

Invitation to Tender

Version1.4 FINAL

Sewage Treatment Plant, Septic Tanks, Cess Pits and Stand Alone Pumping Stations Maintenance Services for Wokingham Borough Council

Invitation to Tender

Version1.4 FINAL

Wokingham Borough Council

Sewage Treatment Plant, Septic Tanks, Cesspits and Stand Alone Pumping Stations
Maintenance Services including the maintenance and management of plant, associated
pipework and plant enclosures in the ownership of The Council

Invitation to Tender

Date: 7th March 2018

Wokingham Borough Council
Tenant Services Service
Shute End
Wokingham
Berkshire
RG40 1WN

Wokingham Borough Council

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Form of Tender

Wokingham Borough Council

Tender for maintenance of sewage treatment plants, septic tanks and associated pumping equipment and stand alone pumping stations.

To: Wokingham Borough Council

I/We have perused the Wokingham Borough Council Specification and Conditions of Contract for the above work and noted the areas of operation as necessary.

Should this tender be accepted I/we hereby undertake to execute all the works comprised in the said Specification in accordance with the aforesaid Conditions of Contract, and to the entire satisfaction of Wokingham Borough Council for the sum (exclusive of Value Added Tax) as follows:

Price per annum for Sewage Treatment Plant, Septic Tanks and Stand Alone Pumping Stations Maintenance Services including the maintenance and management of plant, associated pipework and plant enclosures, to include emptying as specified, in the ownership of The Council (taken from the summary of the bill of quantities)

Amount in figures: £ (Excluding VAT)

Amount in words: pounds

(Excluding VAT) pence

Should this tender be accepted I/we hereby undertake that I/we will, if required, execute a Contract to be prepared by Wokingham Borough Council for the due performance of the said works, and agree that until such a Contract is executed the said Specification, Conditions of Contract and this Tender, together with the acceptance thereof in writing by Wokingham Borough Council shall be the Contract.

I/We declare that the amount of this tender has not been calculated by agreement or arrangement with any person other than The Council and has not been communicated to any person other than The Council and will not be so communicated until after the closing date for the submission of tenders.

I/We hereby submit this tender in accordance with the Notes below.

Date Signature.....

Full name of Tenderer.....

Address.....

.....

Company Registration Number

Partners

In the case of a firm not being a limited company, the full name and addresses of each of the Partners must be given in the space below. (This is to enable the necessary Contract to be prepared in the event of The Contractor's tender being accepted).

1.....

2.....

3.....

4.....

(include in each case the County in which the address is situated)

NOTES

1. The completed tender is to be placed in the envelope provided which is addressed to Simon Clark, Lead Surveyor, Tenant Services, Wokingham Borough Council, Shute End, Wokingham, Berkshire RG40 1WN and is to be marked 'Sewage Treatment Plant Maintenance' and is to be returned to that address no later than 12.00 Noon on Friday, 13th April 2018.

No tender will be accepted unless it is addressed to Wokingham Borough Council and returned in the tender envelope provided or packaged with the envelope attached as a label and shall not have any other mark, name or postal franking indicating the sender.

2. Wokingham Borough Council reserves the right not to accept the lowest priced tender or any of the tenders submitted.
3. The price submitted must be a firm price, subject only to the review provided for in the Contract.
4. All prices and rates given must be exclusive of Value Added Tax and Value Added Tax (if applicable) should be shown on your invoice as a separate item indicating which aspects of the service are considered to attract VAT.

Appendix to Tender Form submitted under Wokingham Borough Council Conditions of Contract

1. Date of Commencement/Licence to access works: 20th May 2018 or as agreed.
2. Contract Period: Three years with an option for the Council to extend for two further periods of one year each
3. Date for Completion: 19th May 2021 or as agreed.
4. The Contractor is to enter below details of his Employers Liability Insurance.
The minimum cover required by The Council is Ten Million Pounds

Insurance Company

Policy Number

Expiry Date

Amount of Cover

5. The Contractor is to enter below details of his Public Liability Insurance.
The minimum cover required by The Council is Ten Million Pounds

Insurance Company

Policy Number

Expiry Date

Amount of Cover

6. The Contractor is to enter below details of his Damage to Property Insurance.
The minimum cover required by The Council is Ten Million Pounds

Insurance Company

Policy Number

Expiry Date

Amount of Cover

Statement Relating to Good Standing

GROUND FOR OBLIGATORY EXCLUSION (IN ELIGIBILITY) AND CRITERIA FOR REJECTION OF CANDIDATES IN ACCORDANCE WITH REGULATION 57 OF THE PUBLIC CONTRACTS REGULATIONS 2015

We confirm that, to the best of our knowledge, the Contractor is not in breach of the provisions of Regulation 57 of the Public Contracts Regulations 2015 and in particular that:

Grounds for mandatory rejection (ineligibility)

- I. The Potential Provider (or its directors or any other person who has powers of representation, decision or control of the named organisation) has not been convicted of any of the following offences:**
- (a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime;
 - (b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;
 - (c) the common law offence of bribery;
 - (d) bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010, or section 113 of the Representation of the People Act 1983;
 - (e) where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities:
 - i. the common law offence of cheating the Revenue;
 - ii. the common law offence of conspiracy to defraud;
 - iii. fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;
 - iv. fraudulent trading within the meaning of section 458 of the Companies Act 1985), article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;
 - v. fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;
 - vi. an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;
 - vii. destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;
 - viii. fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or
 - ix. the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;
 - (f) any offence listed
 - i. In section 41 of the Counter Terrorism Act 2008; or
 - ii. in Schedule 2 to that Act where the court has determined that there is a terrorist connection;

- (g) any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);
- (h) money laundering within the meaning of sections 340(11) and 415 of the Proceeds of
- (i) Crime Act 2002;
- (j) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;
- (k) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004;
- (l) an offence under section 59A of the Sexual Offences Act 2003;
- (m) an offence under section 71 of the Coroners and Justice Act 2009;
- (n) an offence in connection with the proceeds of drug trafficking within the meaning of
- (o) section 49, 50 or 51 of the Drug Trafficking Act 1994; or
- (p) any other offence within the meaning of Article 57(1) of the Public Contracts Directive—
 - i. as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or
 - ii. created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland.

II. The Potential Provider (or its directors or any other person who has powers of representation, decision or control of the named organisation) is not

- (a) in breach of its obligations relating to the payment of taxes or social security contributions which has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of any of the jurisdictions of the United Kingdom, or
- (b) has fulfilled its obligations by paying or entering into a binding arrangement with a view to paying, the taxes or social security contributions due, including, where applicable, any interest accrued or fines.

Organisation's name	
Signed	
Position	
Date	

Discretionary grounds for rejection

I. (For Central Government contracts and others over £5M)

The Potential Provider (or its directors or any other person who has powers of representation, decision or control of the named organisation) confirms that it:

- (a) is not in breach of its obligations relating to the payment of taxes or social security contributions that can be demonstrated by the contracting authority by any appropriate means, or
- (b) has fulfilled its obligations by paying, or entering into a binding arrangement with a view to paying, the taxes or social security contributions due, including, where applicable, any interest accrued or fines.

II. The Potential Provider (or its directors or any other person who has powers of representation, decision or control of the named organisation) confirms that it:

- (a) is not in violation of applicable obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Public Contracts Directive as amended from time to time, which can be demonstrated by the contracting authority by any appropriate means;
- (b) is not in bankrupt or is not the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;
- (c) is not guilty of grave professional misconduct, which renders its integrity questionable which can be demonstrated by the contracting authority by appropriate means;
- (d) has not entered into agreements with other economic operators aimed at distorting competition which the contracting authority has sufficiently plausible indications to conclude;
- (e) is in a conflict of interest within the meaning of regulation 24;
- (f) was not involved in the preparation of the procurement procedure, as referred to in regulation 41;
- (g) has not shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions;
- (h) has not been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria or has not withheld such information or is not able to submit supporting documents required under regulation 59;
- (i) has not undertaken to unduly influence the decision-making process of the contracting authority or to obtain confidential information that may confer upon it undue advantages in the procurement procedure;
- (j) has not negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

Organisation's name	
Signed	
Position	
Date	

Form of Parent Company Guarantee

Council's Form of Parent Company Guarantee

THIS DEED is made the _____ day of _____ 20____

BETWEEN:

(1) (“the Guarantor”) of _____; and

2) WOKINGHAM BOROUGH COUNCIL of
("the Council")

WHEREAS:

- (A)** The Council and [Tenderer] [“the Contractor”] have entered into a binding Agreement dated [DATE TO BE INSERTED ON APPOINTMENT] [“the Agreement”] whereby the Contractor will provide the System and/or Services set out in the Agreement Documents and upon the terms and conditions contained therein.
- (B)** The Contractor is a subsidiary company of the Guarantor.
- (C)** Pursuant to a Deed of Undertaking given by the Guarantor to the Council on [DATE TO BE INSERTED ON APPOINTMENT] the Guarantor has agreed to enter into a Deed of Guarantee and Indemnity on the following terms and conditions:-

NOW THEREFORE:

- (1) The Guarantor hereby unconditionally and irrevocably guarantees to the Council that if any sums are due and payable to the Council by the Contractor pursuant to the terms of the Agreement Documents and there is any default in any payment of such sum the Guarantor shall forthwith on first demand by the Council unconditionally pay to the Council in full the monies which are due and payable to it and unpaid by the Contractor together with all costs and expenses which the Council may incur in enforcing this Guarantee.
- (2) The Guarantor hereby unconditionally and irrevocably undertakes fully and properly

to indemnify the Council against all damages, costs, claims, losses, demands, liabilities and expenses which may be suffered or incurred by the Council by reason of any default on the part of the Contractor in performing and observing the terms and conditions of the Agreement Documents and in particular such costs and expenses as may be incurred as a result of a third party providing all or any part of the System or Services (as defined in the Agreement Documents) by reason of a failure by the Contractor to provide such System or Services in accordance with the terms of the Agreement Documents.

- (3) The Guarantor shall not be discharged or released from this guarantee and indemnity nor shall its liability under this guarantee and indemnity be affected or impaired by any Agreement, conduct or forbearance between or afforded to the Contractor by the Council or by any alterations in the obligations imposed on the Contractor by the Agreement Documents or by any variations agreed to the Agreement Documents whether or not such matters are with or without the consent of the Guarantor. The Council shall not be obliged to request payment from the Contractor before enforcing the terms of this guarantee and indemnity and the Guarantor shall be treated in all respects as being jointly and severally liable with the Contractor for all liabilities, obligations and undertaking of the Contractor as provided in the Agreement Documents.
- (4) This guarantee and indemnity shall remain in full force and effect until all monies and liabilities now or hereafter due and owing or incurred by the Contractor to the Council have been satisfied in full.
- (5) If any monies shall become payable under or in respect of this guarantee and indemnity the Guarantor shall not, so long as any monies due and payable by the Contractor to the Council under the terms of the Agreement Documents remain unpaid:

 - (a) In respect of the amounts paid by the Guarantor under this guarantee and indemnity seek to enforce repayment by subrogation or otherwise;
 - (b) In the event of the insolvency, winding up, liquidation or dissolution of the

Contractor prove in competition with the Council in respect of any monies owing to the Guarantor by the Contractor on any account whatsoever but will give to the Council the benefit of any such proof and of all monies to be so received in respect thereof.

- (6) All demands made by the Council under this guarantee and indemnity shall be sent to the Guarantor at the address set out above or such other address as may be notified by the Guarantor to the Council. Such demand shall be deemed to have been made and received by the Guarantor:
- (a) If delivered by hand, at the time of delivery;
 - (b) If sent by mail on the next business day after the date of posting;
 - (c) If sent by fax, at the time of transmission; and
 - (d) If sent by email at the time of receipt of the email as recorded by the Council's server.
- (7) No failure to exercise and no delay in exercising on the part of the Council any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any right, power or privilege. The rights and remedies provided herein are cumulative and not exclusive of any right or remedies provided by law.
- (8) The Guarantor hereby warrants and represents to the Council that it has full power and authority to enter into and perform its obligations under this guarantee and indemnity.
- (9) This guarantee and indemnity shall be binding upon the Guarantor's successors in title.
- (10) This guarantee and indemnity shall remain in full force and effect notwithstanding any

charge in the constitution of the Guarantor, the Contractor or the Council.

- (11) The Guarantor hereby irrevocably appoints its Company Secretary as its authorised agent for the purpose of accepting service of process for all purposes in connection with this guarantee and indemnity.
- (12) This guarantee and indemnity shall be governed by the construed in all respects in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English Courts as regards any claim or matter arising in relation to this guarantee and indemnity.

DATED this _____ day of _____ 20____

WITNESS whereof the Guarantor has hereunto sets it seal on the date set out above.

THE COMMON SEAL OF)
)
was hereunto affixed in the)
presence of:)

Section 1

of the Tender Documentation

Instructions to Tenderers

Instructions to Tenderers

1. The Tenderer shall obtain at his own expense all information necessary for making a Tender and must undertake an adequate consideration of the geographic areas of operation of The Council and examine and consider all matters referred to in the documents to be able to make an informed bid.
2. The return date for completed tender submissions is 12.00 noon on Friday 13th May 2018. Any tenders received after this time will not be considered.
3. Tenderers shall return their tender strictly in accordance with the instructions contained in this document. Any tender, which does not fully comply with the requirements of these instructions, will be rejected by the Council. Tenders shall be returned in duplicate, using the supplied mailing label, and an electronic copy of the tender on a CD or DVD shall be included; the envelope must be sealed and shall bear no marking that may identify the sender (including the use of company franking marks, courier marks etc). Tenders received in pencil, or other erasable format, will be rejected.
4. The Tenderer shall complete the Form of Tender together with the Bill of Quantities, a statement to confirm that they will be prepared to enter into the Parent Company Guarantee (where appropriate) and the Statement Relating to Good Standing and other Schedules attached to the Documents. No alterations shall be made by the Tenderer to any part of the Tender Documents other than the filling up of blanks intended to be filled by the Tenderer. Where additional space is needed (and within the limits on numbers of words to be used specified in the documentation) additional pages may be inserted properly cross referenced to the question to which they relate. Additional pages shall be on plain paper with no company logo printed or used as a watermark.
5. Method statements shall be printed on plain paper without company logos or watermarks. Responses should not exceed the word count stated. Any wording in the document, or embedded document(s), over the limit will not be evaluated.

For this purpose, "word" shall be given its normal meaning, i.e. a single unit of language.

Please note each word (or number comprising individual numerals) should be separated by spaces and a string of words conjoined by slashes or any other punctuation mark or similar character will not be counted as a single word, (notwithstanding any automated word count facility) but will be counted as separate words.

Illustrative images will be allowed but those that contain text will be evaluated as described in the following example: If a newspaper/magazine article is included and it is apparent that the article is intended to be read, this would form part of the word count for that question. The word count is applied to the text in the order as it appears in the statement, regardless of whether the text is in the narrative or an image. When the word count limit is reached, all the following text will be redacted. Where an image does not include legible words and merely illustrates a concept that has been described in the typed text, this will be allowed and will not contribute towards the word count. The decision of the Council in this respect is absolute and will be applied consistently for all tenders and by all evaluators.

6. If any error should be made in completing the tender documentation this should be lined through with a single line and be initialled.
7. The Council reserves the right to reject any Tender which does not comply with the requirements of these instructions.

8. The tendered price submitted by the Tenderer will be fixed, and available for acceptance by The Council, for a period of four months following the return date for tenders.
9. The Council is not bound to accept the lowest, or any, Tender, nor does it bind itself to consider a conditional Tender.
10. The Council reserves the right to interview tenderers to discuss the areas covered within the method statements. This may result in the leading tenderer being interviewed to ensure full and proper understanding of the methods before any appointment.
11. Every Tenderer, before making his Tender, shall peruse and consider all the Tender Documents and shall obtain for himself on his own responsibility and at his own expense all the information necessary for making a Tender. Information about all known sub-contractors, suppliers and products to be used for the purposes of this contract shall be provided with the tender submission, completing the relevant forms.
12. No claims will be entertained for any alleged deficiency, error or inaccuracy of the description or other information contained in the Tender Documents, which the Tenderer could have reasonably been expected to confirm for himself.
13. Any doubt or obscurity as to the meaning or intentions of the Tender Documents shall be set out in writing by letter or email to The Council's point of contact for this procurement (details at 24 below) and an explanation obtained prior to the submission of the Tender. Such explanations shall be as a matter of assistance to the Tenderer, but they shall not be construed as to add to, or take away from, or otherwise alter the meaning or the intent of the Tender Documents. Any material information so supplied to any Tenderer by way of explanation will be supplied also to all other persons invited to Tender for the Contract. Clarifications of this nature will not be accepted in the last seven days before the tender return date; tenderers are therefore recommended to read the documentation thoroughly allowing sufficient time to seek any clarifications before this deadline. If a Tenderer considers an enquiry to be confidential this should be made clear when submitting the enquiry; the Council reserves the right to determine whether any such enquiry is confidential and if it determines that such enquiry is not confidential it shall offer the enquirer the option of having the enquiry answered with information being published to all Tenderers, or the enquirer may withdraw their enquiry.
14. If it is found on examination of the Tender that there is any arithmetic discrepancy between the total amount inserted in the summary page and the amount arrived at by valuing the items set out in the Bills of Quantities and Schedule of Rates, then the Tenderer may be called upon to alter the said Bill, Schedule and/or totals. If the Tenderer shall not make such alterations as directed within seven days after notice in writing requiring him to do so, or within such further time as may be allowed for that purpose, such Tender shall be deemed to be rejected unless The Council's Asset & Maintenance Manager shall otherwise direct.
15. Tenderers must provide the following documentation/information as part of their Tender submission (unless stated otherwise, any services described in method statements will be understood to be at no additional cost):
 - MS1 A Method Statement explaining how they will be able to provide added value to the works specified in the Specification contained within this tender documentation by identifying areas for potential improved service/reduced costs (Maximum of 500 words).
 - MS2 A Method Statement explaining their approach to achieving key performance targets (Maximum of 500 words).

MS3 A Method Statement explaining the procedures to be employed on site when undertaking site works, including safety measures, environmental measures, preventative maintenance measures and elements of added value (Maximum of 500 words).

Details of the tender evaluation methodology are given elsewhere in this invitation to tender.

16. The Council shall not be responsible for, or pay for, any expenses or losses incurred by the Tenderer in the preparation of their Tender or by any Tenderer who fails to Tender.
17. Canvassing Tenderers will face automatic disqualification if they canvass for the contract or if they make any approach to any employee, officer or Councillor or agent of Wokingham Borough Council with the view to gaining more favourable consideration of their Tender.
18. Tenderers must submit with the Tender details of the insurances which they intend to use to meet the requirements of the relevant clauses in the Conditions of Contract. Any policy shall cover the whole of the minimum amount stated in the Appendix to the Form of Tender.
19. The levels of insurance required are:
 - £10,000,000 (Ten million) for public liability
 - £10,000,000 (ten million) for employers' liability
 - £5,000,000 (five million) for damage to property
20. Tenderers must state in their tender documents whether they have suitable insurances in place or the arrangements they will make to ensure that the required insurances are put in place before commencement of the works in the event that they should be appointed. Any policy shall cover the whole of the minimum amount stated in the contract. The successful tenderer will be required to complete all forms of insurance after the acceptance of the tender by the Council and before the contract starts.
21. The Council may require a Performance Guarantee by a Parent Company in the form incorporated in the Tender Documents. Tenderers who have a parent company must therefore confirm that such a guarantee will be provided should it be requested (it is not necessary to complete the Parent Company Guarantee at the time of Tendering).
22. Tenderers are required to acknowledge receipt of the Tender Documents via e-mail on the following address: **peter.bird@primarybs.co.uk** within five days of receipt.
23. These instructions shall be deemed to form part of the Tender Documents.
24. The main point of contact to whom enquiries should be addressed is the agent working on behalf of the Council in this procurement: **NB tenders MUST be sent to Wokingham Borough Council using the reply label that will be provided**; they **MUST NOT** be sent to Primary Business Support.

Peter Bird
Primary Business Support
Lower Farm
Foxcotte
Andover
SP10 4AA

E-mail: peter.bird@primarybs.co.uk
Mobile: 07780 600953
Office: 01264 324403

Checklist for return of Tenders

Tenders shall comprise the following items:

- The Form of Tender
- The Appendix to the Form of Tender
- The two elements of the Statement Relating to Good Standing
- The three method statements
- The Bills of Quantities covering the sites (9Nr)
- The Schedule of Rates Bill 1
- Declaration of Related Party Transactions and Activities by Contractors/Partners/Suppliers ('Declaration of Related Party Transactions Etc.docx')
- Details of insurances in place, or to be put in place (it is not necessary to submit the policy documents at this stage)

Tender Evaluation Methodology

Tenders shall be evaluated on the basis of most economically advantageous tender. At high level the criteria shall be weighted:

Price 40%

Qualitative 60%

Price Evaluation

Prices shall be based on the annual cost of the service provision with an addition of dayworks as contained in the SOR.xlsx spreadsheet.

Price shall be evaluated using the following formula:

$$\text{Score} = \text{max percentage} - \left[\left(\frac{\text{Price} - \text{Lowest price}}{\text{Lowest price}} \right) \times \text{max percentage} \right]$$

In this evaluation the max percentage for price is 40%.

Using this method the tenderer offering the lowest prices will be awarded 40% and other tenderers being awarded a reduced percentage on a comparative basis based on the formula stated above.

An example of the assessment of prices can be seen below

Contractor	Tendered annual budget	(Price – Lowest price) / Lowest price (A)	(A) x (max percentage)	Maximum price score available	Percentage of available score awarded
A	£28,000	0.12	4.8	40%	35.2%
B	£45,000	0.80	32.0		8.0%
C	£25,000	0.00	0.0		40.0%
D	£32,000	0.28	11.2		28.8%

Qualitative Evaluation

Qualitative elements shall be evaluated against a standard scheme of scores that rank method statements on a scale of 0 to 5, where 1 is the lowest score awarded and 5 the highest, with a score of three indicating a satisfactory answer.

Score	Rating of Response
0	No response provided and/or substantial omissions which make the response fundamentally unacceptable and gives the Council cause for major concern.
1	Very poor standard of response; fails to meet nearly all requirements, Insufficient information provided or response generally not supported by evidence. Gives the Council cause for a very high level of concern.
2	Poor response; fails to meet the majority of requirements, insufficient information provided and/or response is generally not supported by evidence. Gives the

	Council cause for a high level of concern.
3	Inadequate response; fails to meet some requirements and is generally unsatisfactory and/or has omissions and/or is not supported by evidence. Gives the Council cause for serious concern.
4	Basic response; borderline in meeting requirements and has some satisfactory elements but is generally unsatisfactory and/or has several omissions. Gives the Council cause for concern in several areas.
5	Adequate response; generally meets requirements and is supported by a reasonable level of evidence but has a number of omissions which give the Council cause for some concerns in few areas.
6	Competent standard of response; meets requirements and is supported by a satisfactory level of evidence although there are a few issues which give the Council cause for some minor concerns.
7	Good standard of response; meets requirements and is supported by evidence although there are a few very minor omissions and/or very minor issues which gives the Council cause for some very minor concerns.
8	Very Good standard of response; meets requirements and is supported by comprehensive evidence which gives the Council a very good level of confidence.
9	Excellent standard of response; exceeds the requirements in a number of areas and is supported by strong evidence which gives the Council a high level of confidence.
10	Exceptional standard of response; exceeds requirements in most areas and is supported by very strong evidence which gives the Council a very high level of confidence.

Scores will be based on the maximum possible score for each section and awarded on a pro-rata basis in the following manner:

Method Statement 1 (25% of overall score)

Contractor A is awarded 8 points – they will receive $8/10 \times 25\% = 20\%$

Method Statement 2 (20% of overall score)

Contractor A is awarded 3 points - they will receive $6/10 \times 20\% = 12\%$.

Method Statement 3 (15% of overall score)

Contractor A is awarded 2 points – they will receive $4/10 \times 15\% = 6\%$

The qualitative scores will be added to give a total qualitative score, in the example above the Contractor's score would be 38%.

The Price score and the Qualitative score are then added together to give a total overall score, in this case, , if the qualitative scores were those of Contractor C, the Contractor's total score would be 40% (price score) + 38% (qualitative score) = 78%

Each contractor's bid is evaluated in this way and the Contractor with the highest score becoming the 'leading candidate'.

As part of the evaluation process the right is reserved to interview candidates to discuss the areas covered within the method statements; this may result in the leading candidate being interviewed to ensure full and proper understanding of the methods before any appointment.

If, following interview the leading candidate is re-ranked to a position lower than first position, or if the candidate is disqualified, or should withdraw, the candidates shall be re-ranked and the new leading candidate may be interviewed in a similar manner.

Section 2

of the Tender Documentation

Conditions of Contract

Conditions of Contract

BETWEEN:

(1) “The Council” Wokingham Borough Council and

(2) “The Contractor” []

BACKGROUND:

- i. The Contractor is a professional company with suitable skills and experience to deliver the Services contained within this contract and meet the specification contained herein.
- ii. The Council appoints The Contractor to undertake sewage treatment plant maintenance; sewage pumping plant maintenance and septic tank emptying at the sites and locations contained within this contract to the standard specified on the terms and conditions contained herein.
- iii. The Council is a Registered Provider of Social Housing and a local authority and is required to meet the standards laid down from time to time by the Social Housing Regulator (the Homes and Communities Agency, or its successor organisation) and legislation and regulations that relate to local authorities.
- iv. The Contractor recognises the special requirements of The Council with regard to its status as a Registered Provider.

1. DEFINITIONS & INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

“Agreement” means this contract for the supply of the Services to The Council by The Contractor;

“Change of Control” means where:

- (i) the beneficial ownership of more than 50% of the issued share capital of, or the legal power to direct or cause the direction of, the general management of The Contractor transferring to a person (or persons as part of a single transaction or otherwise acting by agreement or undertaking) other than the person or persons so controlling The Contractor as at the Commencement Date; or
- (ii) The Contractor merges with another organisation or;
- (iii) The Contractor transfers its engagements to another person or organisation; or

- (iv) The Contractor transfers its business in any way to another person or organisation;

“Commencement Date”	means 20 th May 2018;
“Conduct Requirements”	means the requirements to be met by each member of the Personnel from time to time as set out in Part 2 of Schedule Four;
“Confidential Information”	means any information relating to a party or the business, prospective business, funding or other financial arrangements, technical or creative processes or finances of that party or any supplier, client or prospective client or resident of that party or compilations of two or more items of such information whether or not each individual item is in itself confidential, which comes into the other party’s possession by virtue of this Agreement or the arrangements contemplated hereunder and which the disclosing party regards, or could be reasonably expected to regard, as confidential, whether or not such information is reduced to a tangible form or marked “confidential”, and any or all information which has been or may be derived or obtained therefrom;
“Contract Administrator”	means The Council’s nominated member of staff, notified in writing to The Contractor from time to time, who shall take responsibility for the management of the contract;
“Contract Manager”	means The Contractor’s nominated member of staff, notified in writing to The Council from time to time, who shall take responsibility for the delivery of the contract requirements;
“Contractor’s Representative”	means the Contract Manager or such other member of The Contractor’s staff as may be nominated by the Contract Manager and advised as such to the Contract Administrator in writing.
“Cost Centre Code”	means the code, as taken from a listing provided by the Contract Administrator from time to time, that identifies the specific site and nature of work for which a charge is made by The Contractor.
“Daywork”	means any services to be performed by The Contractor in addition to the Services set out at Schedule 1 as may be agreed between the parties from time to time in accordance with clause 5;

“Daywork Fees”	means the fees as may be agreed between The Contractor and The Council in respect of any Daywork from time to time in accordance with Part 2 of Schedule Three;
“Default”	means any breach of this Agreement;
“Employees”	means the employees from time to time of The Contractor whose contract of employment may be transferred to a Successor following Termination of the Agreement by operation of Law (including the Transfer of Undertakings (Protection of Employment) Regulations 2006, substituted or replaced from time to time) or in respect of whom liabilities under or arising from a contract of employment or employment relationship may be transferred by a transfer as described above;
“Expense Code”	means the code, as taken from a listing provided by the Contract Administrator from time to time, that identifies the budget fund from which works are to be funded.
“Fees”	means the fees as are set out in Part 1 of Schedule Three.
“Index”	means the Consumer Prices Index (CPI) published from time to time by the Office for National Statistics on its website www.statistics.gov.uk or, if such Index ceases to be published, such other index as The Council, after consultation with The Contractor, may decide;
“Initial Period”	means one year from the Commencement Date;
“Legal Requirements”	means all statutes, statutory instruments, by-laws, regulations, directives, industry guidance and procedures generally accepted to be “best practice” applicable to the Services or the Dayworks or otherwise to this Agreement from time to time;
“Personnel”	means the employees, workers or agents of The Contractor providing the Services or the Daywork from time to time and shall include The Contractor’s Representative, any permitted sub-contractors and their employees, workers or agents as appropriate;
“Personnel Requirements”	means the minimum requirements to be met by each member of Personnel from time to time as set out in Part 1 of Schedule Four;

“Regulations”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended, substituted or replaced from time to time;
“Residents”	Means tenants of The Council, their families and other people whose homes are serviced at the Sites;
“Satisfaction Survey”	means any questionnaire or form requesting feedback on The Contractor’s performance of the Services or the Daywork and conduct as may be prepared by The Council from time to time;
“Services”	means the services to be provided by The Contractor as are more particularly described in Schedule One, subject to any variation accepted from time to time in accordance with clause 10;
“Sites”	at the Commencement Date shall be the sites listed at Schedule 2, to which sites may be added or removed by The Council by notifying The Contractor from time to time, provided that all sites will be within the Borough of Wokingham.
“Successor”	means a contractor succeeding The Contractor in the provision or operation of all or any of the Services;
“Term”	means the duration of this Agreement as determined under Clause 2;
“Termination”	means in relation to any contract or agreement, the cessation of any such contract or agreement with or without notice and whether by repudiation, default or fundamental breach of either party, frustration, expiry of time or otherwise;
“The Council’s Policies”	means the policies of The Council from time to time, being at the Commencement Date such policies as are referred to or set out at Schedule Five;
“Transferring Employees”	means all of those employees of the Previous Contractor that will transfer to The Contractor on the Commencement Date by virtue of the Regulations.
“Visitors”	means individuals visiting the Sites for any reason whatsoever;

“Working Day” means any day other than Saturday or Sunday or a Bank or Public Holiday;

“Year” means the period commencing on the Commencement Date until the end of that calendar year and each calendar year thereafter and, in the event of expiry or termination prior to the expiry of any such calendar year, such portion of such year as falls prior to such expiry or termination;

- 1.2 The heading in this Agreement are for convenience only and shall not affect its construction.
- 1.3 Singular numbers shall include the plural and vice versa and reference to any genders shall include all genders.
- 1.4 Any reference in this Agreement to any provision of statute shall be construed as reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.5 Reference in this Agreement to the parties shall include their successors and permitted assigns.
- 1.6 any phrase introduced by the terms "including", "include", "in particular" "such as" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- 1.7 any reference in this Agreement to “writing” or any related expressions includes a reference to facsimile transmission, e-mail or comparable means of communication, but excluding SMS ‘texts’ ‘messaging’ or any other form of communication that cannot be permanently recorded on paper, without further processing, if so required;
- 1.8 any reference to the parties means The Council and The Contractor, and party shall mean either of them;
- 1.9 any reference to a document being "in the agreed form" means a document in a form agreed by the parties and initialled by, or on behalf of, each all of them for the purpose of identification as such;

2. Commencement and Duration

- 2.1 This Agreement shall commence on the Commencement Date and shall continue for a fixed period of three years subject to The Council's right to extend in accordance with clause 2.2 and the termination provisions set out at clause 11.
- 2.2 The Council may at its discretion extend this Agreement for further two periods of one year each by giving The Contractor notice in writing, such notice to be given not less than three months prior to the third and fourth anniversary of the Commencement Date respectively.

3. The Contractor's obligations

- 3.1 The Contractor shall perform the Services at the Sites in accordance with Schedule 1 and the provisions of this Agreement;
- 3.2 On occasions, The Contractor may provide additional services not set out at Schedule 1, which shall be agreed between the parties in accordance with clause 5 (“the Daywork”) and which shall be subject to the provisions of this Agreement.

- 3.3 The Contractor shall carry out the Services or the Daywork between the hours of 8am and 5pm on Working Days only, except with the prior approval of the Contract Administrator.
- 3.4 The Contractor shall at all times during the Agreement, including in performance of the Services and the Daywork:
- 3.4.1 exercise reasonable care and skill and ensure that its Personnel exercise reasonable care and skill;
 - 3.4.2 comply with its obligations in a timely manner and, in any event, in accordance with any and all timescales referred to in Schedule 1 or agreed between the parties from time to time;
 - 3.4.3 comply with and ensure that all Personnel comply with all relevant Legal Requirements from time to time in force, including, but not limited to:
 - (a) all relevant health and safety rules, regulations, legislation and guidance including whether under the Health and Safety at Work Act 1974 or the Management of Health and Safety at Work Regulations 1992 or any subsequent amendments or re-enactments thereto or regulations made there under or otherwise;
 - (b) Noise at Work Regulations;
 - (c) Tipping/Recycling Regulations;
 - (d) Equal Opportunities legislation;
 - (e) Working Time legislation;
 - (f) Driving legislation; and
 - (g) Environmental Protection Regulations; and
 - (h) Data Protection.

and shall indemnify and keep fully and effectively indemnified The Council against all and any costs, claims, demands, actions and expenses (including but not limited to, those in respect of death or personal injury) suffered by The Council directly or indirectly as a result of any breach by The Contractor of the provisions of this clause 3
 - 3.4.4 adhere to The Council's Policies and ensure that its Personnel adhere to The Council's Policies;
 - 3.4.5 obey all lawful and reasonable instructions of The Council;
 - 3.4.6 ensure that the Services and the Dayworks are performed by Personnel who meet and continue to meet the Personnel Requirements;
 - 3.4.7 ensure the Personnel are aware of the Conduct Requirements, provide training to all Personnel in respect of the Conduct Requirements and ensure The Contractor and its Personnel comply with the Conduct Requirements;
 - 3.4.8 not act or omit to act, or permit or allow any Personnel to act or omit to act, in such a manner as may bring The Council into disrepute;
- 3.5 The Contractor shall:
- 3.5.1 inform The Council in writing of the planned programme of Services for each Year of the Agreement ("the Annual Plans") not later than one month prior to the first day of each relevant Year (save that the annual plan in respect of the first Year of the Agreement shall be provided to The Council within three weeks of the Commencement Date);
 - 3.5.2 for each calendar month of the Agreement, provide to The Council a list of all Services and/or Daywork carried out during that month ("the monthly work schedule"). The monthly work schedule shall be provided to the Contract Administrator in writing in the form required by The Council and shall include

details of the Services and/or Daywork carried out, the Sites, Cost Centre Codes and Expense Codes and any other information required by The Council. The monthly work schedule shall be provided within 7 days of the end of the calendar month to which it relates;

- 3.5.3 within the access arrangements made by The Council and notified to The Contractor by the Contract Administrator, liaise with residents making appointments for access as required, confirming these arrangements as necessary and re-arranging appointments on up to two occasions, after which The Contractor shall bring the issue to the attention of the Contract Administrator. The Contractor shall be required to cooperate with the Contract Administrator and resident(s) over further appointment(s) without further charge;
 - 3.5.4 make the Contract Manager available at all reasonable times to liaise with the Contract Administrator with regard to the provision of the Service including attendance at meetings and inspections in accordance with clause 8;
 - 3.5.5 ensure the Contract Administrator is notified as soon as reasonably practicable of any difficulties The Contractor experiences or should reasonably anticipate in providing the Services and/or meeting its obligations under this Agreement;
 - 3.5.6 respond promptly, courteously and appropriately to any complaint or other negative feedback received by The Council and communicated to The Contractor in connection with the provision of the Services or Daywork (or failure to provide the Services or Daywork);
 - 3.5.7 shall telephone The Contract Administrator immediately to inform him if, during provision of the Services or the Daywork, The Contractor considers that extra work may be necessary at any Site to make the installation safe or operable. The Contractor shall not perform any such additional services except with the prior written approval of the Contract Administrator.
- 3.6 The Contractor shall not, and The Contractor shall procure that its Personnel shall not, perform any services for Residents except on the prior written instructions of The Council. The Contractor acknowledges that breach of this provision will be a fundamental breach of this Agreement which may lead to a request to remove Personnel from performance of the Services or the Daywork or to termination of this Agreement. In the event that The Contractor is approached by a Resident to perform additional services, it should notify The Council immediately with details of the Resident's name and address and the services requested and The Council may at its sole discretion consider whether to instruct The Contractor to carry out such services for the Resident as Daywork in accordance with clause 5. For the avoidance of doubt, The Contractor acknowledges that at no time should The Contractor or its Personnel accept payment from Residents and to do so would constitute a fundamental breach of the contract.

4. The Council's obligations

- 4.1 From the Commencement Date The Council shall:
- 4.1.1 provide such information to The Contractor as The Contractor may reasonably require from time to time in order to provide the Services or the Daywork;
 - 4.1.2 notwithstanding The Contractor's obligations under clause 3.5.3 above, generally afford the Personnel such access to the Sites as they may reasonably require in order to undertake the Services or the Daywork;
 - 4.1.3 appoint a Contract Administrator to liaise with the Contract Manager;
 - 4.1.4 notify The Contractor of any amendments to The Council's Policies in force from time to time.

5. Daywork

- 5.1 From time to time, The Council may request that The Contractor provide additional services by requesting from The Contractor, in writing, proposals to meet its requirements ("a Daywork Request").
- 5.2 The Contractor shall give due consideration to any Daywork Request from The Council and shall as soon as reasonably practicable and in any event within 5 Working Days of the Daywork Request provide a Daywork Fee estimate for providing the additional services required under the Daywork Request and a timescale in which they can be performed.
- 5.3 If The Council is happy to proceed with the Daywork on the terms offered under clause 5.2, The Council shall accept The Contractor's estimate verbally and provide confirmation in writing of its acceptance of the Daywork Fee and timescale within 5 Working Days of receiving the Daywork Fee estimate and timescale for the work.
- 5.4 There may be occasions where The Contractor attends site and identifies the need or urgent works to remedy a fault or to prevent a fault occurring. In these circumstances The Contractor shall take all reasonable measures to contact the Contract Administrator to agree the actions to be taken. If the Contract Administrator, or other authorised person, is not able to be contacted The Contractor should take the minimum action he considers to be appropriate to remedy or prevent the fault. He should advise the Contract Administrator as soon as possible following the taking of these actions and agree what further work, if any, should be undertaken.
- 5.5 In the event that any Daywork is carried out without prior agreement of a Daywork Fee, The Council may at its discretion pay The Contractor in line with the Fees for the contracted Services as set out in this Agreement (but shall not be obliged to make any such payment).
- 5.6 In the event that any additional services are carried out by The Contractor without any prior instruction or agreement of The Council, The Council shall be under no obligation to pay The Contractor for performing such services (other than in respect of any such minimum action taken by The Contractor, acting reasonably, pursuant to clause 5.4).
- 5.7 The Contractor acknowledges that The Council makes no warranties or guarantees that there will be any Daywork Requests during the Term.
- 5.8 The Council reserves the right to utilise the services of a third party to provide services in support of this Contract and/or for services not specified in this Contract at its own cost even where The Contractor is not in Default.

6. Personnel

- 6.1 The Contractor will be required to submit to The Council a list of all Personnel and to inform The Council immediately of any changes to Personnel as may arise during the Agreement.
- 6.2 The Contractor will supply to all Personnel a form of identification card approved by The Council which will contain the following details relating to the Personnel:
 - 6.2.1 Photograph
 - 6.2.2 Name
 - 6.2.3 Contractor's Name, Address and Telephone Number
 - 6.2.4 Date the identification card was issued
 - 6.2.5 Expiry date of the identification card.
- 6.3 The Contractor will supply to all Personnel appropriate uniform displaying the name and/or logo of The Contractor and will ensure that all Personnel wear the uniform when performing the Services or the Daywork at the Sites.
- 6.4 The Contractor shall be responsible for making (or for procuring the making of) appropriate PAYE deductions for Tax and National Insurance contributions from the remuneration paid

to Personnel and The Contractor agrees to indemnify The Council in respect of any claims or demands which may be made by the relevant authorities against The Council in respect of primary class one National Insurance contributions and all Income Tax relating to the provision of the Services by The Contractor.

- 6.5 The Contractor shall be responsible for providing any Personal Protective Equipment, and for any costs associated with the same.
- 6.6 The Council shall have the power to immediately require the removal of, future exclusion or suspension from attendance of, any Personnel from the Sites (or any of them) without prior notice if The Council reasonably believes that such Personnel:
 - 6.6.1 have committed a material breach of any term of this Agreement;
 - 6.6.2 are a significant risk to the safety of other Personnel, the officers or employees of The Council, Residents, Visitors, or any other person from time to time;
 - 6.6.3 have acted or omitted to act thereby bringing The Council into disrepute; or
 - 6.6.4 have been convicted of any criminal offence.
- 6.7 For the avoidance of doubt, notwithstanding the exercise by The Council of its rights under this clause 6 The Contractor shall be obliged to continue to meet its obligations under this Agreement.

7. Financial Arrangements

- 7.1 In consideration of the provision of the Services, The Council shall pay the Fees to The Contractor in accordance with this clause 7 and Parts 1 and 2 of Schedule Three.
- 7.2 In consideration of the performance of any Daywork, The Council shall pay the Daywork Fees to The Contractor in accordance with clauses 5 and 7 and Part 3 of Schedule Three.
- 7.3 The Contractor will invoice The Council for any Services or Daywork provided to The Council, such invoice to be delivered to The Council within seven days of the end of the calendar month in which the Services have been performed. The due date for payment of each such invoice shall be the date of receipt by The Council of such invoice (including all of the information set out in clause 7.4) and the final date for payment thereof shall be the final Working Day of the following calendar month after the due date for payment ("the Final Date for Payment").
- 7.4 Invoices shall only be deemed to be validly delivered to The Council if they include the following information:-
 - 7.4.1 Services and/or Daywork provided;
 - 7.4.2 Dates on which Services were provided;
 - 7.4.3 Site name or address;
 - 7.4.4 Site Cost Centre;
 - 7.4.5 Expense Code;
 - 7.4.6 Value of VAT (if applicable); and
 - 7.4.7 Any specific info requested by The Council in respect of the Services or Daywork in question.
- 7.5
 - 7.5.1 Not later than 7 Days after the due date for payment of an invoice The Council shall give a written notice to The Contractor which shall, in respect of that invoice, specify the amount of the payment proposed to be made, to what the amount of the payment relates and the basis upon which that amount was calculated
 - 7.5.2 Not later than 7 days before the Final Date for Payment (The Prescribed Period) The Council may give a written notice to The Contractor which shall specify any

amount proposed to be withheld and/or deducted from the amount due, the ground or grounds for such withholding and/or deduction and the amount of withholding and/or deduction attributable to each ground

- 7.5.3 Subject to any notice given under clause 7.5.2 The Council shall no later than the Final Date for Payment pay The Contractor the amount specified in the notice given under clause 7.5.1
- 7.6 In the event that the Contract Administrator has issued a Default Notice in respect of the Services or the Daywork in accordance with clause 9, The Council shall be entitled to withhold payment of the relevant invoice until such time as the Services or the Daywork have been performed or the default rectified to The Contract Administrator's satisfaction.
- 7.7 The Council shall be entitled but not obliged at any time or times with or without notice to The Contractor to set off any liability of The Contractor to The Council against any liability of The Council to The Contractor (in either case howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency or its denomination) and may for such purpose convert or exchange any currency. Any exercise by The Council of its rights under this Clause shall be without prejudice to any other rights or remedies available to The Council under this Agreement or otherwise.
- 7.8 All Fees and Daywork Fees are deemed to be inclusive of:
- 7.8.1 labour and all connected costs relating to the Personnel including employment costs and costs associated with supervision and training of the Personnel;
 - 7.8.2 any expenses, overheads and profits;
 - 7.8.3 supply of any materials or other supplies necessary to perform the Services or the Daywork, including any costs of disposal of waste as appropriate;
 - 7.8.4 all plant, machinery, tools, equipment, vehicles and all costs in connection with the same;
 - 7.8.5 any costs associated with complying with any Legal Requirements and/or any obligations set out in this Agreement or The Council's Policies and any general liabilities, risks and insurances connected with the Agreement.
- 7.9 The Contractor acknowledges that no overtime rates will apply to any services performed outside the hours of 8am to 5pm on Working Days, save by the prior agreement of The Council under the procedure for agreeing Daywork as set out at clause 5 (for example in case of emergency).
- 7.10 Payment by The Council shall be without prejudice to any claims or rights which The Council may have against The Contractor and shall not constitute any admission by The Council as to the performance by The Contractor of its obligation under this Agreement.

8. Monitoring and Performance Reviews

- 8.1 The Contractor shall keep detailed records of all acts and things done in relation to the provision of the Services and at The Council's request make such records available for inspection by The Council, its representatives and /or any third party with a legitimate interest in the provision of the Services on reasonable notice (save in any emergency), and/or provide copies thereof to such persons.
- 8.2 Quarterly Meetings – The parties shall meet once a quarter to discuss and review the Agreement, which may include:
- 8.2.1 The Contractor's performance or non-performance of the Services and the Daywork;
 - 8.2.2 the programme of Services, including the annual plan and the monthly plans;
 - 8.2.3 any Default Notices; and
 - 8.2.4 any complaints or feedback from Residents including the results of Satisfaction Surveys received by The Council.

- 8.3 Annual Performance Review – The parties shall meet annually within one calendar month of each anniversary of the Commencement Date to discuss and review:
- 8.3.1 the arrangements between them under the Agreement;
 - 8.3.2 performance and provision of the Services and the Daywork throughout the previous Year; and
 - 8.3.3 any proposed amendments to the description of the Services in Schedule 1 or the Sites in Schedule 2 as may be anticipated or required by The Council for the subsequent Year.
- 8.4 Site Inspections – Any and all of the Services or the Daywork may be subject to inspection by the Contract Administrator, or his authorised nominee, at any time and The Contractor's Representative shall be required to attend any such inspection at the Site on reasonable notice, which, where the Contract Administrator has authorised a nominee, shall include the details of the authorised nominee.
- 8.5 The Contractor shall attend all meetings requested by The Council including, without limitation, Quarterly Meetings, Annual Performance Reviews and Site inspections;
- 8.6 The Council shall notify The Contractor in writing of the outcome of any meeting, inspection or review and The Contractor agrees to accept, implement and follow any reasonable further or amended requirements of The Council including those arising from any such meeting, inspection or review.

9. Default

- 9.1 Without prejudice to The Council's right to terminate this Agreement in accordance with clause 11, in the event of a Default, The Council may issue The Contractor with a Default Notice in writing setting out the details of the Default and (in the case of a Default capable of remedy) requesting that The Contractor remedy the said Default within a specified timescale.
- 9.2 In the event that The Contractor fails to remedy the Default to The Council's satisfaction within the timescale specified in the Default Notice, The Council shall be entitled to treat this as a "material breach" for the purposes of clause 11.

10. Variation

- 10.1 The Contractor will be deemed to have visited the Sites and to have made himself acquainted with any details not specifically mentioned within the specification (including access arrangements). The price quoted will be deemed to include all work necessary for the satisfactory execution of the service. No claim for extra expense will be allowed unless ordered by, or authorised by, the Contract Administrator.
- 10.2 The terms of the Contract may only be varied between The Contractor and The Council in writing with the consent of both parties. Any verbal variation shall be ineffective and unenforceable until it is recorded in writing and agreed by both parties.
- 10.3 Any increase or decrease in payment in respect of a variation shall be agreed between the parties based upon the demonstrable impact of the work requirement.
- 10.4 If The Council requires variations which reduce the scope of the Services, The Contractor shall not be entitled to any claim for loss of profit or any other form of compensation.
- 10.5 The Council shall have the right to require additions to, or omissions from, the Services provided they do not expand the geographic area of Service delivery beyond the geographic area of operation listed in the Specification and defined under 'The Sites' and provided they do not materially alter the overall nature of the Services to be provided. The cost of additional sites shall be calculated following the same principles as those used to provide the cost of all other sites (eg the level of profit shall be the same); where sites are removed from the contract the full cost of those sites, as detailed in The Contractor's pricing schedule, shall be removed from the charges due. Where individual properties are

taken out of a site an appropriate reduction may be agreed dependent upon the agreed reduction of costs associated with the reduced properties being serviced in accordance with clause 10.3, above..

11. Termination

- 11.1 The Contractor may terminate this Agreement by giving six months' written notice to The Council, such notice not to expire before the Initial Period has expired.
- 11.2 The Council shall be entitled to terminate this agreement:
 - 11.2.1 immediately by written notice where The Contractor has committed a material breach of any provision of this Agreement, which for the avoidance of doubt shall include:
 - (a) failure to remedy a Default in the timescale specified in a Default Notice;
 - (b) breach of clause 3.4.8 (i.e. conduct that may bring The Council into disrepute); or
 - (c) breach of clause 3.6 (i.e. working privately for Residents).
 - 11.2.2 on giving one month's written notice in writing in the event of 2 or more Default Notices being issued in any six month period and not rectified by The Contractor within 10 Working Days of issue;
 - 11.2.3 immediately by written notice to The Contractor where any of the acts or events specified in clause 13 occurs;
 - 11.2.4 upon giving The Contractor twelve week's notice in writing at any time;
 - 11.2.5 immediately by written notice in the event of a Change of Control;
- 11.3 In cases where there is a breach of this Agreement by The Contractor under clauses 11.2.1 (a), (b) or (c), or clause 11.2.2 or 11.2.3 which leads to termination, and in the case where The Contractor serves notice to terminate under clause 11.1 The Council shall be entitled to a claim against The Contractor for any additional costs incurred by The Council in appointing a new contractor to carry on the provision of the Services. Such claim may include but not be limited to, the cost of interim services and the cost of legal and consultancy costs incurred in tendering and letting a new contract.
- 11.4 The Council shall be entitled to terminate this Agreement by not less than 1 month's written notice to The Contractor if a change or changes in any Legal Requirements or the withdrawal, modification or a refusal of grant(s) or other funding upon which The Council relies (in whole or in part) or any change impacting upon the financial viability of the subject matter of this Agreement results in The Council's reasonable opinion in the continuance of the arrangements (or part thereof) comprised in this Agreement no longer being sustainable.

12. Consequences of Termination

- 12.1 Termination of the Agreement by either Party shall not affect the rights and obligations of the Parties accrued prior to the effective date of termination of the Agreement. For the avoidance of doubt, no termination of the Agreement however effected shall affect nor release the Parties from their rights and obligations under clauses 14 and 15.
- 12.2 In the event of termination of the Agreement under this clause 12, The Council shall pay all sums, payments, fees, charges, costs and expenses incurred and falling due for payment up to the date of termination and also all expenditure falling due for payment after the date of termination which arises from commitments reasonably and necessarily incurred by The Contractor in connection with the Agreement prior to the date of termination.
- 12.3 On expiry or other termination of this Agreement, howsoever or whenever occasioned, The Contractor shall provide such assistance as The Council may reasonably require in order

- to ensure the orderly handover of the provision of the Services (and each element thereof) to The Council and/or its nominee(s).
- 12.4 The Council shall be entitled to deduct sums equivalent to its reasonable costs in determining the Agreement and making alternative arrangements for the provision of the Services in the event of termination under clause 11.2.1 or 11.2.2 above from any sums due to The Contractor.

13. Insolvency of Contractor

- 13.1 This Clause 13 applies if:
- 13.1.1 The Contractor makes a composition or voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) enters administration or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or a moratorium comes into force in respect of The Contractor (within the meaning of the Insolvency Act 1986); or
 - 13.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of The Contractor; or
 - 13.1.3 The Contractor ceases, or threatens to cease, to carry on business; or
 - 13.1.4 Anything analogous to any of the acts or events specified in this clause occurs in any other jurisdiction; or
 - 13.1.5 The Council reasonably apprehends that any of the events mentioned above is about to occur in relation to The Contractor and notifies The Contractor accordingly.
- 13.2 If this clause applies then, without limiting any other right or remedy available to The Council, The Council may suspend any further services under the Agreement without any liability to The Contractor; and The Council's rights to termination under clause 11 shall come into effect.
- 13.3 Furthermore, if this clause applies then
- 13.3.1 the provisions of the Contract requiring any further payment to The Contractor shall forthwith cease to apply, and
 - 13.3.2 The Council shall be entitled to a claim against The Contractor for any additional costs incurred by The Council in appointing a new contractor to carry on the provision of the Services. Such claim may include but not be limited to, the cost of interim services and the cost of legal and consultancy costs incurred in tendering and letting a new contract.

14. Freedom of Information

- 14.1 The Contractor hereby agrees with the Council as follows:
- 14.1.1 That the Contractor will render to the Council all necessary assistance to enable the Council to comply with its obligations in The Freedom of Information Act 2000 ("the Act") or The Environmental Information Regulations 2004 ("the Regulations") including complying with any requirements of the Information Commissioner made pursuant to the Act or the Regulations where such assistance is required to enable the obligations to be complied with
 - 14.1.2 Without prejudice to the generality of the foregoing Sub-Clause that the Contractor will within 7 days of being required to do so in writing by [the Council the supervising officer or equivalent] supply to the Council such information belonging to the Council as may be held by the Contractor on behalf of the Council (as contemplated in Section 3 of the Act or as the case may be regulation 3 of the Regulations) where such information is required to enable the Council to comply with a request for information made pursuant to the Act or the Regulations and to indemnify the Council in respect of any costs and expenses

which the Council may incur by reason of any failure of the Contractor to comply with the requirement contained in this sub-clause.

- 14.1.3 (c) Any information which the Council may lawfully be required to communicate to any person under the provisions of the Act or the Regulations may be communicated accordingly by the Council notwithstanding any provision in this Contract prohibiting the disclosure of any information or document on the grounds of confidentiality or otherwise and, accordingly, the Council shall incur no liability and the Contractor shall have no claim or remedy against the Council by reason of any such communication of information.

14.2 The Contractor hereby further agrees with the Council as follows:

- 14.2.1 The information identified in the [] Schedule* hereto being information contained within this Contract or any preliminary Tender or other ancillary documentation is information which the Contractor regards as being a trade secret or information the release of which would or would be likely to prejudice the commercial interests of the Contractor or information disclosure. Of which would constitute an actionable breach of confidence within the meaning of the Freedom of Information Act 2000 ("the Act") or is commercially confidential or within the meaning of the Regulations. *to be added upon request of The Contractor and as agreed by The Council.
- 14.2.2 In the event that a request for such information or involving the disclosure of such information is made to the Council under the provisions of the Act [or the Regulations] the Council will to the extent permitted by any code of practice issued under Section 45 of the Act for the time being in force [or to the extent permissible under the Regulations] notify the Contractor that the request has been made inviting the Contractor to make any representations to the Council on the question of whether or not the relevant information should be disclosed. The Council shall also advise the Contractor of the date by which pursuant to Section 10 of the Act [or the corresponding provision in the Regulations] it appears that the information should be communicated to the person making the request or disclosure refused ("the statutory deadline").
- 14.2.3 In determining whether or not in its opinion the information constitutes a trade secret or information disclosure of which would or would be likely to prejudice the commercial interests of the Contractor or is information disclosure of which will constitute an actionable breach of confidence or is legally protected as being commercially confidential for the purposes of the Regulations the Council shall take account of any representations made by the Contractor to the Council a reasonable time before the expiry of the statutory deadline but shall not be bound by any such representations. The Contractor acknowledges that the public interest test which falls to be performed in accordance with Section 2 of the Act (where relevant) [Regulation 12 of the Regulations] must be performed exclusively by the Council.

15. Confidential Information

- 15.1 Neither party shall without the prior written consent of the other during or after the termination of this Agreement disclose to any third party any Confidential Information disclosed to it by the other and shall only use such Confidential Information for the purposes of or as otherwise expressly contemplated by this Agreement.
- 15.2 The above provision shall not apply to any Confidential Information which:
- 15.2.1 is or becomes publicly available on a non-confidential basis through no fault of the receiving party;
- 15.2.2 is received in good faith by the receiving party from any third party whose possession of such Information is not subject to any obligation of confidence;
- 15.2.3 is authorised for release by the prior written consent of the other party;

- 15.2.4 can be shown to the other party's reasonable satisfaction to have been in the possession of the receiving party at the date of disclosure, such possession not being subject to any obligation of confidence;
- 15.2.5 has been independently ascertained or created by the recipient without access to any or all of the Confidential Information as demonstrated by its written records; or
- 15.2.6 is required by law, judicial action, governmental department or agency, statutory or other regulatory authority to be disclosed.

16. Data Protection

- 16.1 Both parties shall maintain up-to-date registrations with the Information Commissioner.
- 16.2 The Parties acknowledge that for the purposes of the Data Protection Legislation (primarily, but not exclusively, the General Data Protection Regulations 2018 – the GDPR, the Data Protection Act 1998 and the Data Protection Act 2018 when enacted, along with any subsequent data protection legislation), the Council is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in Schedule Eight by the Council and may not be determined by the Contractor.
- 16.3 The Contractor shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.
- 16.4 The Contractor shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Council, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data.
- 16.5 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this agreement:
 - (a) process that Personal Data only in accordance with Schedule Eight, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Council before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Council as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that :
 - (i) the Contractor's Personnel do not process Personal Data except in accordance with this agreement (and in particular Schedule Eight);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor's Personnel who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with the Contractor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:
 - (i) the Council or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Council;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and
 - (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;
 - (e) at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the agreement unless the Contractor is required by Law to retain the Personal Data.
- 16.6 Subject to clause 16.7, the Contractor shall notify the Council immediately if it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory Authority in connection with Personal Data processed under this agreement;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event.
- 16.7 The Contractor's obligation to notify under clause 16.6 shall include the provision of further information to the Council in phases, as details become available.
- 16.8 Taking into account the nature of the processing, the Contractor shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 16.6 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:
- (a) the Council with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Council, at its request, with any Personal Data it holds in relation to a Data Subject;

- (d) assistance as requested by the Council following any Data Loss Event;
 - (e) assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.
- 16.9 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:
 - (a) the Council determines that the processing is not occasional;
 - (b) the Council determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 16.10 The Contractor shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.
- 16.11 The Contractor shall designate a data protection officer if required by the Data Protection Legislation .
- 16.12 Before allowing any Sub-processor to process any Personal Data related to this agreement, the Contractor must:
 - (a) notify the Council in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Council;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 16 such that they apply to the Sub-processor; and
 - (d) provide the Council with such information regarding the Sub-processor as the Council may reasonably require.
- 16.13 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.
- 16.14 The Council may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this agreement).
- 16.15 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

17. Publicity

- 17.1 The Contractor shall not publicise its relationship with The Council without the written agreement of The Council. This shall relate to matters including, but not limited to:
 - 17.1.1 Press releases;
 - 17.1.2 Interviews with the media;
 - 17.1.3 Sign-writing on company vehicles or premises;
 - 17.1.4 Using The Council as a reference.
- 17.2 Requests for authority to publicise the relationship should be made through the Contract Administrator.

18. Insurance

- 18.1 The Contractor will take out and maintain insurance cover with a reputable insurance company to cover the liability assumed by it under this Agreement which will, without limitation, include the following insurances in the following minimum amounts for each and every claim, act or occurrence or series of claims, acts or occurrences or such amounts as would comply with its Legal Requirements (whichever is the higher) ("the Insurance"):
- 18.1.1 employers liability insurance: £10 million;
 - 18.1.2 public liability insurance: £10 million;
 - 18.1.3 damage to property: £10 million; and
 - 18.1.4 any other insurance as may reasonably be required by The Council from time to time.
- 18.2 The Contractor will at the request of The Council provide a copy of such policy or policies of Insurance and the current premium receipt(s).
- 18.3 The Contractor will inform The Council of any claim whatsoever made under the Insurance within five Working Days and provide The Council with any information requested by The Council in relation to such claim. For the avoidance of doubt this shall include claims made for issues relating to matters outside of this contract, including those relating to other contracts with other clients, in as much detail as contractual confidentiality with any third party may permit.
- 18.4 In addition to the Insurance, The Contractor will be responsible for risk and any insurance relating to its own plant, machinery, vehicles and materials.

19. Liability and Indemnity

- 19.1 The Contractor acknowledges that it is engaged for its skills ability and expertise in providing the Services and the Dayworks on which The Council will rely.
- 19.2 The Contractor will promptly indemnify and keep The Council indemnified and held harmless from and against all claims, actions, liabilities, demands, costs, losses, damages and expenses it suffers whether during or after the expiry or termination of this Agreement (in part or in its entirety) including, without limitation, any:
- 19.2.1 economic loss and/or loss of profit;
 - 19.2.2 indirect, special or consequential loss;
 - 19.2.3 legal expenses;
 - 19.2.4 loss or damage arising from any claim for compensation;
 - 19.2.5 damage to goodwill or reputation; and
 - 19.2.6 loss and/or damage suffered as a result of any action brought by a third party including, without limitation, any Residents or Visitors;
- arising directly or indirectly from any breach of this Agreement, any Legal Requirements; and/or any negligent act or omission of The Contractor or its Personnel, agents or sub-contractors.

20. Complaints

- 20.1 The Contractor shall refer all complaints regarding any aspect of its service received by it to the Contract Administrator within 1 working day of receipt.
- 20.2 The Contractor shall be required to adhere to and cooperate in the administration of The Council's formal complaints procedure.
- 20.3 The Contractor shall not obstruct a customer wishing to make a complaint direct to The Council.
- 20.4 The Contractor shall advise The Council forthwith of any serious complaint received against The Contractor or The Council. Serious complaints are those which relate to loss,

- or alleged loss, of goods/money/earnings in excess of £50 or that relate to danger to health, impropriety or rudeness, any illegal or immoral act or any thing that may bring The Contractor or The Council into disrepute.
- 20.5 The Contractor shall advise The Council urgently of any complaint or situation that might give rise to a complaint that will, or may, lead to a claim for damages against The Council or Contractor. In these circumstances The Contractor shall not accept liability nor comment on liability but refer the matter to The Council and/or its own insurers, as appropriate (but in any event The Council shall be kept advised of the matter).
- 20.6 The Contractor shall provide a summary report with details of all complaints received on a monthly basis to The Council.

21. The Housing Ombudsman and the Homes and Communities Agency

- 21.1 The Contractor shall at all times fully indemnify and keep indemnified The Council, against any claims of maladministration relating to the work which are truly found by the Housing Ombudsman or the Homes and Communities Agency, or their respective successor organisations, following any investigations.

22. Dispute Resolution

- 22.1 In the event of any dispute between the parties, the parties will use their respective reasonable endeavours to resolve the dispute promptly and in good faith as follows:
- 22.1.1 either party shall put the details in writing to the other setting out the dispute and laying out plans for its rectification and a timetable for this action;
 - 22.1.2 if there is no response to any letter sent under clause 21.1.1 or if the rectification is not carried out in accordance with such letter, a meeting shall be held between the parties within fourteen days of a request to do so;
 - 22.1.3 the following shall attend such meeting:
 - (a) The Contract Administrator; and
 - (b) The Contract Manager.
 - 22.1.4 if the meeting requested under clause 21.1.2 is not held or the dispute is not resolved within fourteen days of such meeting the dispute should be escalated and considered at a meeting of the Director of The Council and the most senior member of staff in The Contractor's organisation.
 - 22.1.5 If the matter remains unresolved within 7 days of the meeting between the most senior members of staff, or if this meeting should not take place for whatever reason, either party may at any time give notice to the other party of its intention to refer such dispute or difference to adjudication under the version 2.0 of the TeCSA Adjudication Rules ("the Rules") which Rules are deemed to be incorporated by reference into this Agreement
 - 21.1.6 Notwithstanding anything to the contrary contained in the Rules any adjudicator appointed pursuant to the Rules shall be directed to provide reasons in writing for any decision which he may reach.
 - 21.1.6 If a referral is made to adjudication under clause 21.1.5 neither party may commence court proceedings until 21 days after an award of an adjudication has been given
- 22.2 Clause 22.1 shall not prevent any party from exercising its rights and remedies under this Agreement, including its rights of termination in accordance with clause 11.
- 22.3 The parties hereby agree that no dispute under this Agreement shall be referred to arbitration

23. Notices

- 23.1 Any notice, invoice or other communication which may be given by a party under this Agreement shall be given in writing, and shall be deemed to have been received:
- 23.1.1 on the date it was delivered if left at the other party's address as set out above (or any other address notified by the other party in accordance with this clause);
 - 23.1.2 48 hours from the date of posting (and in proving such service or delivery, it shall be sufficient to prove that such communication was properly addressed, stamped and put in the post) if sent by first class post to the other party's address as set out above (or any other address notified by the other party in accordance with this clause); and
 - 23.1.3 if by facsimile or e-mail transmission, at the time of transmission if this is within the normal working day; if it should be transmitted outside the normal working day then it shall be deemed to have been received at 9.00 am on the next working day.

24. Communications

- 24.1 The Contractor shall provide his own fixed telephone line and mobile communications to the extent necessary to undertake the work. The Contract Administrator shall be advised of the contact details.
- 24.2 The Contractor shall maintain email facilities and suitable software and expertise to allow reports and correspondence to be transmitted to the Contract Administrator.

25. Assignment and Change of Control

- 25.1 The Contractor shall not:
- 25.1.1 sub-contract, assign or otherwise transfer all or any of its interests or obligations under this Agreement; or
 - 25.1.2 enter into any Change of Control;
- without the prior written consent of The Council.
- 25.2 The Contractor shall notify The Council of any intended Change of Control as soon as reasonably practicable.
- 25.3 The Council may at any time:
- 25.3.1 sub-contract any element of The Council's obligations to any other party; and/or
 - 25.3.2 assign, transfer, charge or deal in any other manner with this Agreement or any of its rights under it.

26. Transfer of Employees

- 26.1 The Contractor and The Council acknowledge that TUPE may apply to the engagement of The Contractor to provide the Services and The Contractor agrees to employ any such Transferring Employees on the same terms and conditions of employment in accordance with its obligations under the Regulations.
- 26.2 For the avoidance of doubt, The Council does not provide any warranties or assume any responsibility for any liabilities whatsoever in respect of the Transferring Employees and The Contractor confirms and acknowledges that any such liabilities owed to such employees will either be met by The Contractor in accordance with the Regulations or by the Previous Contractor if such liabilities do not transfer to The Contractor.

- 26.3 In the event of any Transferring Employees bringing or asserting any claims, liabilities, proceedings, complaints or demands against The Council, then The Contractor agrees to fully indemnify The Council against any losses, costs (including legal costs) damages or expenses suffered or incurred by reason of the same howsoever caused to include but not limited to:
- 26.3.1 the employment or the termination of employment of any of the Transferring Employees whether occurring before, on or after the Commencement Date; and
 - 26.3.2 arising from any act or failure by The Contractor to comply with its obligations under the Regulations including Regulation 13 in respect of any of the Transferring Employees.
- 26.4 The Contractor, shall not, without the prior written consent of The Council:
- 26.4.1 vary or purport or promise to vary the terms and conditions of employment of any of the Employees where such variation results in the terms and conditions of employment being materially different in any respect from those applicable as at the date of this Agreement (or, where later, at the date of commencement of employment of the relevant Employee) for the relevant category of Employee;
 - 26.4.2 employ or offer or promise employment to any person to be employed in connection with the provision of the Services on terms and conditions of employment which are materially different in any respect to the terms and conditions of employment then applicable to the relevant category of Employee;
 - 26.4.3 increase the number of its Employees during the final 12 months of the Term either such that the total number of Employees or the total cost per annum of employing all such Employees is increased by more than 1% during such period.
- 26.5 For the purposes of Clause 26.4, the variations or purported or offered or promised variations which may be regarded as resulting in materially different terms and conditions of employment include, but are not limited to any variation or purported or offered or promised variation which:
- 26.5.1 effects an increase in the base salary of any Employee of more than the percentage increase in the level of the Index between the figure published for the month in which the variation was made and the figure published for the date hereof; or
 - 26.5.2 either wholly or partly takes effect after the end of the Term; or
 - 26.5.3 results in the employment of any Employee not being terminable lawfully by the employer within 3 months after the end of the Term; or
 - 26.5.4 relates to a payment to be made or benefit to be provided upon or in consequence of the termination of employment of any Employee; or
 - 26.5.5 relates to a payment (other than base salary permitted under Clause 21.5.1) or benefit which any Employee may have a right to receive after the end of the Term; or
 - 26.5.6 prevents, hinders or restricts any Employee from working for The Council or any Successor or from performing for The Council or the Successor the duties performed by such Employee for The Contractor.
- 26.6 The Contractor shall not, without the prior written consent of The Council during the final 12 months of the Term assign or redeploy any Employee to other duties unconnected with the Services.

- 26.7 The Contractor acknowledges that The Council may wish, prior to, on or after Termination of this Agreement to invite persons, who may include The Contractor, to tender for the right to provide some or all of the Services ("Retendering"). Accordingly, The Contractor agrees that, at any time during the last 12 months of the Term, The Council may require The Contractor to provide to The Council (or to any other person nominated by The Council) within 14 days of such request such information as is reasonably required by The Council in relation to the Employees, including but not limited to, the following information:
- 26.7.1 name, sex, date of birth and date of commencement of continuous employment for each Employee;
 - 26.7.2 terms and conditions of employment or engagement for each Employee;
 - 26.7.3 details of all amounts payable and benefits provided to each Employee;
 - 26.7.4 details of all changes to the matters listed at clauses 26.7.1 to 26.7.3 above, promised to or discussed with any Employee;
 - 26.7.5 details of all dismissals or termination of anyone employed or engaged in connection with the provision of the Services;
 - 26.7.6 details of all agreements or arrangements (whether or not legally binding) entered into in relation to the Employees with any trade union or organisation or body of employees, including any employee representatives; or
 - 26.7.7 details of any trade disputes and industrial action (whether official or unofficial) to which any Employee was a party; or
 - 26.7.8 details of any disciplinary action taken against any Employee and any grievances raised by any Employee within the previous two years; or
 - 26.7.9 details of any court or tribunal case, claim or action either brought by any Employee or former Employee against The Contractor within the previous two years or where The Contractor has reasonable grounds to believe that such action may be brought against it arising out of the Employee's employment with The Contractor or its termination.
- 26.8 The Contractor undertakes to The Council that it shall comply with its obligations, if any, to inform and consult in relation to the Employees in connection with the Termination of this Agreement or the obligation of The Contractor to supply or procure the Employees in connection with the Termination of this Agreement or the obligation of The Contractor to provide or procure the provision of the Services, including obligations under the Regulations, the Trade Union and Labour Relations (Consolidation) Act 1992 ("TULRCA") and the Transfer of Employment (Pension Protection) Regulations 2005 (the "Pension Regulations") (as they may be amended substituted or replaced from time to time) and that it will indemnify and keep indemnified The Council against any costs (including legal costs), expenses, losses, liabilities, claims or demands ("Costs") which The Council suffers or incurs as a result of any breach by The Contractor of this undertaking.
- 26.9 Upon any Retendering, The Council will use reasonable endeavours to procure that the services to be provided by the Successor, after Termination of the Agreement, or the obligation of The Contractor, to provide or procure the provision of the Services, retain the identity of the Services, in order that the Regulations may apply to any contract entered into between The Council and the Successor as a result of the Retendering but, in the event that The Council determines that the Regulations will not apply to the grant of such a contract, The Council will not accept any responsibility as employer of the Employees or any other duty or liability under, or in connection with, the contract of employment of any of the Employees and, if The Council should nonetheless be held responsible (whether by The Contractor or by any of the Employees or their trade union or other employee representative body) in any way for any such duty or liability, then, whether or not the Successor (if any) assumes any responsibility as employer of any Employees from The

Contractor, The Contractor agrees to indemnify and hold The Council harmless from and against any Costs which The Council suffers or incurs as a result of any liability, proceeding, claim, complaint or demand made or threatened by or on behalf of any Employees (or their trade union or other employee representative body).

27. Rights of Third Parties

- 27.1 Subject to clause 19.2, a person who is not a party to this agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of such agreement. This does not affect any right or remedy of such person which exists or is available apart from that Act.
- 27.2 The parties intend that clause(s) 19.2.6 shall be enforceable by Residents or Visitors pursuant to and in accordance with the Contracts (Rights of Third Parties) Act 1999.

28. Waiver

- 28.1 The failure to exercise or delay in exercising a right or remedy provided by this agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement. A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement will not prevent a party from subsequently requiring compliance with the waived obligation. The rights and remedies provided by this Agreement are not exclusive of any rights or remedies provided by law.

29. Entire Agreement

- 29.1 This Agreement (and the documents referred to in it) constitutes the entire agreement between the Parties in respect of the subject matter hereof and supersedes all other agreements, statements, representations (save fraudulent) or warranties made by or between the Parties or any of them concerning the same. No statements or representations made by either party have been relied upon by the other in agreeing to enter into this Agreement.

30. Severance

- 30.1 If any provision of this Agreement or part of any provision is prohibited by law or found by any court or other authority of competent jurisdiction to be invalid, unenforceable, void or illegal, that provision shall to the extent required be deemed to be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining terms/provisions of this Agreement, and the remainder of this Agreement shall remain valid and enforceable.

31. Bribery and corruption

- 31.1 The Council shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation if the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Council or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Council or if the like acts shall have been done by any person employed by it or acting on its behalf (whether with or without the knowledge of the Contractor) or if in relation to any Contract with the Council the Contractor or any person employed by it or acting on its behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of

which is an offence under Sub-Sections (2) and (3) of Section 117 of the Local Government Act 1972.

- 31.2 The Contractor will upon reasonable request by the Council provide the Council with a copy of its Bribery and Corruption Policy.

32. Jurisdiction

- 32.1 This Agreement shall be governed by and construed in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English courts.

33. Force Majeure

- 33.1 The Contractor shall not be liable to The Council in relation to any delay in performing, or any failure to perform, any of its obligations under this Agreement if the delay, or failure, is due to circumstances outside The Contractor's reasonable control Provided that The Contractor shall have taken all reasonable steps to keep any such delay or failure to a minimum.

Schedule One to the Conditions of Contract

Specification of Works

See separate document: Schedule 1 - The Specification v1.2 FINAL.pdf

Schedule Two to the Conditions of Contract

The Sites

Sewage Treatment Plant

- | | |
|---|---|
| 1 | Greystones, MereOak Lane, Grazely, Reading RG7 1JY (Grid reference SU 6996 6677) |
| 2 | Carters Hill Park, Carters Hill, Billingbear, Wokingham RG40 5QL (SU 82914 71684) |

Septic tank

- | | |
|---|--|
| 3 | 5 The Crescent, Crazies Hill, Reading, RG10 8LW (SU 80012 81001) |
| 8 | 2 Forest Road, Wokingham RG40 5SD (SU 81986 71025) |

Pumping Stations

- | | |
|----|--|
| 5 | Dickens Court, Alderman Willey Close, Wokingham RG41 2AF (SU 8063 6884) |
| 6 | Grovelands Park, Grovelands Avenue, Winnersh, Wokingham RG41 5LE (SU 7898 7095) |
| 7 | Dowling Court, Crowthorne, RG45 6LR (SU 83579 65453) |
| 12 | 54, 56 Elizabeth Road, Wokingham RG40 1UB <u>with effect from 1st April 2019</u> |

Cesspits

- | | |
|----|---|
| 9a | 1, School Road, Farley Hill, Wokingham RG7 1XE (SU 7475 6526) |
| 9b | 4 School Road, Farley Hill, Wokingham RG7 1XE (SU 7475 6526) |
| 9c | 6 School Road, Farley Hill, Wokingham RG7 1XE (SU 7475 6526) |
| 11 | 2 Mortimer Road, Grazely, Reading RG7 1LA (SU 6990 6677) |

NB Site numbers are not all currently used as sites have been sold or plant adopted.

Schedule Three to the Conditions of Contract

Fees

Part 1 – Service Fees

The Service Fees shall be inserted at this point as detailed in the Bill of Quantities.

Part 2 - Dayrate Fees

The Dayrate Fees shall be as contained in Bill of Quantities shall be inserted at this point.

Schedule Four to the Conditions of Contract

Personnel Matters

PART 1

Personnel Requirements

- 1.1 The Contractor shall ensure that any Personnel providing any part of the Services or the Daywork shall be sufficiently competent to carry out their duties and shall be provided with such other training as is reasonably necessary to carry out the Services and Daywork;
2. For the avoidance of doubt any Personnel who ceases to comply with the requirements of paragraph 1 of this part for any reason shall not be used by The Contractor in the provision of the Services or the Daywork.

PART 2

Conduct Requirements

The Contractor and the Personnel shall:

1. not act or omit to act in such a manner as to bring The Council into disrepute;
2. not perform private work for Residents;
3. wear uniform;
4. carry the identification card issued by The Contractor at all times;
5. only carry out work between the hours of 8am and 6pm on Mondays, Tuesdays, Wednesdays, Thursdays or Fridays, except with the prior agreement or instructions of The Council;
6. carry out all work with due skill, care and attention;
7. treat all Residents and Visitors with respect and not act in any way as to cause abuse or offence or threat;
8. comply with all legislation;
9. ensure all equipment, tools, vehicles and materials are stored appropriately when not in use, including during any break periods;
10. wherever possible take any breaks away from the Residents' homes;
11. take all reasonable precautions to prevent unreasonable noise or nuisance being caused to Residents and Visitors and to occupiers and users of adjoining properties;
12. keep clear all access points and not park vehicles or cause other such obstructions to Residents or Visitors;

Schedule Five to the Conditions of Contract

The Council's Policies

The Contracts Administrator will provide copies of relevant policies at the commencement of the Contract and shall provide further policies and updated policies as they become available. Key documents are included in the following files included:

Safeguarding.pdf

Code of Practice for Contractors – Final Draft.pdf.

Schedule Six to the Conditions of Contract

TUPE information

Notwithstanding the provisions within the documentation for the transfer of staff the current Service Provider has stated that there are not any staff to whom TUPE will apply at the commencement of this contract, however this information is provided in the spirit of goodwill and the Council offers no warranty on this information.

The Contractor shall be bound by the provisions within the contract (Clause 26 and its sub-clauses) for management of staff to whom it is considered TUPE may apply at the end of the contract.

Schedule Seven to the Conditions of Contract

Pre-Construction Information

PROJECT BRIEF:

Project Ref:	Sewage Treatment Plant, Cess Pits, Septic Tanks and Stand Alone Pumping Stations Maintenance Services for Wokingham Borough Council
Project Location:	The administrative area governed by Wokingham Borough Council in the County of Berkshire
Specific Area Of Works:	Routine maintenance and repair of sewage treatment plant, cess pits, septic tanks and stand-alone pumping stations; including emptying, washing down and cleaning the plant and ancillary equipment
Key Dates:	Contract commencement date: 20 th May 2018 (or such other date as may be agreed between the Parties); options to extend the contract: two potential extensions are included, the first at the end of the initial period (ie at the third anniversary of the contract) and one at the fourth anniversary.

PROJECT DIRECTORY:

PROJECT MANAGER:	Sukhpreet Singh, Senior Repairs & Maintenance Surveyor
PRINCIPAL DESIGNER:	Wokingham Borough Council
M&E CONSULTANT:	Not applicable
STRUCTURAL ENGINEER:	Not applicable
OTHER DESIGNERS:	Not applicable

PRINCIPAL CONTRACTOR:	To be completed upon Contractor`s appointment
CONTRACTORS:	To be completed upon Contractor`s appointment

EXISTING INFORMATION:

	Appended	To Follow	N/A
1. Existing Asbestos Register	Available at WBC offices upon request		
2. Refurbishment/Demolitions (Asbestos) Survey			NA
3. Existing Structural Drawings			NA
4. Existing Service Information	Included within the contract service specification		NA
5. Designer Risk Assessments			NA
6. Ground Surveys			NA
7. Fragile Structures- information/surveys			NA
8. Relevant extracts of existing H&S Files			NA
9. Contaminated land - information/surveys			NA

The above information has been provided from existing documentation already available from the Client. The Principal Designer will review this as the contract progresses, and equally, all duty holders will be expected to raise awareness to any key information they feel is outstanding.

1. Contents

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Client's Brief

This contract falls within the scope of The Construction (Design and Management) Regulations 2015 by virtue of its nature aligning with the definition of “construction work” in Regulation 2(1) of the Regulations, and sub-section (a) specifically ie:

“construction work” means the carrying out of any building, civil engineering or engineering construction work and includes—

- (a) the construction, alteration, conversion, fitting out, commissioning, renovation, repair, upkeep, redecoration or other maintenance (including cleaning which involves the use of water or an abrasive at high pressure, or the use of corrosive or toxic substances), de-commissioning, demolition or dismantling of a structure;*

Suitable arrangements for adequate planning, management and monitoring are expected from all duty holders with respect to this project. Two-way communication is vital to ensuring the project is completed in a timely manner whilst considering the absolute safety of those involved or likely to be affected, by any element of these works.

Duty holders are expected to have considered health & safety goals to ensure the continued safety and health of its contractors and those in the vicinity of the works, throughout the project. Contractors should be actively encouraged during induction, team briefings and toolbox talks for input into further improving safety standards.

The Principal Contractor should consider suitable guidance relating to best practice in construction, including HSE publications as a minimum standard when planning these works, such as:

- 'L153: The Construction (Design & Management) Regulations 2015 Guidance Book', which provides guidance regarding the practical application of the CDMR 2015 for all duty holders;
- 'Protecting the Public – Your Next Move (HSG 151)' which provides advice on segregation and protection of third parties;
- Asbestos Essentials: HSE Guidance.

Contractors should also be aware of their various responsibilities under all health, safety and environmental legislation – in particular:

- The Health and Safety at Work Act 1974
- The Confined Spaces Regulations 1997
- The Personal Protective Equipment Regulations 2002
- The Personal Protective Equipment at Work Regulations 1992 (as amended)
- The Construction (Design & Management) Regulations 2015
- The Management of Health and Safety at Work Regulations 1999
- The Provision and Use of Work Equipment Regulations 1998
- The Manual Handling Operations Regulations 1992
- The Control of Substances Hazardous to Health Regulations 2002
- The Work at Height Regulations 2005
- Lifting Operations and Lifting Equipment Regulations 1998
- The Control of Noise at Work Regulations 2005

- The Control of Vibration at Work Regulations 2005
- The Control of Asbestos at Work Regulations 2012
- The Workplace (Health, Safety and Welfare) Regulations 1992
- The Work at Height Regulations 2005
- The Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 2013
- British Standard 5975:2008 Code of practice for temporary works procedures and the permissible stress design of false work

The above lists are not exhaustive.

NOTE: The Principal Contractor and Contractors can obtain further guidance from <http://www.hse.gov.uk/>

Working in Occupied Environments

SITE SAFETY FOR CONTRACTORS, TENANTS AND LOCAL RESIDENTS:

It is foreseeable that there could be the potential for overlap within occupied environments, despite any arrangements to ensure the project remains completely separate where possible.

Guidance for dealing with specific issues or situations

Safeguarding

We have a duty to make sure that everyone who lives in one of our properties or uses our services is protected and safe.

Safeguarding is about stopping a person from being harmed and promoting their welfare. We have a policy and guidance in place for recognising signs of abuse, or suspected abuse, of vulnerable adults and children.

If a contractor suspects that a tenant may be at risk of harm they should report their concerns to their line manager and to the Council.

Vulnerable People

Some tenants could feel nervous about having a stranger in their home. It is important for contractors to show their identification (ID), introduce themselves, their company and the reason for their visit before going into a tenant's home.

If it is felt that a tenant is vulnerable, they should be given the opportunity to have another person present whilst the work is being carried out in their home.

If a child under the age of 16 returns home when a contractor is working in the property, and there is not a responsible adult present, the contractor should contact the office immediately, and agree a course of action.

If, whilst working in a tenant's home, the contractor witnesses something they feel uncomfortable about, they have a duty to report this immediately to the Council and to their line manager. Examples of this could be a parent abusing a child or an adult living on their own who appears to be not coping.

Dealing with violence and difficult situations

Violence at work

Situations may arise where there is verbal abuse, violence or a threat of violence. At all times contractors should try to minimise confrontations and not be drawn into arguments if the situation

cannot be resolved, the contractor has the right to leave the property. The contractor's safety comes first. If there is an incident it should be reported directly to the Council and the contractor's line manager.

Difficult situations

Occasionally people may feel uncomfortable working in occupied homes depending on the circumstances or the behaviour of a tenant or their visitors. For example, if they are under the influence of drugs or alcohol. In these situations, the contractor should tell the tenant they are leaving, and report the problem to the Contract Administrator and their line manager.

EQUALITY & DIVERSITY – Guidance for Contractors

We recognise that the people who live in our homes and use our services come from diverse backgrounds. We are committed to ensuring that all people are treated fairly and without unlawful discrimination. Our equality and Diversity Strategy aims to address the inequality, disadvantage and discrimination that some of our tenants may face during their daily lives.

We need to recognise the individual rights of disabled people and their particular needs. Do not ask personal questions which have no relevance to the work and do not do anything you are not trained to do.

Guidance for working with disabled people who may be the tenant or a member of the tenant's family, or a guest

Mobility problems

- Make sure a resident's ability to move around their home is not restricted.

Deaf or hard of hearing

- Make sure you attract the resident's attention before speaking.
- Face the resident when you talk to them, speak clearly and use your usual tones. Raising your voice may distort what you are saying and make it more difficult for them to understand you or lip read.
- Be prepared to write things down but be aware that the resident may not be able to read written text.
- Let the resident know if you will be making a lot of noise, for example drilling or hammering.
- Give clues about what you are saying in your face, your body language and the gestures you make.
- Let the resident know if you have to leave the property for any reason.

Visually impaired

- When you arrive introduce yourself using, where appropriate, an agreed password or your identification card.
- It is not possible to anticipate every resident's needs but it is important to tell the resident what you will be doing, where you will be working and how the work will be done.
- If you think the resident needs your help ask first, don't just assume they do.
- Use ordinary words and phrases and don't be afraid of using words like 'look' and 'see'.
- Explain where you will be working and what you will be doing.
- If you need to move items of furniture, ask the resident where you should put it and make sure you put it back in the same place when you finish work.
- Agree with the resident where you can safely leave work materials.

- If you have to leave the property for any reason let the resident know, and give them an idea of when you will be back.

Requirements of the Principal Contractor and Contractors

A Principal Contractor is the organisation or person that co-ordinates the work of the construction phase of a project involving more than one contractor so that it is carried out in a way that secures health and safety.

A Contractor can be an individual, a sole trader, a self-employed worker, or a business that carries out, manages or controls construction work as part of their business and can be a contractor. This also includes companies that use their own workforce to do construction work on their own premises. The duties on contractors apply whether the workers under their control are employees, self-employed or agency workers.

The Wokingham Borough Council Approved Competency process must have been undertaken by any tendering Principal Contractor (and other duty holders) which assesses general skills, knowledge, and experience. For organisations this will also include review of the organisational capability necessary to carry out their role effectively given the scale and complexity of the project and the nature of the health and safety risks involved.

Upon appointment, the Principal Contractor will be expected to produce a suitable and sufficient Construction Phase Plan for issue to the WBC nominated representative, for review prior to commencement on site. The construction phase plan must set out the arrangements for securing health and safety for the period during which construction work in a project is carried out. These arrangements include site rules and any specific measures put in place to where work involves one or more of the risks listed in Schedule 3 (regulation 12(2)).

The Principal Contractor shall ensure that suitable and sufficient assessments of the risks and necessary precautions relating to materials and work activities are undertaken before work is carried out.

The Principal Contractor shall monitor the progress of their works, and in the event of any unforeseen eventualities, report to WBC and Principal Designer any matters which could affect the safe method or execution of the work or the resources required.

The Principal Contractor shall ensure that suitable risk assessments are prepared by sub-contractors under their control. All such sub-contractors will be required to demonstrate compliance with the Construction (Design and Management) Regulation 2015.

Where the designer input ceases during the construction phase, liaison will be undertaken to ensure the Principal Contractor has access to all information required to complete this phase, and the Principal Contractor will subsequently be required to complete the H&S File upon project completion.

Site Management Arrangements

The following Site Management Arrangements include details of expected minimum standards for all contractors/duty holders on site.

COMMUNICATION AND LIAISON: All duty holders are obliged to ensure the ongoing communication and liaison between their team as well as other contracting parties prior to, during and upon completion of the project. This is required to ensure the transparent sharing of information, communication regarding any potential overlap, and raising of any concerns that may arise. All duty holders also are obliged to report any safety-related concerns at any time during the project.

FIRE RISK MANAGEMENT: Contractors are expected to provide information relating to any activity or task that may increase fire risk within WBC buildings, to enable discussion prior to any commencement of works. This includes the potential for key access/egress routes being blocked; fire alarm systems requiring isolation; smoke detectors requiring bagging/protection in case activation by dust; increase in combustibles stored on the premises; use and storage of hazardous substances etc.

PERMIT TO WORK SYSTEMS: Where high risk activities are unavoidable, Permit to Work Systems will be expected to be adopted and agreed with WBC prior to commencement. This will ensure a formal management system is adopted to assess specific risks with clear management systems around control measures to minimise the risk. Such high-risk activities may include hot works; work at height; work in confined spaces; isolation of services; lone working; excavations; working with high risk chemicals. This list is not exhaustive.

SITE SECURITY: Whether the works are external or internal within the building, during or outside key periods of operation - ongoing consideration must be given at all times to the absolute protection of those in the vicinity as well as contracting parties. Physical barriers as well as signage and communication may all be required to ensure adequate segregation is maintained. In addition, where overlap is anticipated with young persons, requirements for CRB/DBS clearance may be requested where absolute segregation cannot be assured. Discussion must be undertaken prior to commencement of works with the appointed WBC team to ensure clarification is established around responsibilities for implementing, maintaining and monitoring security during the works.

CONTRACTOR TRANSPORT: All contractors are expected to ensure familiarisation with the site area prior to commencement. This includes consideration of any impact of contractor vehicles with adjacent areas for deliveries, unloading/loading, parking and general highway use. Where the movement of vehicles is unavoidable in potentially occupied areas, this must be by prior arrangement only and such movements should be supervised and well managed.

UNAUTHORISED AREAS: Contractors will be expected to refrain from accessing any areas not agreed at the pre-construction stage. Works should be confined to approved areas only and permission requested from the WBC should any variation be required at any time.

WELFARE PROVISIONS: An outline of welfare provisions for the on-site contracting team is required from the Principal Contractor, showing consideration of requirements detailed within Schedule 2 of The CDM Regulations 2015. No assumption should be made that existing facilities can be adopted,

unless these are agreed in writing. Minimum provisions should therefore be relative to numbers on site, include consideration of procedures for maintenance and include suitable and sufficient sanitary conveniences; washing facilities; drinking water; changing rooms/lockers (where special clothing is required for the purpose of construction work); and facilities for rest.

Smoking on site or around the surrounding premises is not permitted at any time.

Environmental Restrictions and Existing on Site Hazards

The premises will naturally require clear consideration for access, deliveries, storage, waste collection, as aforementioned. Any key decisions will require formal consultation prior to the commencement of works to ensure visibility of agreements between the contracting team and WBC.

All contractors will be expected as a minimum requirement, to adhere to highway rules and regulations in addition to those set specifically for the vicinity of the premises.

Any temporary arrangements are expected to be reviewed upon project completion, to ensure the premises are not damaged upon completion of the project, and where required, arrangements in place to make good any such issue that may arise.

Asbestos Management: Information relating to the type and location of asbestos containing materials (either positive or suspected) stored within the Wokingham Borough Council (WBC) Housing Services Asbestos Register is available upon request and should be accessed by arrangement via the key project contact. Where this information requires further clarification or additional investigation, the Principal Contractor and Contractors are expected to make immediate contact with WBC to discuss.

All information provided should be perused in detail and shared with other contractors, to ensure adequate consideration can be given to any removals or segregated areas, for the purpose of the works.

Any removals must be undertaken in strict compliance with The Control of Asbestos Regulations 2012, by competent persons. Such removals must be undertaken following direct liaison with WBC and in line with the agreed procedures.

Any documentation generated as a result of removals such as Air Clearance Certification and Waste Consignment Notes, must be provided to WBC upon completion.

Any residual concerns should also be made known to the WBC upon completion.

Significant Design and Construction Hazards

The design of the project, along with the selection of construction techniques/materials should be based around the aesthetic requirement and desire to minimise any risks associated with the construction and future operation of the product. This should take account of all processes including delivery, installation, maintenance, cleaning and final decommissioning. For any residual hazards that cannot be eliminated, it is important that the design team provide suitable information providing advice for installers and users.

The Management of Health and Safety at Work Regulations 1999 require every employer to make suitable and sufficient assessment of:

- the risks to the health and safety of his employees to which they are exposed whilst at work;
- the risks to the health and safety of persons not in his employment arising out of, or in connection with, the conduct by him of his undertaking

All designers are expected to ensure two-way communications, as well as providing the Principal Designer with information to support their role in overseeing planning, management, monitoring and review of all designs produced relating to this project.

Any implications from design development and/or changes to design, must be considered and no work undertaken unless this is informed and agreed by all members of the project team. Suitable control measures should be prepared to ensure risks are minimised as far as is reasonably practicable. All parties have a duty to clearly identify any significant hazards arising from their operations, to ensure all persons involved in the works are provided with maximum information.

Temporary Works is a widely used expression to describe an “engineered” solution used to support or protect an existing structure or permanent works during construction or to support an item of plant or equipment or the vertical sides or side slopes of an excavation, or to provide access. The construction of most types of permanent works will require the use of some form of temporary works.

The Principal Contractor and Contractors must develop systems and procedures for the management of temporary works these should follow British Standard 5975: 2008. This should include specific arrangements for managing temporary works, namely:-

- A competent temporary works co-ordinator is appointed.
- A temporary works supervisor is appointed.
- A temporary works file is created.
- Designs and calculations are recorded for all temporary works.
- Arrangements are put in place to monitor and review all temporary works and designs as they are being installed.
- Arrangements are put in place to inspect any temporary works prior to loading.
- Regular monitoring and inspection of all works.
- Proper planning, review and monitoring when it comes to striking any temporary works.

Site Rules for Contractors

- ✓ Contractor(s) shall be mindful of adjacent occupants as well as those within the premises, with respect of any risks during works being undertaken.
- ✓ All materials, tools and equipment should be correctly and securely stored at all times – and especially inside normal working hours. All plant/tools should be fit for purpose and part of a routine maintenance programme.
- ✓ Contractor(s) shall report any accidents, incidents or near misses immediately to WBC as well as the First Aid Appointed Person and ensure copies of any paperwork are forwarded accordingly.
- ✓ Restricted/unauthorised areas shall only be accessed by prior permission and supervision provided where stated.
- ✓ All Contractor(s) shall abide by all any site rules to ensure their safety and that of others whilst on the premises, including the wearing of suitable ID at all times and using the signing-in procedure implemented by the Principal Contractor.
- ✓ Where parking is available this shall be in designated zones only, speed restrictions adhered to, with the safety of children and other persons a prime consideration at all times.
- ✓ All Contractor(s) should be clearly recognisable e.g. wearing company logo clothing to ensure identification. A competent 'banksman' should be deployed to supervise any vehicular movements including loading, off-loading and reversing.
- ✓ Contractor(s) will use all reasonable endeavours to prevent unauthorised access to the area of works at all times.
- ✓ Contractors will be expected to convey any tenant concerns via the WBC contact immediately.
- ✓ No emergency access/egress routes shall be obstructed by materials, equipment or vehicles at any time.
- ✓ Where possible, hazardous substances should be eliminated from use. Where this is not possible, COSHH Assessments should be undertaken and provided to the WBC contact prior to commencement of any works.
- ✓ Access to height equipment shall be selected as that most appropriate to the task being conducted. Ladders and steps must only be used for short duration operations, not exceeding 20 minutes per task. All scaffolds shall only be erected by competent persons and accompanied by relevant certifications and inspection records.
- ✓ Existing welfare facilities may only be adopted where prior permission is issued by the WBC. Contractor(s) are not permitted to use existing facilities without prior permission.
- ✓ Positive housekeeping standards shall be maintained at all times.
- ✓ Permit to Work Systems should be agreed with WBC for any activity creating a specific hazard such as hot works, confined spaces, work at height, electrical works etc. For hot works, this will include a fire watcher being deployed to monitor the area of works, for a minimum of 60 minutes following completion and prior to leaving site.

- ✓ All contractors working on site must have been assessed for competency prior to the commencement of any works.
- ✓ The use of the electrical supply at the premises will be made available, however, all electrical equipment must be used strictly in accordance with the manufacturers' guidance, only using 110V supply.
- ✓ Contractors are required to work safely and responsibly at all times, in accordance with The Health & Safety at Work etc Act 1974 and the terms of their engagement.
- ✓ Contractors are not permitted to make contact with young persons either on or around the area of work.
- ✓ Contractors shall wear appropriate clothing and not use inappropriate language around staff or pupils, whilst on the premises.
- ✓ Any contractors found to be in breach of statutory law or Contractor Rules, may be asked to leave site with immediate effect.
- ✓ Contractors are not permitted to use mobile devices (i.e. cameras, telephones etc...) in the presence of children.

The Health and Safety File

The Health and Safety File is defined as a file appropriate to the characteristics of the project, containing relevant health and safety information to be taken into account during any subsequent project. The file is only required for projects involving more than one contractor. This should contain the information needed to allow future construction work, including cleaning, maintenance, alterations, refurbishment and demolition to be carried out safely. Information in the file should alert those carrying out such work to risks and should help them to decide how to work safely. The file should be useful to:

- (a) clients, who have a duty to provide information about their premises to those who carry out work there;
- (b) principal designers/designers during the development of further designs or alterations;
- (c) principal contractors and contractors preparing to carry out or manage such work.

The file should form a key part of the information that the client, or the client's successor, is required to provide for future construction projects under Regulation 12(10) of CDMR 2015. The file should therefore be kept up to date after any relevant work or surveys.

The Health & Safety File Format:

Information for inclusion within the H&S File should be issued to the Principal Designer as this is generated, and at the latest, upon project completion. This final format of which will include:

- A brief description of the work carried out;
- Any hazards that have not been eliminated through the design and construction processes, and how they have been addressed (e.g. surveys or other information concerning asbestos or contaminated land);
- Key structural principles (e.g. bracing, sources of substantial stored energy – including pre- or post-tensioned members) and safe working loads for floors and roofs;
- Hazardous materials used (e.g. lead paints and special coatings);
- Information regarding the removal or dismantling of installed plant and equipment (e.g. any special arrangements for lifting such equipment);
- Health and safety information about equipment provided for cleaning or maintaining the structure;
- The nature, location and markings of significant services, including underground cables; gas supply equipment; fire-fighting services etc;
- Information and as-built drawings of the building, its plant and equipment (e.g. the means of safe access to and from service voids and fire doors).

What information SHOULD NOT be included:

- Pre-construction information or construction phase plan
- Construction phase risk assessments, written systems of work and COSHH assessments
- Details about the 'normal' operation of the building
- Construction phase accident statistics

- Information about structures, or part therefore of any structure, that have been demolished – unless there are implications for the remaining or future structure.

Schedule Eight to the Conditions of Contract

General Data Protection Regulations (GDPR)

The Contractor shall ensure that data provided by the Council shall only be used for the following purposes:

1. To identify tenants and their home addresses where the tenant needs to be contacted to enable the Contractor to fulfil its responsibilities for the maintenance and repair of the plant.
2. To communicate with tenants regarding the service and any works undertaken.
3. To seek feedback from tenants as authorised by the Council.
4. To itemise specifications, invoices and other administrative tasks associated with delivery of the services and works.

Section 3
of the Tender Documentation
Bill of Quantities

Bill 1 – Preliminaries

Preamble to Bill 1

1. General
 - a) In these Bills of Quantities the headings and items descriptions identify the work covered by the respective items, but the exact nature and extent of work should be assessed by The Contractor based on the skill, knowledge and experience.
 - b) The rates and prices entered in the Bills of Quantities shall be deemed to be the full inclusive value of the work covered by several items including the following:
 - (i) Labour and all costs therewith.
 - (ii) Transport and all costs in connection therewith.
 - (iii) The supply of tools, their consumables, materials, chemicals, goods, storage and all costs in connection therewith including waste and delivery to site.
 - (iv) The removal of all waste from site including collection, transportation, disposal fees and licences and all other associated costs.
 - (v) Fixing, erecting and installing or placing of materials and goods in position.
 - (vi) All temporary works.
 - (vii) All general obligations, liabilities and risks involved in the contract set forth.
 - (viii) Establishment charges, overheads and profit.
2. Items against which no price or rate is entered shall be deemed to be covered by other rates and prices in the Bills of Quantities.
3. The quantities and frequencies given herein are not to be taken as a definitive representation of the amount of work to be executed or of the full extent of the Contract. They are supplied to assist Tenderers in arriving at the amount of their Tender and in order that Tenders may be prepared on the same basis. The Contractor will be paid at the rates and prices quoted by him in the Bills upon the actual quantity of work carried out, based upon net quantity, whether or not such work is greater or less than that contained in the Bills of Quantities.
4. Completing the Bill of Quantities for the sites:

- (i) The bill of quantities should be read alongside the datasheets and site plans.
- (ii) Electrical test and inspection is to be undertaken in the first year of the contract but you should enter a figure that is one third of the total cost so that the annual equivalent cost is taken into account
- (iii) Once completed the costs for each item of plant should be added together and the total entered in the summary sheets at the back of this section. When all prices are entered in the summary sheets they should be added together to arrive at a sum for the annual maintenance and this should be entered into the Form of Tender in the Invitation to Tender.
- (iv) Prices that cover more than one site should be apportioned between sites so that a full cost per site is provided for each location. These costs may be used for recharging residents for the actual cost of providing the service and so accurate apportionment is important.

Bill 1 – Annual cost per site – please enter total costs from bills of costs

Site Ref No.	Site address first line	<u>Annual cost</u>	
		£	p
1	Greystones		
2	Carters Hill Park		
3	5 The Crescent		
5	Dickens Court		
6	Grovelands Park		
7	Dowling Court		
8	2 Forest Road		
9a	1 School Road		
9b	4 School Road		
9c	6 School Road		
11	2 Mortimer Road		
12	Elizabeth Road		
TOTAL			

Bill 2 Supply of Parts

Please indicate the percentage mark up that you will add to supplied parts – please take note of Schedule One to the Conditions of Contract, Specification of Works, Appendix 1 clause 7, 11).

Mark Up:		%
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Bill 3 – Dayworks – Preliminaries

Preamble to Bill 3

1. Prices must include all subsistence, travelling and other costs including bonus allowance, lost time, National Insurance, contractor's insurance, holiday entitlement, sick pay schemes, small tools, protective clothing, training and other overhead charges.
2. Rates for plant vehicles and equipment will include all fuel, oil, services, maintenance and spares, licences, insurance, tax etc, delivery to and from sites, establishment charges and profit.
3. Net cost is the net invoice price to The Contractor.
4. Cost of plant hire is at the most favourable rate reasonably obtainable for the period for which the plant is required.
5. Where The Contractor proposes to use his own plant, the rate to be charged to The Council shall not exceed the rate in (4) above.
6. Out of hours working. See specification at Schedule 1 clause 7.
7. These rates do not apply to scheduled maintenance nor where materials or services are supplied under a specific quotation given to the Contract Administrator.
8. No tender shall be considered unless every entry in the schedule has been fully priced.

Bill 3 - Dayworks

Labour costs	Hourly cost (net of VAT)
Skilled operator	
Labourer, unskilled	
Electrician	
Pump fitter	
Tanker driver	
Plus rate for out of hours working	
(i) Weekday and Saturdays	%
(ii) Sundays and Bank holidays	%
Vehicle costs	Hourly cost (Net of VAT)
Drainage Van (Transit or similar)	
Tanker – capacity 4,500 litres (1,000 gallons)	
Tanker – capacity 9,000 litres (2,000 gallons)	
Tanker – capacity 13,500 litres (3,000 gallons)	
Tanker – capacity 18,000 litres (4,000 gallons)	
Tanker – capacity 22,500 litres (5,000 gallons)	
Jetter	
Lorry	
Hire costs	Mark up (Net of VAT)
Rate for other plant (including transport, handling, profit etc)	Net hire cost + %
Rate for materials (minor capital works) (including delivery, handling, profit etc). Invoice value up to £500	Net cost + %
Rate for materials (minor capital works) (including delivery, handling, profit etc). Invoice value over £500	Net cost + %