

DRAFT 11 02 09

**DATED** **2009**

**LUTON BOROUGH COUNCIL**  
**and**  
**CENTRAL BEDFORDSHIRE COUNCIL**

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(DRAFT)

**A G R E E M E N T**

**THE LUTON DUNSTABLE BUSWAY**  
**(formerly "Translink")**

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Solicitor to the Council  
Town Hall  
Luton  
LU1 2BQ

Ref: JS/E54/23



## 1. Definitions and Interpretations

“The Busway”	means the guided Busway and other works authorised by the Order and any lawful variation of or addition to those works agreed to by both the Councils
“The Council/Councils”	means Luton and/or Central Bedfordshire or a successor authority of either.
“Development Costs”	means those costs properly incurred and accounted for by either of the Councils in connection with the Busway and identified as such in the capital accounts of each Council
“Full Approval”	means confirmation from Central Government that specified funds are available and work can commence and claims submitted up to the amount of those specified funds.
“The Objective”	means the successful construction and operation of the Busway to include all necessary Agreements between the Councils and third parties to provide for all aspects of such construction and

operation and all matters ancillary to the Busway and implementation of the Order

Residual Capital Cost

means the amount if any by which the final cost of providing the Busway excluding any costs relating to the Luton Town Centre Transport Scheme exceeds the Total Financial Resources

"Total Financial Resources"

means the aggregate of any funds provided by Central Government for the Busway Project and any funds provided by any other body including European funding and contributions via Section 106 Agreements which can only be expended on the delivery of the Busway

2. Both Councils shall work diligently toward the achievement of the Objective.
3. Except as is inconsistent with the terms of the Order all publicity and documentation relating to the Busway shall indicate that the Councils are equal partners in pursuing the Objective.
4. Pending the confirmation of availability of Government funding at the Full Approval stage, the Councils shall share the Development Costs incurred after 1<sup>st</sup> April 2008 of the Busway in the proportion of fifty per cent each.

**5.** Sums paid to either Council under Section 106 Town and Country Planning Act 1990 and expended for Busway purposes shall be excluded from the calculation of the shares of costs under Clause (4).

**6.** Any Development Costs recovered through Government funding shall be distributed between the Councils in the same proportions as the relevant costs were paid unless otherwise agreed by the Core Project Board.

**7.** The Councils shall agree a Project Plan for the ongoing development and implementation of the Busway providing for a Project Board to be comprised of the Corporate Director (Environment and Regeneration) (who shall be the Chairman of the Core Project Board) and the Head of Corporate Finance of Luton and the Director of Sustainable Communities and the Director of Corporate Resources of Central Bedfordshire "the Core Project Board") and such other officers of either Council whom the Core Project Board consider should join the Project Board during any phase of the Busway project.

**8.** The Core Project Board shall have the power to agree the terms and approve the letting of any contract for the construction of the Busway subject to the standing order requirements of whichever Council lets any such contract. The Core Project Board shall not be quorate unless at least one member of the Core Project Board from each Council is present and no decision may be made or approval given by the Core Project Board unless all members of the Core Project Board present at the meeting at which the matter is considered are in agreement.

**9.** Either Council may substitute officers of similar status and qualification for their members of the Core Project Board and may provide a deputy in a member's absence

**10.** No contract for the construction of the Busway shall be let by either Council without the approval of the Core Project Board provided that in the event that the Core Project Board is unable to agree to let any such contract Clause 12 shall apply.

**11.** When Full Approval has been given by Central Government, the Councils will carry out a comparison of the total projected cost of the Busway with the Total Financial Resources. In the event that there is a shortfall between the total projected costs of the Busway and the Total Financial Resources of more than six million pounds, each Council will consider that Council's continued involvement in the Busway project and Clause 12 shall apply at any time thereafter before the letting of any contract for the construction of the Busway

**12.** Where this Clause applies either Council may terminate this Agreement by giving written notice of one month to that effect to the other Council but such termination shall not affect any rights or liabilities arising during the currency of this Agreement save that no new financial commitments may be entered into during the notice period without the express written agreement of both Councils such agreement not to be unreasonably withheld.

**13.** The Councils shall meet in equal shares the Residual Capital Cost.

**14.** The Councils shall work jointly to identify, bid for, and secure any potential external funding for the Busway.

**15.** Neither Council shall do any act which may lead to infringement of the "Translink" trademark.

**16.** Any net revenue accruing to either Council from the Busway (including advertising income from the Busway or any associated infrastructure) is to be applied towards maintenance of the Busway.

17. Before either Council makes a decision on any highway related matter which may have an adverse impact whether direct or indirect on the financial viability of the operation of the Busway there shall be consultation between the two Councils with a view to negating or mitigating any such impact.

18. The Councils will endeavour to agree a scheme of maintenance for the Busway on the principle that the whole of the Busway shall be maintained to uniform and agreed standards.

19. Prior to completion of the Busway, the Councils will enter into discussions with a view to transferring the ownership of that part of the Busway outwith the boundaries of Luton Borough Council to Central Bedfordshire or its successor authority upon completion of the Busway unless this Agreement has previously been terminated pursuant to Clause 12

20. The provisions of this Agreement shall not prejudice any of the statutory functions of either Council or the exercise by Luton of the authority granted by the Order.

21. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person other than the Councils shall have any rights under it nor shall it be enforceable by any person other than the Councils.

**IN WITNESS** whereof the parties have executed this document as a Deed the day and year first before written

**THE COMMON SEAL of THE COUNCIL**            )  
**OF THE BOROUGH OF LUTON** was                )  
hereunto affixed in the presence of:         )

DRAFT 11 02 09

Authorised Signatory

Authorised Signatory

**THE COMMON SEAL of THE** )  
**CENTRAL BEDFORDSHIRE COUNCIL** )  
was hereunto affixed in the presence of: )

Authorised Signatory