

**CONFIDENTIALITY AGREEMENT**

 **FOR THE PROVISION OF A ROUGH SLEEPING RAPID ASSESSMENT HUB & OUTREACH / INREACH SERVICE**   **(Procurement by Electronic Tender)**

**TENDER REFERENCE: DN626813**

**SECTION H**

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| **Southend-on-Sea Borough Council****Strategic Director (Finance & Resources) : Joe Chesterton** Civic Centre, Victoria Avenue, Southend-on-Sea, Essex SS2 6ER 01702 215000 www.southend.gov.uk |  |
|  | Our ref: RSI Your ref: DNDate: August 2022 |
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To whom it may concern,

**RE: Transfer of Undertakings (Protection of Employment) – TUPE**

**Tender for the Provision of a Rough Sleeping Rapid Assessment Hub & Outreach / Inreach Service**

In relation to this Tender, it is the view of Southend-on-Sea City Council (“the Council”) that TUPE applies to services for this contract.

However, you must formally request the TUPE information by completing the enclosed confidentiality agreement, before it will be released to you. Tenderers are encouraged to request this information and complete the confidentiality agreement as quickly as possible.

The Council will refrain from releasing TUPE information to any Providers who fails to submit a signed Confidentiality Agreement by the deadline date.

If TUPE information is not requested the Council will consider that you do not wish to submit an offer for the service where TUPE applies.

Once the agreement has been completed, dated and signed, please attach this to a message via the Electronic Tender Facility’s message system, and we shall reply with the TUPE information.

Should Tenderers have any query in connection with this document, please contact me via the Electronic Tender Facility’s message system.

Yours sincerely,

**Michelle McMenemy**

Senior Procurement Advisor

**CONFIDENTIALITY AGREEMENT**

**THIS AGREEMENT** is made on the day of 2022

**BETWEEN**

1. Southend-on-Sea City Council (“the Council”) of the one part and

2)[insert Provider’s name] (“the Provider”)of the other part.

Hereinafter together referred to as the “Parties”.

**WHEREAS**

The Provider is proposing to tender to the Council for the Provision of Rough Sleeping Rapid Assessment Hub & Outreach / Inreach Service   as described in the Service Specification.

1. Having considered the provisions of the European Acquired Rights Directive 1977/8 (as amended) and the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended 2014 and as amended by the Trades Union Reform and Employee Rights Act 1993 (the “Relevant Provisions”) and all subsequent related legislation, the Employer considers (and for the purposes of this agreement hereby acknowledges) that the same will apply to the letting of the contract.
2. The Council is willing to provide certain information with regard to the terms and conditions of employment of the workforce presently involved in the provision of the Services, the nature of which is set out and specified in the Invitation to Tender in consideration of the provision by the Provider of the undertakings appearing below.

**NOW IT IS HEREBY AGREED AS FOLLOWS:-**

1. **Definitions**
2. “Purpose” shall mean the submission of a tender for the Contract (by the Tenderer).
3. “Confidential Information” shall mean the information specified in the schedule hereto as disclosed to the Provider but shall exclude any part of such disclosed information which:
4. is or becomes common knowledge in any way without breach of the agreement by the Provider; or
5. the Provider can show was in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the Council and was not acquired by the Provider from the Council under an obligation of confidence.
6. **Handling of Confidential Information**

In consideration of the provision by the Council of the Confidential Information the Tenderer agrees and undertakes:

1. to maintain the same in confidence and to use it only for the Purpose and for no other purpose including the submission of any other tender which it may be invited by the Council to submit;
2. to disclose the Confidential Information only to such employees of the Provider as are necessary to prepare the tender submissions and then only on the same terms and conditions as are contained herein;
3. all processing of personal data will be undertaken in line with the Data Protection Act 2018
4. not to copy, reproduce or reduce to writing any part hereof except as may be reasonably necessary for the Purpose and that any copies reproductions or reductions in writing so made shall remain the property of the Employer;
5. that the Confidential Information which is provided is pursuance of this agreement will not be disclosed by the Provider or its employees to any person other than details in (b) above, company, firm, third party or organisation whatsoever and will be used solely for the purposes of preparing the tender for the provision of the contract;
6. the Provider undertakes to indemnify and at all times to keep the Council fully indemnified from and against any loss or disclosure of Confidential Information caused by the Provider or its employees in breach of the obligations contained in this Agreement and from all actions, proceedings, claims, demands, costs (of whatever nature) awards and damages properly incurred as a result thereof;
7. to return to the Council all the Confidential Information and copies thereof (irrespective of the manner in which it is recorded) and to delete any Confidential Information which the Provider may have entered into any computer database or other programme on the conclusion of the Council’s tendering and contract award procedure or earlier if it be so requested.
8. **Notices**

All notices under this Agreement shall be made in writing, sent by Electronic Tender Facility, first class post, registered or recorded delivery post to the party being served at its address specified above or at such address of which such party shall have given notice as aforesaid, and marked for the attention of the parties signatory of this Agreement.

The date of service shall be deemed to be the day following the day on which notice was transmitted or posted as the case may be.

1. **Entire Agreement, Governing Law and Jurisdiction**

This Agreement constitutes the entire agreement and understanding between the parties in respect of Confidential Information and supersedes all previous agreements and undertakings in such respect. The interpretation, construction and effect of this Agreement shall be governed and construed in all respects with the Laws of England and the parties hereby submit to the non-executive jurisdiction of the English Courts.

**SCHEDULE**

**The Confidential Information**

1. Staff profile including number of employees: length of service; and age of individuals.

**Signed on behalf of the Council:**



**Name: Lee White**

**Status: Head of Procurement**

**Signed on behalf of the Provider** **(Director Level or equivalent):**

**Name:**

**Status:**