

Culture & the Environment

**Victoria Park & Watercress Fields**

**Conservation Plan and Management & Maintenance Plan**

**Contract No. CP/17/1**

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# GUIDANCE FOR SUBMITTING TENDER

1. Read documents carefully before submitting tender
2. Complete the following pages;
* Form of Tender
* Collusive Tendering Certification
* The Equality Act Form
* Suitability Assessment Questionnaire
1. Submit documents electronically through the Kent Business Portal by the due date/time.

# ASHFORD BOROUGH COUNCIL

**Victoria Park & Watercress Fields Conservation Plan and Management & Maintenance Plan**

**CONTRACT No. CP/17/1**

# FORM OF TENDER

 We are willing to contract for and hereby undertake to carry out the services included in the brief for the sum of:

|  |  |  |
| --- | --- | --- |
| **Total Tender** | **£** |  |

The Total Tender submitted is to remain valid for a period of 120 days from the date of tender submission.

**1.** **For the use of a Registered Company**

|  |  |
| --- | --- |
| \*For and on behalf of |  |
|  |
| To be signed by duly authorised officers on behalf of the company |  |
|  |
| Address of Registered Office |  |

**2. For the use of a Partnership or Sole Trader**

Names must be in full Christian and Surnames and in the case of a partnership, all members of the firm must sign.

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |  | Signature: |  |
|  |
| Name: |  | Signature: |  |
|  |
| Name: |  | Signature: |  |
|  |  |  |  |
| Trading as: |  |
|  |  |
| Address: |  |
|  |  |
| Date: |  |  |

**3. For the use of a Direct Services Organisation or other Organisation**

To be signed by duly authorised Officers on behalf of Direct Services Organisation or other Organisations

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |  | Signature: |  |
|  |  |  |  |
| Name: |  | Signature: |  |

Notes**:** (a) Ashford Borough Council do not bind themselves to accept the lowest or any tender.

 (b) No tender will be considered where the tenderer in any way alters the conditions of tendering. Secretaries of Registered Companies are requested to insert the full name of the Company after the words "for and on behalf of" when signing the Form of Tender.

# COLLUSIVE TENDERING CERTIFICATE

TO: Ashford Borough Council

 Civic Centre

 Tannery Lane

 Ashford, Kent

 TN23 1PL

We certify that this is a bona fide tender, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement of arrangement with any other person. We also certify that we have not done and we undertake that we will not do at any time before the hour and date specified for the return of this tender any of the following acts:

(a) communicate to a person (outside this organisation) other than the person calling for those tenders the content of the proposed tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain insurance premium quotations required for the preparation of the tender.

(b) enter into any agreement or arrangement with any other person (outside this organisation) that they shall refrain from tendering or as to the amount of any tender to be submitted.

(c) offer or pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender to the said work any act or thing of the sort described above.

In this certificate, the word 'person' includes any persons and body or association, corporate or unincorporated; and 'any agreement or arrangement' includes any such transaction, formal or informal, and whether legally binding or not.

|  |  |  |  |
| --- | --- | --- | --- |
| Signed: |  | Name: |  |
|  | (in BLOCK capitals) |
| In the capacity of: |  |
|  |
| duly authorised to give such certificate for and on behalf of  |
|  |
|  (in block capitals) |  |
|  |  |
| Telephone No: |  |
|  |  |
| Fax No: |  |
|  |  |
| Email: |  |
|  |  |
| Address: |  |

**ASHFORD BOROUGH COUNCIL**

THE EQUALITIES ACT 2010

In accordance with Section 18 of the Local Government Act 1988 this form duly completed and signed **MUST** be returned with your tender. Failure to return the form may result in your tender not being considered for acceptance.

|  |  |
| --- | --- |
| **Question** | **Answer** |
| 1. Is it your policy as an employer to comply with your statutory obligations under the Equalities Act 2010 and, accordingly, your practice not to treat one group of people less favourably than others because of their colour, race, nationality or ethnic origin in relation to decisions to recruit, train or promote employees?
 |  |
| 2. Is your policy on discrimination set out:(a) in instructions to those concerned with recruitment, training and promotion;(b) in documents available to employees, recognised trade unions or other representative groups or employees;(c) in recruitment advertisements or other literature? |  |
| 1. Do you observe as far as possible the Commission for Racial Equality's Code of Practice for Employment, as approved by Parliament in 1983, which gives practical guidance to employers and others on the elimination of racial discrimination and the promotion of equality of opportunity in employment, including the steps that can be taken to encourage members of the ethnic minorities to apply for jobs or take up training opportunities?
 |  |
| 1. In the last three years, has any finding of unlawful racial discrimination been made against your Organisation by any court or industrial tribunal?
 |  |
| 1. In the last three years, has your Organisation been the subject of formal investigation by the Commission for Racial Equality on grounds of alleged unlawful discrimination?
 |  |
| 1. If the answer to question 4 is in the affirmative or, in relation to question 5 the Commission made a finding to your Organisation, what steps did you take in consequence of that finding?
 |  |
|  |  |
| Signed: |  |
|  |  |
| Company: |  |
|  |  |
| Date: |  |

ASHFORD BOROUGH COUNCIL

CONDITIONS OF TENDER

**Victoria Park & Watercress Fields Conservation Plan and**

**Management & Maintenance Plan**

**Contract No. CP/17/1**

1. The Tender Sum must provide for all costs associated with the description of services and for satisfying all other obligations as set out in the Agreement, Brief and Suitability Assessment Questionnaire.

2. The Total Tender must be exclusive of VAT, but in addition to the Total Tender the Company shall be entitled to claim from the Employer the amount of VAT properly chargeable on the component parts and service provided by him in the performance of the Contract, if applicable.

3. The essence of selective tendering is that the Employer shall receive bona-fide competitive Tenders from all persons tendering. In recognition of this principle, the Tenderer is to complete and return with his Tender the Collusive Tendering Certificate. Failure to do this may result in the disqualification of his Tender.

4. The Tenderer (whether his Tender is accepted or not) shall treat all documents relating to this Tender as confidential and in the event of a Tender not being submitted, all the enclosed documents must be returned to the Employer. The documents must not be passed or shown to any other person without the Employer's written consent.

5. The Employer shall not be bound to accept the lowest or any Tender and reserves the right to accept a Tender in part only.

6. The Employer shall not be responsible for, nor pay for, any expenses or losses which may be incurred by the Tenderer in the preparation of his Tender, or in respect of any cost associated therewith.

7. The Tender is to remain open for acceptance for 120 days from the date of submission of Tenders.

8. On submission of a Form of Tender duly completed and returned to the Employer in accordance with the provisions hereof a Tenderer will be deemed to have offered to carry out the services.

 No Tender shall be deemed to have been accepted unless notified in writing.

9. The Tenderer shall in addition to the Form of Tender, fully price the services outlined in the Brief. Failure by the Tenderer to fully complete and return the Tender documentation may result in the Tender not being considered for acceptance.

10. The Form of Tender together with all documentation supplied by the Employer to the Tenderer must be duly completed and submitted electronically through the Kent Business Portal to Ashford Borough Council by the deadline.

11. Where an appropriate Agreement, British Standard Specification or British Standard Code of Practice issued by the British Standard Institution or a recognised body of any member state of the EC is current at date of the tender, all goods and services used or supplied and all workmanship shall be in accordance with that Agreement and/or Standard.

12. No alteration, deletion or insertion shall be made by the Tenderer to the text or prices of the Tender documents and if any are so made, Tenders may be rejected.

1. The Tenderer must specify at the time of tendering any additional guarantees he is prepared to offer.

14. Evaluation of Tenders

The Contracts will be awarded to the Contractor offering best value to the Council. The tenders submitted will be evaluated in accordance with the criteria shown in the Tender Evaluation Criteria and will be assessed on 30% price / 70% quality.

**Special Conditions**

**1. Freedom of Information**

1. The Company acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 (“the Act”) and the Environmental Information Regulations 2004 (“the Regulations”) and shall assist and co-operate with the Council (at the Company’s expense) to enable the Council to comply with Information disclosure requirements
2. The Company shall and shall procure that its sub-contractors shall:
	1. transfer the Request for Information to the Council as soon as practicable after receipt and in any event within two working days of receiving a request for information
	2. provide the Council with a copy of all Information in its possession or power in the form that the Council requires within five working days (or such other period as the Council may specify) of the Council requesting that Information and
	3. provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in section 10 of the Act or regulation 5 of the Regulations
3. The Council shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other Information:
	1. is exempt from disclosure in accordance with the provisions of the Act or the Regulations
	2. is to be disclosed in response to a Request for Information, and in no event shall the Company respond directly to a Request for Information unless expressly authorised to do so by the Council
	3. The Company acknowledges that the Council may, acting in accordance with the Act or the Regulations be obliged to disclose information:
	4. without consulting with the Company, or
	5. following consultation with the Company and having taken its views into account
4. The Company shall ensure that all information produced in the course of the contract or relating to the Contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time
5. The Company acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information

**Definitions:**

**Commercially Sensitive Information:** comprising the information of a commercially sensitive nature relating to the Supplier, its intellectual property rights or its business or which the Supplier has indicated to the Authority that, if disclosed by the Council, would cause the Supplier significant commercial disadvantage or material financial loss.

**Confidential Information:** any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Supplier, including intellectual property rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including Commercially Sensitive Information.

**Environmental Information Regulations:** the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

**FOIA:** the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

**Information:** has the meaning given under section 84 of FOIA.

**Request for Information:** a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.

**Services:** the services to be delivered by or on behalf of the Supplier under this agreement.

**Sub-Contract:** any contract or agreement or proposed contract or agreement between the Supplier and any third party whereby that third party agrees to provide to the Supplier the Services or any part thereof or facilities or services necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof.

**Sub-Contractor:** the third parties that enter into a Sub-Contract with the Supplier.

1. **Equality and Diversity**

The Supplier shall:

(a) perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

(i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);

(ii) the Council’s equality and diversity policy as provided to the Supplier from time to time; and

(iii) any other requirements and instructions which the Council reasonably imposes in connection with any equality obligations imposed on the Council at any time under applicable equality Law; and

(b) take all necessary steps, and inform the Council of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

# 3. Data Processors

The Company must;

(a) only process personal data on the Council's instructions (this must include only keeping the data for so long as the Council specifies)

(b) take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data (this must include secure disposal of data)

(c) provide the Council on request with particulars of the measures taken and immediately notify the Council of any unauthorised or unlawful processing and of any accidental loss or destruction of, or damage to, personal data

(d) supply the Council with such personal data as the Council may request in order to comply with a request from the individual concerned for such data

(e) not transfer any personal data outside the European Economic Area without the prior written consent of the Council

(f) indemnify the Council against all claims and proceedings made or brought against the Council by any person in respect of any loss, damage or distress to that person or in the exercise of that person's statutory rights resulting from the default and/or negligent acts or omissions of the third party in the disclosure, use or destruction of any personal data by the third party (except if the disclosure, use or destruction was pursuant to a specific written instruction by the Council)

1. **The Bribery Act 2010**

4.1 The Company warrants and undertakes to the Council that:

1. It will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and will not give any fee or reward the receipt of which is an offence under sub-section (2) of Section 117 of the Local Government Act 1972.
2. It will procure that any person who performs or has performed services for or on its behalf (‘Associated Person’) in connection with this Agreement complies with this Clause.
3. It will not enter into any agreement with any Associated Person in connection with this Agreement, unless such agreement contains undertakings on the same terms as contained in this Clause;
4. It has and will maintain in place effective accounting procedures and internal controls necessary to record all expenditure in connection with the Agreement;
5. From time to time, at the reasonable request of the Council it will confirm in writing that it has complied with its undertakings under this Clauses and will provide any information reasonably requested by the Council in support of such compliance;
6. It shall notify the Council as soon as practicable of any breach of any of the undertakings contained within this clause of which it becomes aware.

4.2 Where the Company or Company’s employees, servants, sub-Contractors, suppliers or agents or anyone acting on the Company’s behalf, engages in conduct prohibited by the Bribery Act 2010 or the Local Government Act 1972 section 117(2) in relation to this or any other contract with the Council, the Council has the right to:

1. terminate the Agreement and recover from the Company the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the provision of the Services and any additional expenditure incurred by the Council throughout the remainder of the Term; or
2. recover in full from the Company any other loss sustained by the Council in consequence of any breach of this clause, whether or not the Contract has been terminated.
3. **Indemnity**

 5.1 The Supplier agrees with the Council throughout the term to indemnify and keep indemnified the Council from and against any and all loss, damage or liability suffered and legal fees and costs incurred by the Council resulting from a breach of this Agreement by the Supplier including:

1. any act neglect or default of the Consultant’s employees or agents or;
2. breaches in respect of any matter arising from the supply of the Services resulting in any successful claim by any third party.

5.2 The Council shall not be liable for or in respect of any damages or compensation payable at law in respect or in consequence of any death accident or injury to any workman or other person in the employment of the Supplier (including agents or sub-contractors) save and except to the extent that such accident or injury results from or is contributed to by any act or default of the Council their agents or servants and the Supplier shall indemnify and keep indemnified the Council against all such damages and compensation (save and except as aforesaid) and against all claims demands proceedings costs charges and expenses whatsoever in respect thereof or in relation thereto.

**TENDER EVALUATION CRITERIA** (EXAMPLE based on 70%/30% ratio)

*Note: the following is an example, and does not necessarily reflect the weightings indicated for the project. The process, for evaluation, is the same.*

Tender submissions will be evaluated using the following weightings:Price: (tendered costs as calculated from Schedule of Rates) **70%**

and Matrix)

Added Value: (details supplied by tenderers) **30%**

**PRICE**

70 points will be allocated to the lowest tender and then other tenders will be evaluated as a percentage of the lowest price. This is then converted to a point score to reflect that this area carries 70% of the total score. An example of this procedure is shown in the example below.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Tender** | **Price £** | **Calculation** | **Convert to 70%** | **Points** |
| 1 | 500 | (425÷500) x 100 = 85 | (70 x 85) ÷ 100 | 59.5 |
| 2 | 622 | (425÷622) x 100 = 68.3 | (70 x 68.3) ÷100 | 47.8 |
| 3 | 425 |  |  | 70 |
| 4 | 440 | (425÷440) x 100 = 96.5 | (70 x 96.5) ÷ 100 | 67.6 |
| 5 | 625 | (425÷625) x 100 = 68 | (70 x 68) V 100 | 47.6 |

**ADDED VALUE**

This section will be evaluated using the following criteria and points will be allocated for each section. The tender with the highest point score will be used as the base line to calculate the relative scores for the other tenderers. This is then converted to a point score (out of 10) to reflect that this area carries 30% of the total score.

* The tenderer’s proposed management, supervision structure and personnel; 15%
* Proposed working methods; 5%
* Labour resources that would be deployed; 5%
* Value Engineering proposals included within; 5%

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Tender** | **Quality score** | **Calculation** | **Convert to 30%** | **Points** |
| 1 | 2 | (2÷7) x 100 = 28.6 | (30 x 28.6) ÷ 100 | 8.6 |
| 2 | 5 | (5÷7) x 100 = 71.4 | (30 x 71.4) ÷100 | 21.4 |
| 3 | 4 | (4÷7) x 100 = 57.1 | (30 x 57.1) ÷ 100 | 17.1 |
| 4 | 5 | (5÷7) x 100 = 71.4 | (30 x 71.4) ÷ 100 | 21.4 |
| 5 | 7 |  |  | 30 |

The winning tender is the one which scores the greatest overall mark once Price and Quality have been combined. The results from the above examples would be as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Tender** | **Points awarded for Price** | **Points awarded for Added Value** | **Points Total** |  |
| 1 | 59.5 | 8.6 | 68.1 |  |
| 2 | 47.8 | 21.4 | 69.2 |  |
| 3 | 70 | 17.1 | 87.1 |  |
| 4 | 67.6 | 21.4 | 89 | **Winning Bidder** |
| 5 | 47.6 | 30 | 77.6 |  |