenance Plan for the time being in force and as necessary for the performance of its duties as highway authority and traffic authority.

4. AGENT'S FUNCTIONS

- 4.1. The Agent is empowered in the performance of the Agency to exercise on behalf of the Principal, such powers of the Principal as highway authority and traffic authority and listed in the Schedule of Functions at Schedule 1 ("the Agency Functions").
- 4.2. The Agent's Functions under this Agreement are exercisable solely within the area outlined in red on the plan in Schedule 3, known as Lyme Regis.
- 4.3. The authority given in Clause 4.1 shall include power to take or defend any legal proceedings on behalf of the Principal and to issue any consent or licences or enter into any agreements that may be necessary, subject to the terms of this Agreement. The Agent will notify the Principal within 21 days of receipt of any such claim.
- 4.4. The Agent shall not further delegate these functions except to a committee, sub-committee or an officer of the Agent.

5. AGENT'S OBLIGATIONS

- 5.1. The Agent shall provide the Agency to the highest standard with reasonable care and skill in compliance with this Agreement and the Schedule of Functions and shall conform with such legislative requirements and current specifications as are relevant to the provision of the Agency.
- 5.2. In performing the Agency, the Agent shall conform to all relevant policies and procedures of the Principal, including but not limited to those contained in Schedule 4 and in relation to health and safety matters.
- 5.3. The Agent shall properly manage and monitor performance of the Agency and immediately inform the Principal if the Agency or any part of the Agency is not, or may not be performed, and whether this is the result of any act or omission by the Agent giving details, reasons and likely duration.
- 5.4. The Agent shall take such precautions for the protection of public and private rights or interests as though they were the Principal and in accordance with Schedule 1.
- 5.5. The Agent must comply with all legislative provisions, regulations and guidance relating to the Agency Functions as though the Agent were the Principal.

6. COMMUNICATIONS

- 6.1. The Agent shall provide a yearly update on the performance of the Agency to include such information as specified in Schedule 2 - Reporting of Agency. This update must be given to the Contact Officer.
- 6.2. The Agent shall operate a complaints procedure for dealing with complaints from members of the public regarding Agency Functions.

- 6.3. The Contact Officer is Community Highways Manager, Tel 01305228167 or any other officer specified to the Agent in writing.

7. AGENT'S PERSONNEL

- 7.1. The personnel assigned by the Agent to the performance of the Agency will be suitably qualified, trained, experienced and properly supervised with regard to the provision of the Agency Functions and will be made fully aware of the Agent's obligations under the Agreement as it affects them in the performance of their functions.
- 7.2. The Agent shall employ sufficient persons to ensure the Agency Functions are provided at all times and in all respects in accordance with the Agreement.
- 7.3. For the purposes of this clause, 'personnel' shall mean all persons employed by the Agent to perform the functions of the Agency together with the Agent's servants, agents and sub-contractors.

8. COSTS RECEIVED BY THE AGENT

- 8.1 The Agent shall only receive costs in line with the provisions in the sections of the Highways Act 1980 listed in Schedule 1 (Schedule of Functions)
- 8.2 All costs received by the Agent in respect of the Agency Functions carried out on behalf of the Principal under this Agreement shall belong exclusively to the Agent.

9. PAYMENTS

- 9.1. No payments shall to be made by the Principal to the Agent in respect of the performance of the Agency.

10. INDEMNITY AND INSURANCE

- 10.1. The Agent shall indemnify the Principal against all and any action, claim, costs, demands, proceedings and liabilities arising out of:
- 10.1.1.any failure of the Agent to discharge the Agency in accordance with the requirements of this Agreement or with any provision of law or to comply in the exercise of the Agency with any requirement referred to herein; or
 - 10.1.2.any negligent act or omission on the part of the Agent, its agents or servants in performing the Agency, except to the extent that any claim is due to any act or omission of the Principal or to any person for whom the Principal is responsible.
- 10.2. The Agent shall arrange insurance cover appropriate to the provision of the Agency Functions under this Agreement.

11. INADEQUATE PERFORMANCE

- 11.1. In the event of a serious breach of the Agreement or if non-compliance occurs the Principal may issue an improvement notice detailing the nature of the breach. Where the subject of the improvement notice has not been rectified to the satisfaction of the Principal within 28 days of issue of the notice, the Agreement may be terminated forthwith.

12. VARIATION OF AGREEMENT

12.1. This Agreement may only be varied in writing, in the form of an addendum to this Agreement and with both parties' signed consent.

13. REVIEW OF AGREEMENT

13.1. This Agreement shall be subject to formal review annually.

14. DISPUTE RESOLUTION

14.1. If any dispute arises out of this Agreement the parties will first attempt to settle it by negotiation.

14.2. If resolution cannot be agreed between the officers directly involved, the matter shall be referred to the parties' duly authorised representatives at the earliest opportunity and within 28 days of the original identification of a possible dispute.

14.3. Where the matter remains unresolved, it shall be referred to the Director of Environment and Economy for the Agent and the senior elected Councillor within their Council, for resolution.

15. GOVERNING LAW AND JURISDICTION

15.1. This Agreement shall be construed in accordance with English Law and the Parties hereby submit to the non-exclusive jurisdiction of English Courts.

Agreed and signed by the parties:

DORSET COUNCIL

Signature 
Name (printed) Jack Wiltshire
Position Head of Highways
Dated 13 February 2020

Lyme Regis Town Council

Signature 
Name (printed) John Wright
Position Town Clerk
Dated 01 January 2020

SCHEDULE 1 SCHEDULE OF FUNCTIONS

Works

The agent is empowered to carry out the following minor highway maintenance activities:

(To be completed to highlight the functions included for the Agents specific Agency Agreement)

- Cleaning gullies of detritus
- Sign Cleaning
- Side Verging
- Weed Killing
- General Cleaning and Sweeping
- Painting or treating Posts and Fences
- Grip Clearing
- Finger Post Replacement or Repainting
- Additional Winter Service Functions
- Cleaning out ditches

Licensing

The Agent is empowered to administer highway licenses under sections 115E to K of the 1980 Act. (sitting out etc)

The Agent is empowered to administer highway licenses under sections 178 of the 1980 Act. (banners over the highway)

The Agent's Powers do not extend to the licensing or enforcement of any building skips or scaffolding within the highway under section 138 to 142 of the 1980 Act.

Enforcement

The Agent shall be responsible for the enforcement of licences and contravention of the requirement of licences authorisation of such items that would be within the Agent's Powers under this Agreement.

The Agent is empowered to remove unauthorised objects from the highway under section 132,143 and 149 of the 1980 Act.

The Agent is empowered to utilise the powers under section 154 of the 1980 act to enforce the cutting back of vegetation that is obstructing the highway.

SCHEDULE 2 REPORTING OF AGENCY

Works

The Agent must include provide the following details for each item of works carried out during the year in the annual report.

- Location of work
- Type of work carried out
- Organisation that carried out the work for the agent

Licensing

The Agent must include provide the following details for each license issued during the year in the annual report.

This should include:

- Name of organisation holding the license
- Duration of license
- Brief particulars of the licence as detailed within Schedule

Enforcement

In the case of enforcement action being taken by The Agent, the following details for each enforcement action taken should be included within the Annual Report if stated as required by the Principal.

- Name of licence holder (if applicable)
- Duration of licence (if applicable)
- Reason for enforcement action or details of breach of license (if applicable)
- Action taken (internal and external)
- Cost of action by the Agent (not including any costs recouped from a third party)

SCHEDULE 3 AGREEMENT PLAN

