

Local Energy Scotland
Energy Saving Trust
Second Floor
Ocean Point 1
94 Ocean Drive
Edinburgh, EH6 6JH

The Scottish Government's
Community and Renewable Energy
Scheme (CARES) is delivered by
Local Energy Scotland.



Oliver Giles
Tomintoul and Glenlivet Development Trust
43 The Square,
Tomintoul,
AB37 9ET

01 April 2021

Dear Oliver

OFFER OF CARES GRANT PROJECT 3884 – BUILDING A SUSTAINABLE AND RESILIENT TOMINTOUL (BSMART) – ENERGY SYSTEM FOR COMMUNITY OWNED AFFORDABLE HOUSING

The Energy Saving Trust Limited are operating under the contract – Community and Renewable Energy Scheme (CARES) for the administration and management of CARES, which contract was procured by Scottish Ministers in exercise of their powers under Section 153(1)(y) of the Environmental Protection Act 1990 after an open tender exercise which commenced on 01 April 2021 and will expire on 31 March 2025. Under this contract THE ENERGY SAVING TRUST LIMITED registered number 02622374 and whose registered office is at 30 North Colonnade, Canary Wharf, London, United Kingdom, E14 5GP hereby offers to give to TOMINTOUL AND GLENLIVET DEVELOPMENT TRUST registered company number SC424813 and whose registered office is at 43 The Square, Tomintoul, AB37 9ET ("the Grantee") a grant of up to ONE HUNDRED AND TWENTY ONE THOUSAND SIX HUNDRED AND EIGHTY SEVEN POUNDS (£121,687.00), payable over financial year 2021/22 in connection with CARES project 3884: Building a sustainable and resilient Tomintoul (BSmART) – Energy System for Community Owned Affordable Housing, which is more particularly described in Part 1 of **SCHEDULE 1** ("the Project/Programme"). This grant award is subject to the following terms and conditions:

Special conditions: -

1. The Scottish Ministers shall only be obliged to pay the Grant (or any part thereof) to the Grantee under this Agreement (including, without limitation, clause 3.1 and **SCHEDULE 1**) if, on or before the payment date for such part of the Grant, the Scottish Ministers have received the following documents and other evidence in a form and substance satisfactory to the Scottish Ministers:
 - a. evidence of match funding;
 - b. finalised costs and best value ensured;
 - c. concluding remarks in the options appraisal must be added and agreed upon with Local Energy Scotland to properly document the added value achieved through CARES funding to reach towards net zero carbon emissions, compared with meeting required housing standards;
 - d. a final check on conclusions of calculations on anticipated running, operating and maintenance costs for householders and the Trust will be needed and approved by the Granter before contract concluded with the build contractor that includes these CARES funded elements;
 - e. understanding of the Grantee's considered approach to consumer protection and appropriate strategy

2. The Scottish Ministers shall only be obliged to pay the Grant (or any part thereof) to the Grantee under this Agreement (including, without limitation, clause 3.1 and [SCHEDULE 1](#)) if, on or before the payment date for the Grant (or such part thereof), the Scottish Ministers have received (in a form and substance satisfactory to the Scottish Ministers) all authorisations and other documents, opinion and assurances which the Scottish Ministers consider to be necessary or desirable in connection with such costs and expenses and/or the associated works relative thereto.
3. A claim for Grant under paragraph 1 of part 2 of [SCHEDULE 1](#) will not be regarded as completed (and the Scottish Ministers will not have to pay the Grant (or the relevant part thereof) to the Grantee under this Agreement) unless it is accompanied by (in each case, in a form and substance satisfactory to the Scottish Ministers):
 - a. a fully completed claim form in the form set out in [SCHEDULE 2](#) and evidence as to the application of such funds
 - b. an invoice for, or other evidence of, the costs and expenses incurred by the Grantee in respect of the Project/Programme; and
 - c. copies of any reports and feasibility studies that may be required by the Scottish Ministers.
4. The Grantee shall provide to the Scottish Ministers, as soon as reasonably practicable and in any event during system design finalisation (in each case, in a form and substance satisfactory to the Scottish Ministers):
 - a. monitoring system and data collection plan
5. The Grantee shall provide to the Scottish Ministers, as soon as reasonably practicable and in any event as part of the concluding design stage (in each case, in a form and substance satisfactory to the Scottish Ministers):
 - a. final arrangements for the EV charge points
6. The Grantee shall use reasonable endeavours to ensure that, in relation to the Project/Programme, they and anyone acting on their behalf (including, without limitation, its employees and the Contractor, each sub-contractor of the Contractor and their respective employees) shall comply with Scottish Government Guidance on COVID and shall ensure that adequate controls are in place to prevent any breaches of the Scottish Government Guidance on COVID by such parties. The Grantee shall provide to the Scottish Ministers such evidence as the Scottish Ministers may require, that the Grantee has complied with Scottish Government Guidance on COVID including evidence of any risk assessment in relation to the potential impact of COVID on the local community as a result of the Project/Programme.
7. The Grantee shall not make, nor allow to be made, any changes to the Project/Programme, without the prior written consent of the Scottish Ministers.
8. The Grantee shall reasonably acknowledge in all publicity material relating to the project the funding contribution of CARES. This shall include the use of the Local Energy Scotland logo and the Greener Scotland logo in publicity material. The Granter must approve the form of such acknowledgement prior to publication and the grantee shall publicise the role of CARES in accordance with the guidance set out in the 'How to acknowledge CARES' guidance document attached with this offer.
9. The CARES Equality Charter exists to address existing inequalities within the service delivery of the local energy sector and by doing so improve access to local energy support and services. By accepting this grant/ loan offer you are acknowledging that you will uphold the guiding principles and approach set by the [CARES equalities charter](#).
10. The Scottish Ministers may ask you to collect and share anonymised data on equality, diversity and inclusion in relation to your project. Should this be required, you will be provided with templates and timelines for data collection.
11. The Grantee must complete and return a monthly report using the template attached at [Schedule 6](#) and submit this to The Energy Saving Trust Limited on the 5th working day following the month that the Grantee is reporting on. For example if the Grantee is reporting on the month of April 2021

you will require to submit this on 07 May. Until advised otherwise by The Energy Saving Trust Limited, reports should be returned to info@localenergy.scot (or such other email address as the Scottish Ministers may notify to the Grantee from time to time) with the applicable Development Officer copied in. Under the CARES contract an online database will be set up over the course of the contract. Following notification by The Energy Saving Trust Limited that such database is live, the Grantee will be required to submit monthly reports online and in accepting this Agreement the Grantee agrees to do so.

1. Definitions and Interpretation

- 1.1 In these Conditions, the words and expressions set out in **SCHEDULE 4** shall have the meanings ascribed to them in that Schedule.
- 1.2 In these Conditions unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- 1.3 The headings in these Conditions are for convenience only and shall not be read as forming part of the Conditions or taken into account in their interpretation.
- 1.4 Except as otherwise provided in these Conditions, any reference to a clause, paragraph, subparagraph or schedule shall be a reference to a clause, paragraph, subparagraph or schedule of these Conditions. The schedules are intended to be contractual in nature. They form part of the Agreement and should be construed accordingly.
- 1.5 This Agreement shall not be varied except by an instrument in writing signed by both parties.
- 1.6 The Energy Saving Trust Limited shall be entitled to assign, novate, sub-contract or otherwise transfer its rights and/or obligations under this Agreement to any party which succeeds it as the Scottish Government's delivery partner under the CARES contract.
- 1.7 In this Agreement unless the context otherwise requires, any reference to The Energy Saving Trust Limited includes its successors as the Scottish Government's delivery partner under the CARES contract.

2. Purposes of the Grant

- 2.1 The Grant is made to enable the Grantee to carry out the Project/Programme.
- 2.2 The Grant shall only be used for the purposes of the Project/Programme and for no other purpose whatsoever.
- 2.3 No part of the Grant shall be used to fund any activity or material which is party political in intention, use, or presentation or appears to be designed to affect support for a political party.
- 2.4 The main objectives/expected outcomes of the Grant are:

Objective 1	Install energy system in 12 homes (inc. 3 live/work units) to reduce the energy costs and CO2 emissions of the development
Objective 2	Establish operations and maintenance plan to ensure the safe and efficient operation of the system by residents and regular maintenance by a suitably qualified contractor
Objective 3	Establish a programme of monitoring and evaluation to ensure the efficient operation and management of the system. Learning from the development and operation of the

	system will be shared with a wide audience via partners e.g. Locogen, CHT and CNPA
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2.5 The targets/milestones against which progress in achieving objectives/expected outcomes shall be monitored are:

No.	Objective	Targets/Milestones	Date commenced	Date completed
1	Install	Finalise design with D & B contractor	13/08/20	22/05/21
		Site start	03/05/21	03/05/22
		Practical completion and warranty period	03/05/22	03/05/23
2	Operation	Operation manual complete	01/05/22	
		Home occupiers familiarised with the system	04/05/22	03/06/22
		Resident feedback sought and shared	03/05/22	03/05/23
3	Monitoring	Monitoring and data collection programme finalised	03/05/22	
		First quarters operation analysed and shared	03/05/22	31/07/22
		First years operation analysed and shared	31/05/23	30/06/23

2.6 The eligible costs for which the Grant can be claimed are the below noted inc VAT costs:

Milestone	What will CARES fund	Date complete & CARES claimed	Is the cost fixed, firm or an estimate	CARES grant £s
Install energy system in 12 homes	We are seeking funding from CARES for the additional costs required to meet Building Standards Silver by installing improved energy technologies and insulation including:	May 2022		
	Installing air to water air source heat pump heating		Fixed (total 140,000)	58,600
	Installing maximum capacity Solar PV systems		Fixed (60% of total)	22,200
	Supply and fit PV power divertor units		Fixed (60% of total)	5,385
	Upgrading insulation to Building Warrant silver standard		Fixed (total 31,300)	0
	installing 'smart' controls		Fixed (60% of total)	3,312
	Installing slow charge EV Chargers at each house.		Estimate (60% of total)	9,990

	Installing Sunamp thermal batteries (@ 50%)		Fixed (50% of total)	15,000
Monitor, evaluation and report impact.	Install a monitoring system to measure energy usage and environmental conditions. Analyse data collected and report findings		Estimate (60% of total)	7,200
TOTAL CARES FUNDING REQUESTED				£121,687.00

2.7 The eligible costs exclude:

- Any Value Added Tax (VAT) reclaimable by the Grantee.

3. Payment of Grant

- 3.1 The Grant shall be paid by the Scottish Ministers to the Grantee in accordance with the terms of [SCHEDULE 1](#) attached.
- 3.2 The Grantee shall within 4 weeks submit to the Scottish Ministers a statement of compliance with the Conditions of the Grant using the form of words provided in [SCHEDULE 3](#). The statement shall be signed by the Grantee's.
- 3.3 In the event that the amount of the Grant paid by the Scottish Ministers to the Grantee at any point in time is found to exceed the amount of the expenses reasonably and properly incurred or required by the Grantee in connection with the Project/Programme, the Grantee shall repay to the Scottish Ministers the amount of such excess within 14 days of receiving a written demand for it from or on behalf of the Scottish Ministers. In the event that the Grantee fails to pay such amount within the 14 day period, the Scottish Ministers shall be entitled to interest on the sum at the rate of 2 per cent per annum above the Bank of England base lending rate prevailing at the time of the written demand from the date of the written demand until payment in full of both the sum and the interest.
- 3.4 The Scottish Ministers shall not be bound to pay to the Grantee, and the Grantee shall have no claim against the Scottish Ministers in respect of, any instalment of the Grant which has not been claimed by the Grantee by 31 March of the applicable financial year as set out in [SCHEDULE 1](#), unless otherwise agreed in writing by the Scottish Ministers.

4. Inspection and Information

- 4.1 The Grantee shall keep the Scottish Ministers fully informed of the progress of the Project/Programme in the form of monthly reports. Details shall include actual expenditure to date compared with profiled expenditure and any change to estimated expenditure for the financial year and/or the Project as a whole, the reasons for any such changes and progress in achieving objectives/outcomes.
- 4.2 Revisions to targets/milestones against which progress in achieving objectives/outcomes are monitored shall be subject to the written agreement of the Scottish Ministers.

- 4.3 The Grantee shall, on completion of the Project, submit a report to the Scottish Ministers summarising the outcomes and performance of the Project. Such a report shall include such statistical and other information relating to the impact of the Project as shall be required by the Scottish Ministers.
- 4.4 The Grantee shall also provide any other information that the Scottish Ministers may reasonably require to satisfy themselves that the Project/Programme is consistent with the Agreement. The Grantee shall provide the Scottish Ministers with prompt access to any information they reasonably require to ensure compliance with these Conditions.
- 4.5 The Grantee shall keep and maintain during the period up to (and including) the date falling five years after the end of the financial year in which the final instalment of the Grant was paid, adequate and proper records and books of account recording all receipts and expenditure of monies paid to it by the Scottish Ministers by way of the Grant. The Grantee shall afford the Scottish Ministers, their representatives, the Auditor General for Scotland, his/her representatives and such other persons as the Scottish Ministers may reasonably specify from time to time, such access to those records and books of account as may be required by them at any reasonable time in response to a written request for such access from the person seeking it. The Grantee shall provide such reasonable assistance and explanation as the person carrying out the inspection may from time to time require.
- 4.6 In the event of the Grantee becoming aware of or suspecting any irregular or fraudulent activity that may have any impact on the Project/Programme or on the use of the Grant, or any part of it, the Grantee shall immediately notify the Scottish Ministers of such activity and provide such other information as the Scottish Ministers may reasonably require in relation to the impact on the Project and the use of the Grant.
- 4.7 The Grantee shall immediately inform the Scottish Ministers of any change in its constitution for example, but not limited to, a change in status from one type of body corporate to another.

5. Confidentiality and Data Protection

- 5.1 The Grantee will respect the confidentiality of any commercially sensitive information that they have access to as a result of the Project/Programme.
- 5.2 Notwithstanding the above, the Grantee may disclose any information as required by law or judicial order. All information submitted to the Scottish Ministers may need to be disclosed and/or published by the Scottish Ministers. Without prejudice to the foregoing generality, the Scottish Ministers may disclose information in compliance with the Freedom of Information (Scotland) Act 2002, any other law, or, as a consequence of judicial order, or order by any court or tribunal with the authority to order disclosure. Further, the Scottish Ministers may also disclose all information submitted to them to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland, in right of the Scottish Administration or the United Kingdom, and their servants or agents. When disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Scottish Ministers shall if they see fit disclose such information but are unable to impose any restriction upon the information that it provides to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; such disclosure shall not be treated as a breach of this agreement.

- 5.3 The Grantee shall ensure that all requirements of the Data Protection Laws are fulfilled in relation to the Project/Programme.
- 5.4 To comply with section 31(3) of the Public Services Reform (Scotland) Act 2010, the Scottish Ministers publish an annual statement of all payments over £25,000. In addition, in line with openness and transparency, the Scottish Government publishes a monthly report of all payments over £25,000. The Grantee should note that where a payment is made in excess of £25,000 there will be disclosure (in the form of the name of the payee, the date of the payment, the subject matter and the amount of grant) in both the monthly report and the annual Public Services Reform (Scotland) Act 2010 statement.

6. Disposal of Assets

The Grantee shall not, without prior written consent of the Scottish Ministers, dispose of any asset funded, in part or in whole, with Grant funds within five years of the asset being acquired or developed / during the period up to (and including) the date falling five years after the end of the financial year in which the final instalment of the Grant was paid. During that period the Scottish Ministers shall be entitled to the proceeds of the disposal – or the relevant proportion of the proceeds based on the percentage of grant funding used in connection with the acquisition or improvement of the asset against the whole proceeds. The Scottish Ministers shall also be entitled to the relevant proportion of any proceeds resulting from any provision included as a condition of sale.

7. Publicity

The Grantee shall where reasonably practicable acknowledge in all publicity material relating to the Project/Programme the contribution of the Scottish Ministers to its costs. The Scottish Ministers may require to approve the form of such acknowledgement prior to its first publication.

8. Intellectual Property Rights

- 8.1 All Intellectual Property Rights are hereby assigned to and shall vest in the Crown or its assignees.
- 8.2 The Grantee shall ensure that nothing contained in any materials produced or submitted to the Scottish Ministers by the Grantee or anyone acting on its behalf nor the reproduction of such materials, shall constitute an infringement of any third party copyright or intellectual property right and shall indemnify the Scottish Ministers against all actions, proceedings, claims and demands made by reason of any such infringement.

9. Default and Recovery etc. of Grant

- 9.1 The Scottish Ministers may re-assess, vary, make a deduction from, withhold, or require immediate repayment of the Grant or any part of it in the event that:
- 9.1.1 The Grantee commits a Default;
 - 9.1.2 The Scottish Ministers consider that any change or departure from the purposes for which the Grant was awarded warrants an alteration in the amount of the Grant;
 - 9.1.3 The Grantee fails to carry out the Project/Programme;

- 9.1.4 In the Scottish Ministers' opinion, the progress on the Project/Programme is not satisfactory; or
- 9.1.5 In the Scottish Ministers' opinion, the future of the Project/Programme is in jeopardy.
- 9.2 If the Grant (or any part or condition thereof) does not comply with applicable Subsidy Control obligations, Scottish Ministers may require immediate repayment of the Grant or any part of it together with interest at such rate and on such basis as may be determined from time to time in accordance with law.
- 9.3 The Scottish Ministers may withhold the payment of the Grant if at any time within the duration of the Agreement:
- 9.3.1 The Grantee passes a resolution that it be wound up, or a court makes an order that the Grantee be wound up, in either case otherwise than for the purposes of reconstruction or amalgamation, or circumstances arise which would enable a court to make such an order or the Grantee is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 9.3.2 Where the Grantee is an individual, if a petition is presented for the Grantee's bankruptcy or the sequestration of his estate or a criminal bankruptcy order is made against the Grantee; or the Grantee makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignation for the benefit of creditors, or if an administrator or trustee is appointed to manage his affairs; or
- 9.3.3 A receiver, manager, administrator or administrative receiver is appointed to the Grantee, or over all or any part of the Grantee's property, or circumstances arise which would entitle a court or a creditor to appoint such a receiver, manager, administrator or administrative receiver.
- 9.4 In the event that the Grantee becomes bound to pay any sum to the Scottish Ministers in terms of clause 9.1, the Grantee shall pay the Scottish Ministers the appropriate sum within 14 days of a written demand for it being given by or on behalf of the Scottish Ministers to the Grantee. In the event that the Grantee fails to pay the sum within the 14-day period, the Scottish Ministers shall be entitled to interest on the sum at the rate of 2 per cent per annum above the Bank of England base lending rate prevailing at the time of the written demand, from the date of the written demand until payment in full of both the sum and interest.
- 9.4 Notwithstanding the provisions of this clause 9, in the event that the Grantee is in breach of any of the Conditions, the Scottish Ministers may, provided that the breach is capable of a remedy, postpone the exercise of their rights to recover any sum from the Grantee in terms of clause 9 for such period as they see fit, and may give written notice to the Grantee requiring it to remedy the breach within such period as may be specified in the notice. In the event of the Grantee failing to remedy the breach within the period specified, the Grantee shall be bound to pay the sum to the Scottish Ministers in accordance with the foregoing provisions.
- 9.5 Any failure, omission or delay by the Scottish Ministers in exercising any right or remedy to which they are entitled by virtue of clauses 9.1 to 9.3 shall not be construed as a waiver of such right or remedy.

10. Assignment

The Grantee shall not be entitled to assign, sub-contract or otherwise transfer its rights or obligations under the Agreement without the prior written consent of the Scottish Ministers.

11. Termination

The Agreement may be terminated by the Scottish Ministers giving not less than 3 months' notice in writing from the date of the notice being sent.

12. Corrupt Gifts and Payments of Commission

The Grantee shall ensure that its employees shall not breach the terms of the Bribery Act 2010 in relation to this or any other grant. The Grantee shall ensure that adequate controls are in place to prevent bribery.

13. Continuation of Conditions

13.1 These Conditions, except for Condition 6, shall continue to apply for a period of five years after the end of the financial year in which the final instalment of the Grant was paid.

13.2 Condition 6 shall continue to apply until the end of the period referred to in that Condition.

14. Compliance with the Law

The Grantee shall ensure that in relation to the Project/Programme, they and anyone acting on their behalf shall comply with the relevant law, for the time being in force in Scotland.

15. Governing Law

This contract is governed by the Law of Scotland and the parties hereby prorogate to the exclusive jurisdiction of the Scottish Courts.

If you wish to accept the offer of this Grant on the whole terms and conditions as set out in the letter and annexed Schedules, you should sign and date both copies of the Grant Acceptance below and return one copy of the offer of Grant and Schedules to Ocean Point 1, 94 Ocean Drive, Edinburgh, EH6 6JH. You should retain the second copy of the offer of Grant and Schedules for your own records.

Yours sincerely



Chris Morris (Apr 6, 2021 18:07 GMT+1)

Chris Morris
Local Energy Scotland Manager

GRANT ACCEPTANCE

On behalf of Tomintoul and Glenlivet Development Trust I accept the foregoing CARES grant offer by The Energy Saving Trust Limited dated 01/04/2021 on the whole terms and conditions as set out in the letter and annexed Schedules. I confirm that Tomintoul and Glenlivet Development Trust is solvent. I confirm that I hold the relevant signing authority.

Signed:

O Giles

O Giles (Apr 7, 2021 10:42 GMT+1)

Print Name: Oliver Giles

Position in Organisation of Person Signing: Development Manager

Date: 07/04/21

Place of Signing: Tomintoul

Signed:

Witness Name:

Address:

Date:

Place of Signing: