|  |  |  |  |
| --- | --- | --- | --- |
| **Parish Clerk**  **Parish Office** | |  | | --- | |  | | **Office Hours 9 am to 1 pm** |
| **The Triangle** | will & Jev Council 1 | **Monday to Friday** |
| **Willingdon** |  |  |
| **East Sussex BN20 9PJ** |  | **Telephone / Fax: 01323 489603** |
| [www.willingdonandjevington.org.uk](http://www.willingdonandjevington.org.uk/) | | **email: parishclerkwjpc@btconnect.com** |

**WILLINGDON AND JEVINGTON PARISH COUNCIL**

**CONTRACT FOR THE SUPPLY OF GRASS CUTTING SERVICES - 1st APRIL 2022 to 31st MARCH 2026**

1. **INTERPRETATION**

1.1 Within these conditions;

* ‘The Council’ means Willingdon and Jevington Parish Council.
* ‘The Clerk’ means the Parish Clerk to the Council, or person acting in his/her absence.
* ‘The Contract’ means the agreement concluded between the Council and the contractor, including all terms of tender, all specifications, plans and other document incorporated or referred to therein.
* ‘The Contractor’ means the person who the contract undertakes to supply the service to the Council. Where the contractor is an individual or a partnership, the expression shall include the personal representative of that individual or of the partners.
* ‘The contract price’ means the price (exclusive of V.A.T) payable to the contractor by the Council under the contract for the full and proper performance by the contractor of its part of the contract.

1.2 Theheadings to these conditions shall not affect their interpretation.

1. **TIME OF THE ESSENCE**

2.1 Time is of the essence as regards every obligation of the contractor under the contract.

1. **PAYMENT FOR CONTRACTORS SERVICES**

3.1 The Council must pay the contract price to the contractor for the provision of service.

3.2 The contractor must submit an invoice to the Council for each completed calendar month. The invoice shall include the charges for cuts completed to the satisfaction of the Clerk in that month. Charge for incomplete cuts should be carried forward to the following month.

3.3 Invoices should be submitted monthly, and will be paid within 30 days.

* 1. If for any reason the contract comes to an end other than on the specified date, the Council must pay for each completed and approved cut, at the agreed rate, subject to any counter claim by the Council.

1. **VARIATIONS TO THE CONTRACT PRICE**

4.1 The contract price will be reviewed on 1st April annually, and adjusted by the annual RPI(X), as published by the National Statistics Office, or their successors, for the 31st December immediately preceding the review date.

4.2 If the basis of computation of the above index formula shall change so that it is no longer an appropriate index, it shall be substituted with an alternative index as agreed between parties.

1. **VARIATIONS OF CONDITIONS**

5.1 Any items relating to the supply of the services which the contractor seeks to impose, and which in any way add to, or are inconsistent with these conditions shall be excluded, and not form part of the contract, unless the Council specifically agrees to each of such terms in writing.

1. **TRANSFER AND SUBCONTRACTING**

6.1 The parties must not assign the whole or any part of the contract.

6.2 The contractor must not subcontract the supply of service without the Council giving written consent.

1. **STAFF**

7.1 The contractor must employ sufficient staff to ensure that services are provided at all times and in all respects to the contract standards. The contractor must ensure that sufficient reserve of staff is available to provide the services to the contract standard during holidays and other absences.

7.2 Adequate local supervision must be provided.

7.3 The contractor must employ for the purpose of this contract only such persons that are careful, skilled and experienced in the duties required of them and must ensure that every such person is properly and sufficiently trained and instructed with regard to:

* The tasks that person has to perform.
* All relevant provisions of the contract.
* All relevant rules and procedures concerning the use of machinery, Health and Safety at Work, and the Control of Substances Harmful to Health and all other current legislation.

7.4 The contractor must provide staff with a form of identity acceptable to the Council. This must be displayed at all times.

7.5 Staff will at all times present a polite, helpful and tidy demeanour to the public while carrying out the service.

7.6 The Council retains the right to verify references concerning staff seeking employment on its contracts. This may include security clearance.

7.7 The contractor must remove any of its staff from the contract immediately if the Clerk requests this on the grounds of public interest or efficiency.

1. **PROGRAMME OF WORK**

8.1 The specification for grass cutting is attached.

8.2 Within 21 days of receiving notification of the acceptance of his/her tender, the contractor shall prepare and submit to the Clerk for consideration a detailed programme of work, to include among other matters:

* The annual Grass Cutting Schedule for example: 3 cuts in April and 2 cuts in August.
* The number of teams.
* The number of operatives in each team.
* The size and type of machinery to be used.
* Details of arrangements to cater for any disruption to the normal work programme however caused.
* Details of a programmed chemical weed control if used.
* Any other details requested by the Clerk at the time of acceptance.

8.3 If the submitted programme is found to be satisfactory approval will be given by the Clerk within 2 weeks. No subsequent changes can be made without prior written consent by the Clerk.

8.4 In the event of the programme of works not being approved, the Clerk may approve a cut or cuts on an ad-hoc basis as an interim measure.

1. **PERFORMANCE**

9.1 The contractor shall provide the Clerk with a list of sites completed the previous day, so that inspection can be carried out.

9.2 The list will be in writing and may be emailed, faxed or delivered by hand, by no later than 10.30 hours.

9.3 In the event of the work not being satisfactory, the contractor will be advised accordingly via email or in writing.

9.4 The local supervisor will be contactable by mobile telephone throughout the working day.

1. **COMPLAINTS**

10.1 Any complaints regarding grass cutting operations shall be received initially by the Council. The contractor shall not take any action to discourage members of the public from passing complaints to the Council.

10.2 Any valid complaint will be passed to the contractor for immediate action.

10.3 Complaints shall be dealt with strictly in accordance with the contractors written complaints procedure, a copy of which must be submitted to the Clerk.

10.4 The contractor shall maintain a written record of all complaints received from whatever source, and of the basis of the action taken, such records shall be kept available for inspection, and passed onto the Clerk on a monthly basis.

10.5 The contractor should expect to receive enquiries from the general public. All complaints and enquiries must be referred to the Clerk.

10.6 The contractor shall meet with the Clerk at the Council office when either requests this. The frequency of meetings shall be determined by operational requirements.

1. **TRAFFIC SAFETY AND CONTROL**

11.1 The Contractor shall provide, erect, and maintain such traffic signs, lamps, barriers, and traffic control signals and such other measures as may be necessitated by the works. Compliance with this clause shall not relieve the contractor of any of his/her other obligations and liabilities under the Contract and under the relevant provisions of the Highways Acts.

11.2 The contractor shall not commence any work which affects the public highway, until all traffic safety measures necessitated by the work are fully operational.

11.3 Traffic signs, lamps, barriers and traffic control signals, shall be in accordance with the requirements of the Traffic Signs Regulations and general directions current at the date of the execution of work.

11.4 The Contractor shall keep clean and legible at all times all traffic signs, lamps, barriers and traffic control signals and he/she shall position, re-position, cover or remove them as necessitated by the progress of works.

11.5 The method of grass cutting used must be safe and must not create a nuisance or inconvenience to the public in any way.

11.6 Particular care must be taken to ensure that no deposits of mud, stones or other matter are allowed to remain on the carriageway, foot way and other paved areas. Provision must be made for the removal of such deposits. Provision must be made for cleaning and keeping clean the wheels of all vehicles as necessary. The provision of a sleeper or other approved type of track shall be made as necessary. The contractor will be held entirely responsible for the consequence of any failure to observe these requirements.

1. **STANDARDS OF CARE**

12.1 The contractor shall work in such a manner as to minimise interference to users of the highway and adjacent properties.

12.2 The contractor must not cause any vehicle to run on any foot way, except in the case of a mowing machine.

12.3 The contractor shall take all reasonable precautions to prevent trespass on adjoining property by staff, plant or materials and shall prevent nuisance from water, smoke, noise, dust, rubbish fumes, chemicals or other matter while carrying out the service.

12.4 The contractor shall take all reasonable precautions to prevent damage to adjoining property, and shall be held responsible for any damage occurring whilst carrying out the service. Such damage shall be made good by the contractor at his/her expense.

12.5 If it is necessary to enter onto a private property, the contractor will be responsible for obtaining permission and must take all precautions to prevent damage. If any damage does occur, it will be the contractor’s responsibility to reinstate the damage to the satisfaction of the owner or occupier of the property.

1. **CLEARANCE OF SITE**

13.1 Each day, the contractor shall clear away and remove from the site all machinery and equipment. On completion of each operation, the contractor shall leave the whole of the site and works clean and in a workmanlike condition to the satisfaction of the Clerk.

1. **PROTECTIVE CLOTHING**

14.1 The contractor’s employees will use and wear appropriate protective and safety clothing and equipment at all times during the carrying out of the service. The contractor shall provide all such clothing and equipment which shall be to the satisfaction of the Clerk.

1. **FIRST AID**

15.1 The contractor will supply first aid equipment to all of his/her work teams. Such kits will be stocked to the accepted current standard and will be of a minimum size recommended for the numbers as per each works team. Before starting work, the method of communication with the contractor/client/emergency services shall be made clear to all staff.

1. **THE LAW**

16.1 The contractor must satisfy him or herself as to the law governing or applicable to the undertaking of the service, and will be deemed to have done so. The Council is to be indemnified against any breach of any such provisions by the contractor, and payments prescribed by law, and consequential costs resulting from the contractor failing to carry out the legal duties must be paid by the Contractor, and in default will be deducted from any monies due.

16.2 The contractor is required to be aware of the relevant provisions of the Health and Safety at Work Act 1974, The Highways Act 1980, the Wildlife Act 1989, the Environment Protection Act 1990 and any other relevant act relating to the grass verge cutting contract and to operate with them at all times.

16.3 Regard should be paid at all times to the recommendations set out in BS5228: 1984 “Noise Control on construction and open sites” and the best practicable means, as defined in S.72 of the “Control of Pollution Act, 1974” should be employed to reduce noise to a minimum.

16.4 The contractor’s attention is also drawn to the need to comply with all relevant provisions of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985, the Control of Pesticides Regulations 1986 and the Control of Substances Hazardous to Health Regulations 1988.

1. **ROYALTIES AND LICENCE FEES**

17.1 The contract price includes all payments made or due to be made to any third party in respect of any patent, design, trademark or copyright used for the purpose of the Contract.

17.2 The contractor shall indemnify the Council against any costs or claims arising from infringement of any of any patent, design, trademark or copyright.

1. **CONFIDENTIALITY**

18.1 The contractor and its staff must not disclose to any person other than a person authorised by the Council any information acquired by them in connection with the contract.

1. **DATA PROTECTION**

19.1 The contractor must protect personal data in accordance with the provisions and principles of the Data Protection Act 1984, and must ensure the reliability of its staff that has access to the data.

19.2 The contractor must indemnify the Council against all claims and proceedings and all liability, loss, costs and expenses incurred in connection there with made or brought by any person in respect of any loss, damage or distress caused to that person by the disclosure of any personal data by the contractor, its staff or agents.

19.3 ‘Personal Data’ has the same meaning as in the Data Protection Act 1984.

1. **PUBLICITY**

20.1 The contractor must not advertise or publicly announce that it is supplying services to the Parish Council without prior consent of the Council.

1. **CORRUPT GIFTS, PAYMENTS OF COMMISSIONS**

21.1 If the contractor or any of its staff or subcontractors does anything which constitutes any offence under the Prevention of Corruption Acts 1889 to 1916 (whether directly involving the Council or not) the Council may:

* In writing terminate the contract immediately without compensation to the contractor and;
* Recover from the contractor the amount of any loss resulting from that termination.

21.2 If any dispute arises in respect of the interpretation of this condition, other than the amount of any loss recoverable under Condition 21.1.2 or the right of the Council to terminate the contract under this condition, that dispute shall be decided by the Council whose decision shall be final and conclusive.

1. **INDEMNITY**

22.1 The contractor shall be liable for and shall indemnify the Council against any liability, loss, costs, expenses, claims or proceedings whatsoever arising under any statue or at common law in respect of:

* Any loss of or damage to property (whether real or personal).
* Any injury to any person, including injury resulting in death.
* Any financial or economic loss in consequence, of or in any way arising out of the provision of the services, except where such loss, damage or injury shall have been caused by negligence on the part of the Council, its employees or agents.

1. **INSURANCE**

23.1 The contractor shall insure fully against its liability order under condition 22 with an indemnity limit of £5 million in respect of any one incident.

23.2 If the Council requests the contractor shall produce:

* The insurance policy maintained in accordance with this condition and;
* If the contractor defaults in insuring, the Council may itself effect insurance and charge the cost together with an administrative charge of 10% to the contractor.

1. **DEFAULT BY CONTRACTOR**

24.1 If the contractor does not carry out the services in accordance with the contract standards, or at the time specified in the contract the Council may:

* Require the contractor to remedy the default within such time as the Council may specify, by providing again (as the case may be) without further charge to the Council, such part of the services to the contract standards,
* Terminate the contract,
* Itself provide or procure the provision of the services until the Council shall be satisfied that the Contractor is again able to carry out the services in accordance with these conditions. If the cost to the Council of executing or procuring such services exceeds the amount which would have been payable to the contractor for executing or procuring such services, the excess shall be paid by the contractor to the Council, in addition to any other sums payable by the contractor to the Council in respect of the breach of contract, or
* Without determining the whole of the contract, determine the contract in respect of part of the services and only thereafter provide or procure the provision of such part of the services itself.

24.2 The remedies of the Council under this paragraph may be exercised successively in respect of any given default by the contractor.

1. **DISCRIMINATION**

25.1 The contractor shall not unlawfully discriminate in employment. The contractor shall take all reasonable steps to secure the observance of this provision by all its staff or agents, employed in the performance of this contract.

1. **WAIVER**

26.1 The failure of either party to seek redress for breaches, or insist on strict performance of any provision of this Contract, or the failure of either party to exercise any right or remedy to which it is entitled under this contract shall not constitute a waiver thereof, and shall not cause a diminution of the obligations under this contract.

26.2 No waiver of any provision of this contract shall be effective unless it is agreed by both parties in writing.

26.3 No waiver of any default shall constitute a waiver of any subsequent default.

1. **ACCRUED RIGHTS AND REMEDIES**

27.1 Neither the expiration nor the termination of this contract shall prejudice or affect any right of action or remedy which shall have accrued, or shall thereafter accrue, either to the Council or to the contactor.

1. **FORCE MAJEURE**

28.1 Neither party shall be liable to the other for any failure to perform its obligations under the contract where such a performance is rendered impossible by circumstances beyond its control, but nothing in this condition shall limit the obligations of the contractor to use its best endeavours to fulfil its obligations under the contract.

1. **INSOLVENCY**

29.1 The Council may at any time by notice in writing summarily terminate the contract without compensation to the contractor in any of the following events:

* If the contractor, being an individual, or where the contractor is a firm, any partner in that firm shall at any time become bankrupt, or shall have a receivership order, administration order or interim order made against him or her, shall make any composition or scheme of arrangements with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so, or if in Scotland he or she shall become insolvent or not, or bankrupt, or any application shall be made for sequestration of this estate, or a trust deed shall be granted by him for the benefit of his or her creditors, or:
* If the contractor being a company shall pass a resolution, or the court shall make an order, that the company shall be wound up (except for the purpose of amalgamation or reconstruction), or if an administrative receiver on behalf of a creditor shall be appointed, or if the court shall make an administration order, or if circumstances shall arise which entitle the court or a creditor to appoint an administrative receiver or which entitle the court to make a winding up order, provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Council.

1. **OPERATIVE PROVISIONS**

30.1 Subject to the terms and conditions herein, the contractor agrees to provide the Council in consideration of the contract price, the services in accordance with the specification and in accordance with and subject to the particulars set out herein.

1. **AUDIT**

31.1 The contractor must allow the Council’s internal and other nominated auditors access to papers relating to this contract for the purpose of audit.

1. **APPLICABLE LAW**

32.1 English law is the law applicable to this contract.

**SIGNATURES**

**For and on behalf of Willingdon and Jevington Parish Council**

Signed…………………………………………………………

John Pritchett, Parish Council Chairman

Date…………………………………………………………….

**For and behalf of Milhams (Eastbourne) Ltd**

Signed………………………………………………………..

Kevin Fingerneissl, Company Director

Date………………………………………………………….