

<b>OFFICER DECISION TITLE: <u>Exercise of delegated authority in relation to an extension of the loan facility to ECSP1</u></b>
<b>ENTER NAME OF OFFICER EXERCISING DELEGATED POWERS: Peter Carpenter</b>
<b>ENTER DATE OF OFFICER DECISION: 28 February 2019</b>

Responsible Director:	Peter Carpenter, Acting Corporate Director Resources
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	NO

Decision taken	This report is a record of the Director exercising their delegated authority granted under Councillor Member Decision Notice NOV18/CMDN/57 to extend the Empower Facility for a further month to the end of March 2019
Authorisation	<p>This decision has been taken under:</p> <p>Express authorisation: On 30 November 2018 Cllr Seaton approved the Report NOV18/CMDN/57 requesting he:</p> <ol style="list-style-type: none"> <li>1. Approve the amendment of the terms of the Strategic Partnership with Empower Community Management LLP</li> <li>2. Approve the amendment of the financing agreement with ECS Peterborough 1 LLP</li> <li>3. Approve the Council entering into such further agreements with ECS Peterborough 1 LLP and any other body necessary to facilitate the arrangements set out in this report.</li> <li>4. Delegate to the Corporate Director, Resources and Director of Law and Governance the ability to finalise matters 1 to 3 above.</li> <li>5. Delegate to the Corporate Director, Resources the ability to extend the funding facility which will be included in the financing agreement at 3. above on a monthly basis for up to 4 months based on the methodology for extending the facility set out in this report</li> </ol>
Background Information	<p><b>Proposal to Extend the PCC Funding Facility</b></p> <p>JULY17/CAB/16 paragraph 4.2.3 The Council's funding facility for ESCP1 is contracted to terminate in October 2017 but the Council has the opportunity to extend the facility to March 2019 and thereby continue to receive the interest on the funding of new projects and existing projects which will complete after September 2017, until they too are completed and refinanced.</p>

In October 2017 a Director's Award report was signed by the Corporate Director, Resources extending the Facility to the end of March 2018 only.

The decision MAR18/CMDN/123 provided in recommendation 5 to delegate to the Corporate Director, Resources the ability to extend the funding facility on a monthly basis for up to 4 months based on the methodology for extending the facility set out in the report

The Corporate Director Resources extended the facility for a further month at the end of March, April, May and June 2018 respectively.

Decision JUL18/CMDN/01 approved the extension of the facility for a further two months to the 30 September 2018

Decision OCT18/CMDN/40 approved the extension of the facility for a further two months to the end of November 2018.

The decision NOV18/CMDN/57 provided in recommendation 5 to delegate to the Corporate Director, Resources the ability to extend the funding facility on a monthly basis for up to 4 months based on the methodology for extending the facility set out in the report.

In December 2018 and January 2019 directors award reports were signed by the Acting Corporate Director Resources extending the Facility to the end of January 2019 and February 2019 respectively.

During this time the Council continued to receive a commercial rate on the loan.

#### **Decision**

Following conference call discussions with Empower and the Council's advisors and based on Empower's representations and the work undertaken by the Council's financial advisors in the course of the last month, the Council is satisfied that there is a reasonable expectation of the refinance progress achieving the refinance of the Council's loan.

#### **Conditions of facility extension**

1. Interest accruing on the existing loan will be paid by ECSP1 on existing commercial terms to the Council, in accordance with an agreed payment plan. Agreement of the payment plan is delegated to the Corporate Director, Resources.
2. Charge by the Council of a fee of £10,000 to ECSP1 for each monthly extension of the loan facility, payable in accordance with the agreed payment plan. These charges reflect additional senior officer time required to resolve and monitor the agreement and seek input from advisors;
3. Payment of the Council's advisor fees (to Pinsent Masons' and Deloitte's ) by ECSP1 to date and any additional advisor fees incurred will be payable in accordance with the agreed payment plan
4. A weekly progress call with Empower and the Council's legal and financial advisors

Alternative options considered.	<b>Do nothing</b> If the Council fails to extend the loan, then on 28 February 2019 the loan repayment will be due in full and if it is not made ECSP1 will be placed into default and the Council would be required to exercise its security and take over the assets of the company. At this point the Council will then have to operate the company either on a long term basis or on a short term basis whilst it sourced an alternative long term funder itself which may be impeded by the loan being placed into technical default. This option is not considered to be in the Council's best interests at this time.
Consultation	There are no statutory consultations required to be undertaken by the Council to enter into this arrangements
Declarations / Conflicts of Interests (only if the decision falls under the 'Express Authorisation' category)	n/a
Supporting documentation	Cabinet Report JULY17/CAB/16 Councillor Member Decision Notice MAR18/CMDN/123 Councillor Member Decision Notice JUL18/CMDN/01 Councillor Member Decision Notice OCT18/CMDN/40 Councillor Member Decision Notice NOV18/CMDN/57

Officer signature		Date 27/2/19
<b>Once signed please pass to Democratic Services and we will arrange publication.</b>		

