

**DATED**

**2011**

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**SERVICE LEVEL AGREEMENT FOR THE PROVISION OF  
RURAL CHANNEL SWEEPING SERVICES  
WITHIN THE DISTRICT OF FOREST HEATH**

**BETWEEN**

**ST EDMUNDSBURY BOROUGH COUNCIL**

**AND**

**FOREST HEATH DISTRICT COUNCIL**



**“Contracting Authority”**

means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2006 other than the Councils

**“Fees”**

means the sum of Eighteen Thousand Four Hundred and Nine pounds (£18,409) per annum for the provision of the Service

**Forest Heath’s Representative**

means the officer authorised by Forest Heath from time to time to act on behalf of Forest Heath for the purposes of this Agreement or such person as may be nominated by the Representative to act on its behalf.

**“Joint Committee”**

means the West Suffolk Waste and Street Scene Services Joint Committee

**“Maps”**

means the maps attached to this Agreement at Appendix A identifying the sections of the rural highway within the district of Forest Heath on which the Service will be carried out

**“Operatives”**

means the officers employed by St Edmundsbury to provide the Service to Forest Heath

**“Risk Assessments”**

means the process used by St Edmundsbury of assessing the possibility of injury or loss of life in the provision of the Service and identifying controls to prevent such occurrences

**“Safe Systems of Work”**

means the systems of work in place and used by St Edmundsbury Operatives in the provision of the Service

**"Service"**

means the rural channel sweeping service described in the Schedule to this Agreement

**“Supervising Officer”**

means the person authorised by St Edmundsbury from time to time to supervise this Agreement on behalf of St Edmundsbury or such person as may be nominated by the Supervising Officer to act on its behalf

**“Waste and Street Scene Services”**

means those services associated with waste and street scene as defined in the Partnering Agreement.

- 1.2 Words denoting the singular shall include the plural and vice versa words denoting the masculine gender shall include the feminine gender and vice versa and words denoting persons shall include corporations;
- 1.3 Reference to a clause a paragraph or a Schedule shall be deemed to be a reference to a clause or a paragraph of or a schedule to this Agreement and reference to a sub-clause or sub-paragraph shall be deemed to be a reference to a sub-clause or sub-paragraph of the clause or paragraph in which the reference appears;
- 1.4 Words and expressions defined in the Partnering Agreement have the same meanings when used herein; and
- 1.5 In this Agreement clause headings are included for ease of reference only and shall not affect this Agreement or the interpretation hereof.

**2. Contract Period**

- 2.1 This Agreement commences on 1<sup>st</sup> April 2011 and shall remain in force for one year from the Commencement Date or until earlier termination by either party as set out in Clause 10 of this Agreement.
- 2.2 Subject to Clause 10 this Agreement may continue for further periods of one year each by mutual written consent of the Councils.

**3. Service to be Provided**

- 3.1 In consideration of Forest Heath paying to St Edmundsbury the Fees St Edmundsbury hereby agrees that during the Contract Period it will:
  - 3.1.1 provide the Service to Forest Heath;
  - 3.1.2 use reasonable endeavours to provide the Service with reasonable skill and care;
  - 3.1.3 provide the Service in accordance with the terms of this Agreement and the Schedule;

- 3.2 Forest Heath shall use reasonable endeavours to co-operate with St Edmundsbury in providing all information known by or available to Forest Heath which may reasonably be required by St Edmundsbury in the provision of the Service or additional services.
- 3.3 Any services required by Forest Heath in addition to those detailed in the Schedule to this Agreement and the fees for providing those additional services shall be agreed in writing between the Councils.
- 3.4 Forest Heath's Representative may visit the sections of the rural highways within the district of Forest Heath on which the Service is being provided to ensure work is being carried out in accordance with the terms of this Agreement.
- 3.5 If during the course of such visit Forest Heath's Representative becomes aware of any litter or detritus problem areas on the rural highways within its district on which the Service is being or should be carried out he will notify the Supervising Officer immediately by email or telephone.
- 3.6 The Supervising Officer will ensure that any litter or detritus problems identified by Forest Heath's Representative will be responded to within 2 working days of such notification and Forest Heath's Representative will be advised accordingly.

4. **Payment**

- 4.1 On or after the first of each third calendar month commencing on the 1<sup>st</sup> July 2011 St Edmundsbury will raise an invoice for one-quarter of the Fees referred to in this Agreement.
- 4.2 Payment must be made within 30 days of issue of invoice.
- 4.3 Value Added Tax will be levied on all invoices at the prevailing rate.
- 4.4 If Forest Heath is in material breach of its obligations to pay the Fees St Edmundsbury shall give Forest Heath 30 days notice specifying the breach and requiring its remedy. In the event that Forest Heath fails to make payment St Edmundsbury may in accordance with Clause 10.2 terminate this Agreement.

5. **Health and Safety**

- 5.1 All Operatives and the Supervising Officer and Forest Heath's Representative shall have completed any necessary health and safety training prior to entering the work area of any section of the rural highway within the district of Forest Heath as identified on the Maps and Safe Systems of Work.
- 5.2 St Edmundsbury shall be responsible for control of the operations and equipment used in the provision of the Service and such additional services as shall be provided in accordance with Clause 3.3 and shall ensure that the Operatives comply with all aspects of health and safety and working practice legislation.

**6. Environmental Compliance**

- 6.1 St Edmundsbury has achieved accreditation to the Environmental Standard ISO 14001. As part of the process of meeting that Standard all waste arising out of the provision of the Service will be disposed of by methods acceptable to the Environment Agency and records as to the safe disposal of such waste will be kept by St Edmundsbury. Copies of these records will be made available to Forest Heath on request.
- 6.2 The intent is for all waste arising from rural channel sweeping to be sent for recycling and composting. Waste arising out of the provision of the Service will be transferred to St Edmundsbury's depot at Olding Road Bury St Edmunds and placed into a bunkered area marked FHDC. Details of the weight for the bunkered material from within the district of Forest Heath will be issued to Forest Heath monthly for entry into its Waste Data Flow returns.

**7. Insurance**

- 7.1 St Edmundsbury holds Public Liability Insurance cover with a limit of indemnity of Thirty Million Pounds (£30,000,000). Details of this insurance cover shall be made available to Forest Heath on request.

**8. Indemnities**

- 8.1 St Edmundsbury shall indemnify and keep indemnified Forest Heath fully against all claims proceedings actions damages legal costs expenses and any other liabilities whatsoever arising out of in respect of or in connection with this Agreement including in respect of any death or personal injury loss of or damage to property financial loss arising from any advice given or omitted to be given by St Edmundsbury or any other loss which is caused directly or indirectly by any act or omission of St Edmundsbury. This Clause shall not apply to the extent that St Edmundsbury is able to demonstrate that such death or personal injury or loss or damage was not caused or contributed to by its negligence or default or the negligence or default of its staff or sub-contractors or by any circumstances within its or their control.
- 8.2 Forest Heath shall indemnify and keep indemnified St Edmundsbury fully against all claims proceedings actions damages legal costs expenses and any other liabilities whatsoever arising out of in respect of or in connection with this Agreement including in respect of any death or personal injury loss of or damage to property financial loss arising from any advice given or omitted to be given by Forest Heath or any other loss which is caused directly or indirectly by any act or omission of Forest Heath. This Clause shall not apply to the extent that Forest Heath is able to demonstrate that such death or personal injury or loss or damage was not caused or contributed to by its negligence or default or the negligence or default of its staff or sub-contractors or by any circumstances within its or their control.

**9. Review**

- 9.1 Prior to an extension to the Contract Period of this Agreement being agreed in accordance with Clause 2.2 the provision of the Service shall be reviewed by the Joint Committee.
- 9.2 Upon a review of the Service in accordance with Clause 9.1 the Fees shall also be reviewed and any changes to the Fees agreed by the Joint Committee.

**10. Termination**

- 10.1 Either Council may terminate this Agreement at any time by giving the other Council not less than 3 months written notice served on the representative of the other Council.
- 10.2 St Edmundsbury may terminate this Agreement if Forest Heath is in material breach of its obligations to pay the Fees and having received a 30 days notice specifying the breach and requiring its remedy fails to make payment and rectify the breach.

**11. Assignment and Novation**

- 11.1 Each Council shall be entitled to assign novate or otherwise dispose of its rights and obligations under this Agreement or any part thereof to any Contracting Authority or any other body established under statute provided that any such assignment novation or other disposal shall not increase the burden of St Edmundsbury's obligations under this Agreement.
- 11.2 Forest Heath shall be entitled to disclose to any transferee any confidential information of St Edmundsbury which relates to the performance of this Agreement by St Edmundsbury. In such circumstances Forest Heath shall authorise the transferee to use such confidential information only for purposes relating to the performance of this Agreement and for no other purposes and shall take all reasonable steps to ensure that the transferee accepts an obligation of confidentiality.

**12. Equal Opportunities**

- 12.1 Neither Council shall discriminate either directly or indirectly on such grounds as race colour ethnic or national origin disability sex or sexual orientation religion or belief or age within the meaning and scope of the Sex Discrimination Act 1975 the Equal Pay Acts 1970 and 1983 the Disability Discrimination Act 1995 the Employment Equality (Sexual Orientation) Regulations 2003 the Employment Equality (Religion or Belief) Regulations 2003 the Human Rights Act 1998 or other relevant legislation or any statutory modification or re-enactment thereof.
- 12.2 St Edmundsbury shall take all reasonable steps to secure the observance of Clause 12.1 by all its servants employees or agents and all suppliers and sub-contractors employed in the provision of the Service or such additional services as shall be provided in accordance with Clause 3.3.
- 12.3 Forest Heath shall take all reasonable steps to secure the observance of Clause 12.1 by all its servants employees or agents.

**13. The Contracts (Rights of Third Parties) Act 1999**

- 13.1 No person who is not a party to this Agreement (including without limitation any employee officer agent representative or sub-contractor of either Council) shall have any right to enforce any term of this Agreement which expressly or by implication confers a benefit on him without the prior agreement in writing of both Councils which agreement should specifically refer to this Clause. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

**14. Confidentiality**

- 14.1 Subject to Clause 11.2 each Council shall maintain commercial confidentiality of its dealings with the other Council and shall not other than that statutorily required or for the purpose of obtaining insurance divulge advertise or make any public announcement concerning any contracts with the other Council without obtaining their prior written consent.

**15. Freedom of Information**

- 15.1 The Councils will note and facilitate to the extent consistent with the provision of the Service the other Council's compliance with any central government freedom of information requirements and codes for the provision of information including without limitation the Code of Practice of Access to Government Information 1994 and the Freedom of Information Act 2000.
- 15.2 In the event that either Council is required to provide information to a person as a result of a request made to it under the Code the other Council shall adhere to the requirements of the Code in disclosing information relating to this Agreement and the Council.

**16. Mediation and Arbitration**

- 16.1 In the event of a dispute either Council may submit such dispute to mediation the appointment of the mediator to be agreed by both Councils or to arbitration in accordance with Part I of the Arbitration Act 1996 as a legally binding alternative to civil court action.

**17. TUPE**

- 17.1 Upon termination of this Agreement the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.

**IN WITNESS** whereof this Agreement has been executed by the parties hereto as a deed and delivered on the day and year first above written



**The Common Seal of St Edmundsbury )  
Borough Council was hereunto affixed )  
in the presence of: )**

**Head of Legal and Democratic Services**

**Authorised Signatory**

**The Common Seal of Forest Heath District )  
Council was hereunto affixed in the )  
presence of: )**

**Legal Services Manager**

## **SCHEDULE**

### **The Service**

- Mechanical Road Sweeping of the kerbline in the Rural areas of Forest Heath District Council as detailed in the routes identified on the Map;
- Routes identified on the Map will be cleansed to the standard and timescales set out in the Codes of Practice for Litter and Refuse (COPLAR) under Section 89 of the Environmental Protection Act 1990;
- Routes identified on the Map will be swept Monday to Thursday between 07.30 – 15.30 and Friday between 07.30 – 15.00 The vehicle will be based and tipped at the St Edmundsbury depot at Olding Road Bury St Edmunds;
- Weights of waste material collected will be apportioned against either council for the benefit of Waste Data Flow returns for Recycling Performance Payments;
- Forest Heath to report any specific areas in need of litter clearance or where fly tipping needs to be cleared.
- A schedule confirming which areas have been cleansed and at which time will be maintained and be made available for regular review by Forest Heath.

## APPENDIX A

*THE* **MAPS**

**Comment [e1]:** How many? If only one map, amend to read Map