

PORTFOLIO: ENVIRONMENT

PORTFOLIO HOLDER DECISION

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENT AGENCY AND NEW FOREST DISTRICT COUNCIL FOR WORK ON MAIN RIVERS – ADDENDUM No.2.

1. MEMORANDUM

- 1.1 A Memorandum Of Understanding (MoU) between the EA and NFDC for Work on Main Rivers was signed on 20 February 2006. At NFDC's request it included Addendum No.1, which clarifies insurance arrangements. This MoU relates to watercourse maintenance works that NFDC are undertaking on behalf of the Agency from April 2006 till March 2008.

2. REASONS

- 2.1 Parts of the MoU document are worded in a fairly general manner and the Agency now wishes to amend, by means of Addendum No. 2, the following sections:
- Emergency response
 - Personnel
 - Invoicing and payment
 - Management of external claims
- 2.2 For its part NFDC wishes to make minor amendments to the following sections:
- Background
 - Commencement and termination
 - Routine works
 - Non-routine works
- 2.3 The first draft of Addendum No. 2 was drawn up in July 2006 and, following detailed consultations between the Council and the Agency, a form of wording for Addendum No. 2 has now been agreed that satisfies both the Council's Head of Legal and Democratic Services and the Agency's Head of Procurement. A copy of the addendum is attached to this report.
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2.4 Two copies of the addendum have been signed by the Agency's Regional Manager and now await counter-signature by the Director of Commercial Services, who needs the Portfolio Holder's approval to proceed.

3. FINANCIAL IMPLICATIONS

3.1 There are no financial implications associated with this report.

4. ENVIRONMENTAL & CRIME & DISORDER IMPLICATIONS

4.1 There are no environmental or crime & disorder implications associated with this report.

5. RECOMMENDATION

5.1 That Addendum No. 2 to the MoU between the Environment Agency and New Forest District Council for Work on Main Rivers is signed by the Director of Commercial Services.

6. PORTFOLIO HOLDER ENDORSEMENT

I agree the recommendation set out in section 5 of this report.

Signed ÔŠŠÛÁ ÁPØÛÛÿ

Date 28-11-2006

Cllr Michael Thierry
Portfolio Holder for the Environment

Date notice of decision given..... 29.11.2006

Last date for call-in:07.12.2006

MEMORANDUM OF UNDERSTANDING BETWEEN
THE ENVIRONMENT AGENCY

and

NEW FOREST DISTRICT COUNCIL
FOR WORK ON MAIN RIVERS

ADDENDUM NO 2

Date:

MoU Number -----

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This document is part of the main Memorandum of Understanding and to be read in conjunction with that document and with the amendments set out in the Agency's letter of 20 February 2006, ref. OD/TS/MAIN/04/002/cc, which forms Addendum 1 to the MoU.

Clause references in this document relate to those in the MoU. addition/ amendments of following clauses

1. BACKGROUND

- 1.2 After the last sentence add "New Forest District Council will manage and be responsible for carrying out the Works, contract administration and related payments. Eastleigh Borough Council and any other sub-contractor approved by the Environment Agency will carry out the specified and or instructed works as a sub-contractor to New Forest District Council."

3. COMMENCEMENT AND TERMINATION

Replace penultimate sentence with: "It may be terminated by either party by giving three months notice in writing to the other. If the Environment Agency terminate the agreement, they agree to pay to the Authority all costs for works done in accordance with the approved programme of works and any additional works specifically instructed by the Agency.

7. THE WORKS

- 7.2 After '.... assets and emergency response.' add the following:

- **Routine Works** to include but not be limited to routine maintenance work, grill clearance, clearance of watercourses, weed clearance in accordance with "Environmental Options for Flood Defence Maintenance Works 2003", removal of obstructions etc..
- **Non-Routine Works** to include, but not be limited to, minor works to maintain and improve safety for site operators and the public up to a maximum cost of £25,000, subject to Agency Form A approval. Other works greater than £25,000 shall be subject to the Agency tender procedure. Emergency works, as part of the Emergency Response, to include clearance of grills and removal of blockages outside normal working hours.
- **Emergency Response.** Where possible, given the demands of the particular situation, Emergency Response tasks will be carried out to normal working standards, including paying necessary regard to environmental considerations.

All work will be instructed by the Agency and falls into two categories.

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(i) Planned Emergency Tasks

The Agency will prepare operational instructions for emergency tasks which are known to be required during a flooding event. Such operational instructions will be issued well in advance to the Authority.

These tasks will in general fall within the following categories :-

- (i) The inspection of bridges, culverts and restricted channel sections.
- (ii) The inspection and monitoring of :-
 - (a) the condition and performance of embankments and hard defences,
 - (b) the condition, operating status and performance of equipment and installations,
 - (c) watercourse levels and maximum flood water levels,
 - (d) freeboard to defence levels,
 - (e) extent of flooding, including flood envelopes and number of properties.

(ii) Contingency Actions

The Authority shall be responsible for organising and carrying out contingency actions as directed by the Agency so long as sufficient and reasonable notice is given to the Authority by the Agency. The actions will fall within the categories listed below :-

(a) Blockages

The clearance of obstructions to watercourse flow, removal of debris from the channel and the disposal of same on site above maximum flood level.

(b) Temporary Flood Defence

The provision of temporary defence/s, typically where leakage of a fixed defence occurs, or to prevent overtopping of fixed defences, or a secondary defence/s. The provision of temporary defence/s would normally involve the collection, filling and placing of sandbags to form walls, or as directed.

Response Times

The Authority shall ensure that the required plant, labour and equipment are available for operational tasks within the response times. The response time is defined as the time period between issue of an instruction by the Agency to the Authority and the initiating of operational procedures on-site.

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The response times required are as follows:

- (a) Miscellaneous visits in normal working hours, as instructed by the Agency. Visit site (first site if multiple sites) within two hours.
 - (b) Emergency visits within normal working hours, as instructed by the Agency. Visit site (first site if multiple sites) within one hour.*
 - (c) All out-of-hours visits, as instructed by the Agency. Visit site within one hour.
- (* Provided the Agency instructs the response as "Emergency".)

Liaison with the Media and the Public

If during the course of carrying out emergency tasks the Authority receives requests for information from the media, these should be referred to the Agency's Public Relations department.

Local enquiries from the public should be dealt with in a helpful and factual manner, where possible, otherwise all requests for information should be referred to the Agency.

Records and Reports

(i) Instruction Record

It is important that the relevant records are kept for the management of the event and for the purposes of auditing and reviewing the effectiveness of the emergency response after the event.. The Authority shall keep a record of its operations during an incident. These must be provided to the Agency within seven days after the event stands down. The following is the minimum requirement.

The Agency and the Authority will record :-

- (a) The time of the initial alert to the Authority's standby officer.
- (b) The time of contact with the Authority's standby officer.
- (c) The time and reference number of the Operational Instruction.
- (d) Details of contingency action instructions.

The Authority will record :-

- (a) Site locations, arrival and departure times.
- (b) Works undertaken. (variations from scheduled operations, faults, defects, malfunctions, problems, damage etc. to be reported)
- (c) Labour, plant, transport and materials utilised.
- (d) Any additional data requirements (status of equipment, flood levels, extent of flooding, condition of defences etc.)

(ii) Incident Report

For significant flood events, at the request of either party, a joint Agency/Authority report will be produced within 10 working days. This report shall contain full details of the event, as listed above.

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- 7.7 After the last sentence add: "The Authority under this contract will be responsible as a Principal Contractor and/or Designer under CDM Regulations."
- 7.11 After the last sentence add: "In addition the Authority will submit periodic records to the Agency in respect of its performance, costs, H & S records and the works records, as instructed by the Agency."
- 7.12 After the last sentence add: "The Authority will input Asset Inspection information onto the Agency NFCDD database. The Agency will arrange training for the same."

8. PERSONNEL

Replace second sentence with: "No subcontracting of any personnel shall be undertaken, other than of Eastleigh Borough Council, by the Authority without the consent of the Agency. The Authority will submit the details of rates, overhead costs and CVs, details of H&S training/qualifications of personnel to work under this contract for approval by the Agency. The Agency reserves the right to accept or reject any of the personnel offered to work under this contract by the Authority."

11. INVOICING AND PAYMENT

- 11.1 Add "The Authority will submit monthly invoices to the Agency Supervisor along with an itemised breakdown of costs, e.g. details of work carried out (regular maintenance or emergency work), with cost codes, details of staff, hours worked, cost of plant and materials etc. along with any other additional information as requested by the Agency. The maximum limit of maintenance cost is to be £200,000 per annum and Agency will review the limit annually."
- 11.2 Omit this clause and refer to rates and other details included in the Appendix to this Addendum.

12. RESPONSIBILITY FOR MANAGEMENT OF EXTERNAL CLAIMS

Add new clause 12.4 "The Authority will provide minimum insurance cover for Public Liability, Employers Liability and Professional Indemnity Liability of £10 million for each and every event and for any number of events in a year."

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Signed-----

Signed-----

Name -----

Name -----

For & on behalf of
Environment Agency.

For & on behalf of
New Forest District Council.

Position.-----

Position. -----

Date -----

Date -----