



# South Somerset District Council

## Leisure Procurement Invitation to Submit Initial Tenders (ISIT)

### Instructions & Guidance

February 2020

*Draft issued at SSQ Stage  
Dates identified in the document will be  
confirmed on commencement of the ISIT  
Stage*

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# 1. The Opportunity

## Background

The Council is committed to high quality Leisure Facility provision and currently owns the following facilities.

- Goldenstones Leisure Centre
- Wincanton Sports Centre
- Westlands Sports and Fitness Centre

The Council is also in the process of developing a new Leisure Centre for Chard, which is due to open in Autumn 2021.

The existing leisure centres are managed on the Council's behalf by LED Community Leisure through a leisure management contract until April 2021.

As a result the Council is inviting tenders from prospective partners to enter into a management contract or other arrangements to operate and maintain the facilities, including the new Leisure Centre for Chard.

The Council have taken the decision to proceed with the procurement of a Partner (or Partners) to develop and deliver the Leisure and Community portfolio.

The Council is willing to consider any form of partnership and would welcome proposals from interested third party providers (including local organisations, national and international organisations who believe they can deliver the outcomes the Council is seeking).

In order to achieve its outcomes and vision, the Council encourages interest from all Leisure and Community operators including existing leisure Not for Profit Organisations, local community organisation and other operators or social enterprises which may have the relevant experience and capacity to deliver.

This section sets out the Council's vision and outcomes and the opportunity with further detail on the process by which interested parties should express their interest, throughout these instructions and guidance.

Prospective bidders are also invited to visit the sites. Prospective bidders should contact the Council through the portal if they wish to take up this offer.

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## Objectives and Desired Outcomes

The Council has developed its Council Plan for 2020 - 2024 and together with the previous vision for sport and leisure and the Leisure Facilities Strategy (2018 - 2036) there are within these documents the following overarching strategic objectives which the Council is seeking to achieve and the contractor is expected to contribute to these.

- Enable healthy communities which are cohesive, sustainable and enjoy a high quality of life
- The improved health and wellbeing of local residents
- Reduced obesity levels, particularly for target groups
- Improved mental health levels, particularly for target groups
- Educating, protecting and providing opportunities for young people; particularly in areas of identified need
- To be carbon neutral across our own operations and land holdings by 2030 at the latest, and ideally by 2023

The Council has identified the following key Strategic Priorities for the services (and for this contract) to be delivered by the Operator which are designed to contribute to the Local Authority's wider local Strategic Outcomes:

- Delivering high quality services that meet required service standards, exceed customer expectations and are affordable
- Delivering financially and environmentally sustainable facilities
- Delivering increased opportunities to participate in sport and physical activity at all levels, for all sections of the community
- Delivering increases in activity levels from underrepresented/target groups identified as having no or low levels of physical activity including disabled people
- Providing wider social value through strong and positive engagement with partners

The three key facilities (and the proposed new Chard Leisure Centre) are important in playing a key role in delivering these objectives.

Further details on the existing facilities and the proposed vision and leisure strategy can be found through the following links

- Leisure Facilities – [www.ledleisure.co.uk](http://www.ledleisure.co.uk)
- Council Plan - <https://www.southsomerset.gov.uk/your-council/your-council-plan-and-strategies/council-plan/>
- Leisure Facilities Strategy - <https://www.southsomerset.gov.uk/media/1970/leisure-facilities-strategy-feb-2019.pdf>

The Council has identified that it will seek to appoint a partner or partners to manage its key Leisure and Community facilities. The Council is seeking to enter into one management contract for at least 10 years and this may be more (potentially up to 25 years), subject to dialogue.

This section sets out some of the key commercial terms the Council is proposing, however it is willing to discuss these terms through dialogue to achieve better value.

## Key Commercial Terms

### Affordability

The Council's existing financial position for the contract with LED is a break even position which includes a payment from LED and maintenance costs of £55,000 per annum which the Council incur.

It is anticipated that the Council will be seeking an improvement on the revenue position and has identified that the proposed development of Chard Leisure Centre has the potential to deliver a revenue surplus of circa £393,000 per annum in a mature year.

The Council has £0.9 million within its capital programme for investment in the existing facilities.

The Council's affordability limit is the maximum the Council can afford and bidders will be evaluated against the affordability limit, which is summarised below.

#### **Council Financial Expectations & Affordability**

The Council has an existing revenue budget for the operation of the leisure facilities which it is expecting to deliver significant revenue savings on through investment in new and refurbished facilities. It recognises however that any capital will need to be provided by the Council for this investment and could potentially be funded by through revenue savings.

Alternatively, the Council may decide to fund capital from its reserves, however this still has a financial implication for the Council. As a result, the bidders will be asked to factor into their submission a cost of capital financing, which will be part of the evaluation to enable the whole life costs of the proposals to be considered.

For clarity there is no requirement to include the cost of financing for capital towards the new Chard Leisure Centre or the £0.9 million within the Capital programme for existing centres.

If bidders require any capital funding over and above these levels the Council have the ability to provide capital assuming that the scheme stays within the affordability limits, for which bidders will need to account for repayment costs in accordance with the amounts set out below.

At this stage of the project the Council has identified the potential to borrow the capital identified above but it will be dependent on overall affordability at the time and subject to any changes in legislation, etc when the capital is required.

The affordability evaluation will be undertaken based on the capital being provided by the Council through prudential borrowing.

For any capital that is provided through prudential borrowing the following repayment costs should be clearly shown within bidders submissions.

- Based on interest rate of 2.73% (PWL B rates as at 28 Jan) with a 25 year term
- £54,000 per annum per £1 million borrowed

Thus if a bidder is borrowing £3 million then they should include a cost of finance of £162,000 per annum in their financial submission, for evaluation purposes only.

The actual interest rates (including the provision for MRP) which will be used for any borrowing will be determined at the time of drawdown, but for the purposes of evaluation bidders should use the above figures.

The Council anticipate that any capital investment schemes should deliver significant revenue savings in order to fund the capital investment required (over and above the £0.9 million) as set out above through prudential borrowing. For pricing options including Chard it is assumed that the capital is paid for by the Council and bidders do not need to factor this into their bid submissions.

As a result of this the Council has set the following affordability limits, which bidders will need to meet through including the costs of finance and also the management fee

Pricing Option	Affordability Limit
Pricing Options including Chard Leisure Centre	£393,000 payment to the Council
Pricing Options excluding Chard Leisure Centre	Nil

The affordability limit is used for evaluation purposes only and the actual contract entered into with the successful operator is based on the management fee.

## Risk

The efficient allocation of risk between the Council and the Contractor is an essential part of a successful long-term relationship. For the contract to be a success, it is important that each element of risk is managed by the party best positioned to do so.

The Council has undertaken a preliminary risk analysis and the proposed share of risks between the Council and the Contractor has been reflected in the draft contract. Where bidders propose using a sub-contract structure the Council expect a relevant pass-down of key terms to the sub-contractor. Details of sub-contract and interface arrangements will be discussed during dialogue.

## Annual management fee

Any Management Fee will be subject to inflationary increase based on CPI or an equivalent agreed index. The Council expects Bidders to deliver continuous improvement through annual efficiencies and innovation over the term of the Contract.

The Management Fee should be presented as a profiled management fee in accordance with the tender submission.

## **Benchmarking**

It is not proposed that there will be any income or expenditure benchmarking (other than utilities) due to the length of the contract. If the Bidders believe they can offer better value for money through benchmarking then the Council would be willing to discuss this in dialogue.

## **Utilities**

The energy consumption at the Facilities will be at the Contractor's risk.

The Council recognises that energy prices can be volatile, but would still seek for the Contractor to take significant tariff risk. The Council is however willing to discuss proposed approaches to tariff risk during the dialogue process.

## **National non domestic rates**

The Council's policy with regard to National Non Domestic Rates (NNDR), commonly known as Business Rates, is currently 80% mandatory relief. This would be granted if all the relevant charitable organisation criteria is satisfied. This is subject to policy change and as such bidders should complete their submissions based on 80% NNDR relief but recognise this may be subject to policy change. Bidders must propose models that can achieve this level of relief or better.

## **Surplus Share**

The principles of the proposed surplus sharing mechanism are:

- Provision of detailed annual statements to the Council outlining any actual surplus levels achieved as measured against projected base target levels
- Application of the mechanism on an annual basis through the Contract Period
- The levels of surplus above those projected and agreed within the operator's base financial model will be shared between the Contractor and the Council on a 50:50% basis for every £1 excess achieved – unless agreed otherwise.

## **Capital requirements**

The Council do not have any specific requirements for capital developments as part of the Solution.

However the Council is interested to explore Bidders proposals for capital investment. It is expected any capital developments will be aimed at improving the service and revenues of the Facilities, providing a return on any investment.

The Council may have the potential to invest capital in the longer term and will want to assess the impact of the bidder providing capital and also the Council providing capital.



The Bidders proposals should assume that the contractor takes full risk on the delivery of the capital scheme(s) and the returns generated.

In relation to any capital developments Bidders are expected to provide a schedule of the equipment that they will provide together with a full breakdown of the costs associated with the provision and ongoing maintenance and renewal of such equipment.

## **Maintenance**

It is envisaged that the Contractor will be expected to take full responsibility for all maintenance and lifecycle requirements relating to the Facilities. The Council expects the Contractor to manage the lifecycle fund for Capital Developments and to take responsibility for deficiencies in the fund.

The Council does however recognise that some of the facilities have significant life cycle issues and will be prepared to discuss the approach through dialogue.

## **Leases**

It is envisaged that while providing the Services, the Contractor will have sole possession of the Facilities on a day-to-day basis. The Council intends to grant the Contractor leases or under leases in respect of the relevant Facilities, subject to any restrictions regarding the same and subject to any VAT and NNDR considerations.

The envisaged form of lease which will be included in the Contract is designed to be viewed in the context of the Services as a whole and not as a stand alone commercial lease, for example the maintenance and termination provisions in the lease will be linked to the Contract.

## **2. Instructions**

### **2.1 Authority's Warranties and Disclaimers**

The fact that an Applicant has been invited to bid does not necessarily mean that the Applicant has completely satisfied all the Authority's criteria and the Authority may require further information as appropriate and assess this as part of the evaluation process.

The Applicant shall have no claim whatsoever against the Authority in respect of such matters and in particular (but without limitation) the Authority shall not make any payments to any Applicant and/or the successful Applicant(s) save as expressly provided for in the Contract and (save to the extent set out in the Contract) no compensation or remuneration shall otherwise be payable by the Authority to any Applicant in respect of the procurement procedures (or any termination of the procurement procedures for any reason) or delivery of the services by reason of the specification being different from that envisaged by the Applicant or otherwise.

Whilst the information in this document and in the Attachments Area has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. With the exception of statements made fraudulently, the Authority does not accept any liability or responsibility for the adequacy, accuracy or completeness of such information. The Authority does not make any representation or warranty (express or implied) with respect to the information contained in the document or in the Attachments Area or with respect to any written or oral information made or to be made available to any Applicant or its professional advisors.

Each Applicant to whom the document is sent must make its own independent assessment of the proposed terms after making such investigation and taking such professional advice as it deems necessary to determine its interest in the Contract.

This document is issued on the basis that nothing contained in it shall constitute financial investment advice, an inducement or incentive nor shall have in any other way persuaded the Applicant to bid or enter into any other contractual agreement. Under no circumstances shall the Authority be liable to an Applicant in respect of any costs incurred by an Applicant (whether directly or otherwise) in relation to the preparation or Submission of an offer.

Bidders considering entering into a contractual relationship with the make their own enquiries and investigations of the any successful Bidder.

Neither the any liability or responsibility in relation to, the adequacy, accuracy, reasonableness or completeness of the Information or any part of it (including but not limited to loss or damage arising as a result of reliance by the Bidder on the Information or any part of it).

This invitation to participate in detailed dialogue and to submit a Solution does not mean that the Bidder has the stability, technical competence or ability in any way to carry out the Project.

### **2.2 Bribery Act**

The Bribery Act 2010 modernises the law on bribery and came in to force on 01 July 2011. The Act requires Public Bodies to ensure that they have procedures in place to prevent bribery by persons associated with them. As part of this responsibility all Applicants should make themselves aware of

the obligations set out at <http://www.justice.gov.uk/legislation/bribery>.

## **2.3 Freedom of Information Act**

The Authority is subject to the provisions of the Freedom of Information Act 2000 ("FOIA") and Environmental Information Regulations 2004 ("EIR") The Authority may be required to disclose information submitted to it, information concerning the procurement process, or details about this Project in response to a request under FOIA or EIR. Anyone can ask the Authority for any information held by it, or on its behalf and, unless an exemption applies, the information must be supplied. This means that all the information which an Applicant has provided in respect of this procurement and may provide in future to the contracting authorities will be subject to the FOIA.

In the absence of special circumstances, any part of the Bid documentation may be regarded as not subject to any exemptions, and therefore capable of being disclosed under the FOIA and/or EIR.

In respect of any completed Bid, where the Authority is required to consider whether any information contained therein should be disclosed further to the FOIA or EIR, it will be necessary to consider whether any exemption applies. Where the Applicant considers that any of the information contained in its Bid is subject to any exemption, this shall be stated in the submitted Bid with an explanation setting out what exemption it considers applicable and the reasons for it. The Authority may have regard to this explanation when considering its response to FOIA requests.

The Authority cannot guarantee that any information will not be disclosed, even if an Applicant considers the information to be confidential. The acceptance of receipt by the Authority of information marked "Confidential" or the like should not be taken that the Authority accepts any duty of confidence by virtue of that marking and the Authority accepts no liability (howsoever arising) in this regard.

The attention of Applicants is drawn to Section 43 of the Freedom of Information Act Guidance ([http://www.ico.gov.uk/for\\_organisations/guidance\\_index/freedom\\_of\\_information\\_and\\_environmental\\_information.aspx](http://www.ico.gov.uk/for_organisations/guidance_index/freedom_of_information_and_environmental_information.aspx)) which provides that information may be exempt information if it constitutes a trade secret, or if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the Authority). Applicants are further advised that, if the Authority considers this exemption applies, it will then be necessary for the Authority to determine whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The Authority will endeavour to consult with Bidders and have regard to comments before it releases any information under the FOIA or the EIR. The Authority reserves its discretion to determine whether any information is exempt from the FOIA and / or EIR. The Authority will be obliged to make its decision on disclosure in accordance with the provisions of FOIA or EIR (as the case may be) and will be bound by the rules as to disclosure and where appropriate by the direction of the Information Commissioner.

## **2.4 Counter Terrorism and Security Act**

Section 29 of the Counter Terrorism and Security Act 2015 places a duty on Local Authorities in the performance of their duties to have "due regard to the need to prevent people from being drawn into terrorism". The Act requires the Authority to ensure that its procedures help to ensure a better understanding of radicalisation so that strategies can be put in place to deal with it. As part

of this responsibility all Applicants should make themselves aware of the obligations set out at <http://www.legislation.gov.uk/ukpga/2015/6/contents>.

## **2.5 Study of the Document**

Documents issued by the Authority to prospective Applicants must not be passed on to a third party without the express permission of the Authority however Applicants may pass on such documents to any Bidder Party where it is necessary to do so for the preparation of a BID provided that the Applicants shall ensure that any Bidder Party is subject to the same obligation of confidentiality as the Applicants pursuant to this invitation.

Applicants are expected to read, understand and agree to the Volumes (including the terms and conditions) of the document as they will in their entirety form part of the resultant Contract.

Applicants are required to obtain all information as it may require to make a Bid. Applicants shall be deemed to have satisfied themselves as to the correctness and sufficiency of its Bid. No claims whatsoever shall be entertained arising out of the Applicant's failure to study the documents; the information provided will be relied upon as being true and accurate and will form part of the Contract with the successful Applicant. If any of the information given by your organisation within the document is subsequently identified as being inaccurate, this may exclude your organisation from further consideration.

Applicants' price shall (except in so far as it is otherwise provided in the Contract) cover all obligations under the Contract and Applicants shall also be deemed to have obtained for themselves all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect their Bid.

Applicants are responsible for all costs, expenses and liabilities incurred by Applicants in connection with preparing their Bid.

## **2.6 Consortia and Sub-contracting**

Where an Applicant wishes to make its application as a Consortium or utilising sub-contractors the Authority advises the group of organisations to select a Lead Applicant in whose name the Bid is to be submitted. The Lead Applicant is advised to confirm precisely what the arrangements are within its Bid including providing the names of all of the organisations to be involved, the nature and extent of their involvement and proposals regarding the structure and management of the Consortium or arrangements. Such details should have been provided within the SQ where appropriate and must be updated where information already provided has changed in the Applicant's response to this ISIT. The information should enable the Authority to assess the overall Consortium or core supply base. All members of the consortium are required to provide the information required in all sections of the Selection Questionnaire and must subsequently be updated as required.

The Lead Applicant should provide details of the actual or proposed percentage shareholding of the constituent members within the Consortium or the exact nature of and degree to which the Services or Works will be sub-contracted.

The Authority recognises that arrangements in relation to Consortia and sub-contracting may (in exceptional circumstances) be subject to future change. Applicants should therefore respond to

this opportunity in the light of the arrangements as they are currently envisaged. Applicants are informed that any future change in relation to Consortia and sub-contracting must be notified to the Authority during the procurement process or in the event that they are the successful Contractor and in any event as soon as that change is known. The Authority may then make a further evaluation of that Applicant or Contractor by applying the pre qualification criteria to the new information provided. In the event that the Authority's evaluation of the new information results in an outcome that is different from the original, the Authority reserves the right to deselect that Applicant from the process on those grounds and the Applicant shall be notified accordingly. As such, the Lead Applicant shall undertake to ensure that any change to its Consortium or sub-contractors shall not have a negative impact upon the arrangements.

If a Consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided. Where the proposed Lead Applicant is a special purpose vehicle or holding company, information should be provided regarding the extent to which it will call upon the resources and expertise of its members.

Please note that the Authority reserves the right to require a successful Consortium to form a single legal entity in accordance with Regulation 19 of the Public Contracts Regulations 2015.

With regard to criteria relating to educational and professional qualifications or to relevant professional experience, Applicants may only rely on the capacities of other entities where those entities will perform the services for which these capacities are required.

Where an Applicant relies on the capacities of other entities with regard to criteria relating to economic and financial standing, the Authority may require that the Applicant and those entities be jointly liable for the execution of the Contract.

The Authority may require that certain critical tasks be performed directly by an Applicant itself or, where a Bid is submitted by a group of economic operators, by a participant in that group.

## **2.7 Ownership**

The procurement documentation and all copies thereof are and shall remain the property of the Authority and save for the purposes of the Bid, must not be copied or reproduced in whole or in part and must be returned to the Authority upon demand.

## **2.8 Discrepancies, Omissions and Enquiries concerning the Documents**

Should the Applicant find discrepancies in, or omissions from, the documents, the Authority shall be immediately notified by the Applicant.

Should any additions or deletions arising from such notification, or in the event that the Authority requires an amendment to be made, these will be issued by the Authority to Applicants and will be deemed to form part of the documentation.

The Authority reserves the right to extend any date of Submission accordingly.

The Authority reserves the right to issue amendments or modifications to the ISIT Documents during the ISIT Period. Any such amendments will be issued to all Bidders simultaneously and Solutions will be assumed to take account of any such modifications and amendments arising from

dialogue.

## **2.9 Contract Terms and Conditions**

The applicable Contract terms and conditions can be found in Volume 3. Applicants will be required to declare that they have read and understood and will comply with said clauses as part of the Submission process. There is the opportunity to mark these up and provide commentary on the contract as part of the Bid Submission

## **2.10 Clarification**

All requests for clarification and further information shall be submitted via the **Pro Contract Portal and no later than 12:00 noon on XYZ 2020** **Telephone enquiries will not be accepted.** Tenderers shall not otherwise make contact with any Member, employee or agent of the Authority in connection with the Project unless instructed by the Authority.

Applicants should note that all questions, requests for clarification and further information and the Authority's responses thereto will be provided to all Applicants. Where a question is of a commercially confidential nature and the Applicant does not wish it or the associated answer to be shared with other Applicants, the Applicant should clearly state this. The Authority will consider any such request and where it reasonably considers that the question cannot be answered confidentially bearing in mind the need for transparency and to treat bidders equally, it will invite the Applicant to either withdraw the question or for it to be treated as not confidential and if the Authority does not receive a response within 3 Business Days it will treat the question as withdrawn. The identity of Applicants raising any questions will remain confidential.

Any instruction by the Authority prior to the due date will be issued to all Applicants via the portal

If during the period the Authority issues any circular letters to Applicants in order to clarify or alter part of the documents then such circular letters shall form part of the Contract and Applicants shall be deemed to have taken account of them in preparing their Bid. Applicants shall promptly acknowledge any circular letters that they receive.

## **2.11 Completion of the Document**

For the avoidance of doubt all of the requirements identified in this Volume in accordance with section 6 must be submitted by the Applicant in order to be considered by the Authority as a fully complete and official Bid.

Any Bids made omitting any of the sections, or any of the requirements therein, will be considered as incomplete and will be treated as such.

Documents should only be completed and submitted in the format in which they currently appear. It is essential that Applicants do not re-format or re-brand any of the procurement documentation in accordance with their own standards on formatting. An example of this is if the documents are issued in Microsoft Word format, the Authority requires them to be returned in the same format.

All entries such as rates, price totals or any other endorsements entered must be typewritten in English.

Applicants will answer all appropriate questions and sign (if possible) where specified. You may

continue on a separate sheet where permitted to do so. Applicants will clearly reference its replies and any supporting documentation.

Any pro-formas must be fully completed even if your organisation has previously submitted information. It is not sufficient to cross-refer to previous responses.

## **2.12 Consistency of Information**

Authority are relying on the information provided by Bidders in response to the SQ and the initial stage of Competitive Procedure with Negotiation. If, at any time prior to the submission of the Bid or during the ISIT Period, there are any material changes to the same, the Bidder must advise the Authority as soon as practicable (even if this is prior to the submission of the Bid).

The Bidder must confirm in the Bid that any statement made in response to the SQ remains true and accurate in all material respects, save as specifically disclosed in the Bid.

The Authority reserves the right to return to any matters raised at Pre-Qualification as part of the dialogue process, where circumstances have changed in some material respect.

## **2.13 Return of Documents**

Documents must be returned in accordance with the Submission requirements.

**Submissions must be uploaded to the XYZ Portal by no later than 12:00 noon on XYZ 2020. (Submission date to be confirmed after initial Q&A Sessions)**

Submissions must be received in advance of the deadline in order to qualify as timely offers. As such, Applicants are urged to make their Submission well in advance of the stated deadline in order to avoid such issues as technical difficulties with the electronic system that may be due to the high volume of traffic attempting to submit offers, for example.

Submissions made after the date and time specified on the documents or to a different address, electronically or otherwise, will not be considered under any circumstances.

## **2.14 Applicant's Warranties**

In submitting their Bid the Applicant warrants and represents and undertakes to the Authority that it has not done any of the acts or matters referred to in Regulation 57 of the Public Contracts Regulations 2015 and has complied in all respects with the requirements;

it has full power and authority to enter into the Contract and provide the Goods/Works or Services and will if requested produce evidence of such to the Authority;

it is of sound financial standing and the Applicant and its partners, directors, officers and employees are not aware of any circumstances (other than such circumstances as may be disclosed in the audited accounts or other financial statements of the Applicant submitted to the Authority) which may adversely affect such financial standing in the future.

## **2.15 Non Submission**

If no offer is to be made, this must be indicated via email. In order that the Authority can better understand its supplier base, the Applicants' comments regarding the reasons behind its non-

Submission must be provided.

## **2.16 Rejection of Offers**

The issue of this ISIT in no way commits the Authority to award any Contract pursuant to the bidding process.

The Authority are not bound to accept the lowest or any Bid and the Authority reserves the right to accept any Solution either in whole or in part or parts.

Nothing in this ISIT shall oblige the Authority to award a contract and the Authority shall be able in their sole discretion to withdraw from negotiations at any stage.

The Authority reserves the right, subject to relevant legislation, at any time to reject any Solution and/or to terminate discussions or negotiations with any one or more Bidders.

The Authority reserves the right to disqualify any Bidder who makes material changes to, or (in the Authority's opinion) a material change takes place in respect of, any aspect of either its pre-qualification submission or Solution unless substantial justification can be provided to the satisfaction of the Authority.

The Authority may at its absolute discretion refrain from considering or reject a Bid if: it is incomplete or vague or is submitted later than the prescribed date and time; or it is not in accordance with the approved format and all other provisions of the documents or is in breach of any condition contained within it.

Any Submission in respect of which the Applicant

has directly or indirectly canvassed any Official, Member or Officer of any of the Authority or obtained information from any other person who has been contracted to supply Goods or provide the Service or Works to the Authority concerning the award of the Contract or who has directly or indirectly obtained or attempted to obtain information from any such Official, Member or Officer concerning any other Applicant; or

fixes or adjusts the prices by or in accordance with any agreement or arrangement with any other person; or

communicates to any person other than the Authority the price or approximate price except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the bid or for the purposes of insurance or financing; or

enters into any agreement with any other person that such other person shall refrain from submitting an offer or shall limit or restrict the prices to be shown or referred to by another Applicant; or

offers to agree to pay to any person having direct connection with the procurement process or does pay or give any sum of money, inducement or valuable consideration, directly or indirectly, for doing or having done or causing or having caused to be done in relation to any other Applicant or any other person's proposal, any act or omission.



shall not be considered for acceptance and shall accordingly be rejected by the Authority provided always that such non-acceptance or rejection shall be without prejudice to any other civil remedies available to the Authority or any criminal liability which such conduct by an Applicant may attract.

## **2.17 Acceptance of Offers**

The Authority reserves the right to award the business in whole to one (1) Applicant, in part to more than one (1) Applicant or to make no award at all.

## **2.18 Award of Contract**

The successful Applicant shall conclude a formal Contract with the Authority, which shall embody the Applicant's offer. No Applicant may consider itself successful unless and until a formal Contract has been signed by a Duly Authorised Officer of the Authority and co-signed by the Applicant's Authorised Officer.

The offer shall remain open for acceptance for a period of twelve (12) months from the closing date for the receipt of Submissions.

## **2.19 Transfer of Staff**

The Authority believes that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will apply to this Project.

The effect of TUPE is that those employees of the current service providers (including employees of the Council) employed in delivering a service which is the equivalent of a service to be provided pursuant to the Project will become employees of the Contractor on their existing terms and conditions of employment (except with regard to pensions). These could be employees who were originally transferred from the Authority or employees of the current service providers working alongside them.

The Authority holds details of the relevant staff employed by the Authority and the current service providers. For data protection reasons, this information has not been uploaded to the Attachments Area. Bidders must make a written request for this information via the South East Business Portal. When doing so, a duly signed copy of the 'Confidentiality Undertaking in Respect of Employee Information' must be provided. This document can be obtained from the attachments area.

Under TUPE, there is an obligation to consult with employee representatives (in this instance, the representatives of the recognised trade unions), about any measures the Service Provider envisages taking in respect of the staff after the transfer.

Bidders are advised to seek their own professional advice in order to form their views on the implications of TUPE and should specify the view that they have taken as to these within their Bid/s giving their reasons.

## **2.20 Pensions**

Details of the current pension scheme are included in the TUPE information.

In relation to pension benefits, all employees who transfer their contract of employment under the terms of the Project and who are members of, or are entitled to be members of the Authority's pension scheme, must (as a minimum) be offered continued membership of the Authority's

pension scheme under the terms of an admission agreement or:

A broadly comparable pension for future service, both on the initial transfer, and on any second and subsequent transfer. The Government Actuary's Department ("GAD") must certify that the benefits offered are broadly comparable; and

The option to move any accrued credits to the new scheme by means of a bulk transfer on a day for day past service credit basis.

The costs of obtaining the Certificate of Broad Comparability from the GAD and any Independent Actuary's fees are to be borne by the Contractor.

In the case of new recruits taken on to work on the contract beside transferees the Contractor will need to provide as a minimum one of the following pension arrangements:

membership of a good quality employer pension scheme, either being a contracted out, final-salary based defined benefit scheme, or a defined contribution scheme. For defined contribution schemes the employer must match employee contributions up to 6%;

a stakeholder pension scheme, under which the employer will match employee contributions up to 6%.

## **2.21 Publicity**

Bidders shall not undertake (or permit to be undertaken) at any time, whether at this stage or after any contract award, any publicity activity with any section of the media in relation to this Project other than with the prior written agreement of the Authority. Such agreement shall extend to the content of any publicity. In this section the word "media" includes (but without limitation) radio, television, newspapers, trade and specialist press, the Internet and e-mail accessible by the public at large and the representatives of such media.

### 3. General Information

#### 3.1 Procurement Procedure

This ISIT is issued to those Bidders shortlisted to participate in negotiation by the Authority to provide Leisure Management Services, their professional advisers for the sole purpose of preparing a Bid for this Contract and for no other purpose.

This ISIT sets out how the Authority will conduct the detailed dialogue process to enable the Authority to select a Preferred Bidder(s) and subsequently award a Contract for the Project.

The ISIT is made available on condition that it is used in connection with the Solution and for no other purposes.

The Authority are deploying the Competitive Procedure with Negotiation procedure under the Public Contracts Regulations 2015 and Bidders are referred to these 2015 Regulations. The aim of this is to identify and define the means best suited to satisfy the Authority's needs. The Council has set a series of minimum requirements they are seeking within the documents and a number of areas they wish to dialogue once the bidders have submitted their initial proposals. The Dialogue will centre on those areas of the procurement in respect of which the Authority's wishes to explore a range of possible Solutions to meet its needs. In particular this is likely to include

- Contract length – to consider potential increases in contract length to provide better value for money
- Customer pricing – to review opportunity for increased management fees through increasing customer pricing
- Additional capital investment for the Leisure Centres to include potential investment in the facilities to deliver a commercial return
- Maintenance responsibilities to consider the split in responsibility between the Council and the operator

#### 3.2 Procurement Timetable

The Authority proposes the following timetable for the award of the Contract(s), based on the timetable from ISIT:

Issue of ISIT to Bidders	April 2020
Initial Dialogue (pre-Submission dialogue with Bidders)	April 2020
Selection of shortlist	July 2020
Invite Final Tenders	August 2020
Contract award	November 2020
Mobilisation	November 2020 – March 2021
Service Commence	April 2021

The Authority reserves the right to change the above timetable and Applicants will be notified accordingly if there is a change.

#### 3.3 Authority Representatives

No person in the Authority's employ or other agent, except as so authorised by the Authority Authorised Officer or Procurement Representative, has any authority to make any representation or explanation to Applicants as to the meaning of the Contract or any other document or as to anything to be done or not to be done by Applicants or the successful Applicant or as to these

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instructions or as to any other matter or thing so as to bind the Authority.

### 3.4 Applicant Site Visits

The Applicant may visit the sites prior to completing its offer to ensure that it is fully familiar with the site locations. The information in the attached schedules is given as an indication of the general requirements of the Contract. Claims on the grounds of lack of knowledge of site locations/conditions will not be accepted by the Authority

Should the Applicant wish to visit the sites as part of its preparation it must contact the Authority in advance via the email provided. Applicants will only be permitted to access the sites by pre-arranged appointments with the Authority. Representatives of the Authority may accompany Applicants during the site visit/s. The Authority may limit the number of visits that an Applicant may make.

### 3.5 Authority Site Visits

The Authority reserves the right to pay a site visit to short listed Applicant's premises and/or exemplar site/s at which it performs the service required under the Contract.

Short listed Applicants may or may not be contacted to be made aware that a site visit will take place. Any notification that is made will detail the date, time and details of those Members/Officers that are anticipated to attend.

Applicants grant access to any premises requested to be visited by the Authority within that allocated time period.

Site visits will not form part of the evaluation of Solutions.

### 3.5 Background Information

The Descriptive Document which comprises Volume Two (2) to this ISIT sets out the background to this Project.

### 3.6 Contract Period

Contract period to be up to a period of 25 years subject to termination clauses contained with the Contract terms and conditions. The Authority may consider shorter or longer terms subject to dialogue

### 3.7 Insurance Levels

Insurance	Minimum Indemnity Level*
1. Public Liability	£25,000,000
2. Employers Liability	£10,000,000

\*The minimum indemnity levels stated are based on the assumption that the Authority shall award a Contract for the whole of the Services set out in the Specification. Should a Contract/s be

awarded for only part of the Services, the Authority may, at its sole discretion, reduce the minimum indemnity level.

### **3.8 Parties to the Contract**

The parties to the resultant Contract shall be South Somerset District Council and the successful Contractor.

### **3.9 Pro Contract Portal – ‘Attachments Area’**

The ‘Attachments’ area, which can be accessed from within the Portal, contains information/documentation relevant to the Project that may be added to during the procurement process.

The Authority shall add documents to the Attachments area as and when appropriate and provide a master sheet of all documents included, which will be updated and redistributed each time that a document/s is added.

Applicants shall be responsible for ensuring that they keep abreast of any additions to the Attachments area as well as any revisions to versions of any documents already provided. Claims on the grounds of lack of knowledge of information relevant to the Project will not be accepted by the Authority.

Whilst the information in the Attachments area has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. The Authority does not accept any liability or responsibility for the adequacy, accuracy or completeness of such information. The Authority does not make any representation or warranty (express or implied) with respect to the information contained in the Attachments area.

Applicants must make their own independent assessment of the information after making such investigation and taking such professional advice as it deems necessary.

### **3.10 The Contract**

The Successful Bidder will be expected to take over the provision of all the Services specified in the Specification from the Commencement Date, which is expected to be following a short period for mobilisation after award.

The Authority are seeking to award a contract for the delivery of the provision of Services, to include the investment in, operation and management of the Facilities set out in Volume Three (3) Agreement and Schedules.

It is the Authority intention to refine the scope of the Services through dialogue.

## **4. ISIT Documentation**

### **4.1 The ISIT Documents**

The ISIT documents comprise four (4) Volumes. These are:

- Volume 1: Instructions and Guidance to Bidders (“the Instructions”).
- Volume 2: The proposed Output Specifications and related Schedules which set out the Authority’s requirements
- Volume 3: The draft Agreement and Schedules to be entered into by the Authority and the Contractor.

together referred to in this ISIT as the “ISIT Documents”.

The ISIT Documents set out the Authority’s current requirements in respect of the Project. In the event of any inconsistency, the ISIT Documents and enclosures will take precedence over any documents previously issued by the Authority.

### **4.2 Output Specification**

Volume Four (4) The Output Specification sets out the Authority’s requirements, including the scope of the Services and required outcomes for the Services. It is intended that the Specification will form a Schedule to the Agreement.

Bidders are required to submit a series of Method Statements to set out how they propose to meet the requirements of the Output Specification. Details of the Method Statements required as part of this ISIT are given in these Instructions.

### **4.3 Agreement**

The Agreement (Volume Three (3)) sets out the Authority’s terms and conditions for the regulation of the Contract. It should be noted that the contract is provided in draft form at this stage and will be subject to dialogue. The Authority may be open to amendments to the Contract.

The Authority aim is to enter into contractual arrangements substantially on the terms set out in the draft Agreement and Schedules. Amendments to these documents should only be proposed for project specific reasons. If Bidders wish to make any project specific amendments to these draft documents, then they should submit, with their Solutions, any proposed amendments to the draft documents in accordance with the detailed requirements for the submission of Solutions set out in this Volume One (1) Instructions and Guidance to Bidders.

Bidders should note that any proposed amendments to the draft Agreement will be one of the criteria taken into account in evaluating Solutions to the extent that they adversely affect the position of the Authority. Bidders should note that they are likely to be negatively marked for proposing any amendments to these documents which would expose the Authority to a greater level of risk or otherwise adversely affect its position save for when such proposed amendments are genuinely project specific amendments supported by strong project specific reasoning and are the minimum necessary changes to achieve the desired effect. Amendments to the contract document must be raised and agreed during the Dialogue period.

#### **4.4 Risk Allocation**

The Authority are seeking to achieve the optimal transfer of risk and responsibility to the Contractor whilst recognising and taking into account the fact that certain risks are best retained by the Authority, or shared between the Authority and the Contractor. The Authority is keen to discuss these risks during dialogue.

#### **4.5 Best Value Obligations**

Best Value is a key element of the Government's programme for Local Government. The legislative framework in place requires Local Authorities to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

#### **4.7 Bidders**

The membership of any Bidder, and the principal relationships between the members, may be changed only with the prior consent of the Authority. The Authority reserves the right to determine whether or not to continue with the evaluation of a Solution, and whether or not to enter into a Contract with a Bidder, where there has been a change in the ownership of the Bidder (direct or indirect) or a change in the principal relationships between the members.

#### **4.8 Bidding Costs**

Each Bidder will bear its own costs of bidding, of taking part in the Competitive Procedure with Negotiation and (if awarded Preferred Bidder status) of clarification, specification and optimisation.

The Authority reserves its position as to whether or not it will enter into contractual arrangements and Dialogue, and the submission of Solutions, will be entirely at the Bidders' risk.

The Authority shall bear no liability whatsoever for the outcome of the Competitive Procedure with Negotiation and shall not be liable for the costs of Solutions' preparation, presentation, due diligence, clarification, fine-tuning, or any loss of profit or other economic loss incurred by Bidders as a result of this competitive process whatsoever.

#### **4.9 Surveys, Inspections and Investigations**

It is expected that Bidders will carry out surveys and site investigations of the Facilities. Insofar as the Bidder seeks to place any reliance on the Information relating to the Project then the Bidder shall satisfy themselves as to the accuracy of such Information by carrying out such tests, surveys, site investigations and such as the Bidder shall deem necessary

Such surveys, inspections and investigations as the Bidders carry out shall be at their own cost.

#### **4.13 Confidentiality and Fair Competition**

The Authority intend to conduct the dialogue in a way which is fair, transparent and does not risk distorting competition nor unfairly discriminates for or against a Bidder. Accordingly, the answers to questions raised by Bidders shall be disclosed to all other Bidders unless both the questions and answers relate only to the solution proposed by the Bidder asking the question and is commercially sensitive.

In accordance with Regulation 21 of the 2015 Regulations, the Authority will not reveal to another Bidder in the dialogue phase a solution proposed by a Bidder without that Bidder's consent. It is imperative that Bidders are clear in every response given to the Authority the extent to which it is

commercially sensitive and/or confidential. Such statement should be well constructed, thought out and meaningful and not simply a sweeping statement that covers matters clearly in the public domain.

Proposals put forward by one Bidder will not be disclosed to others and all Initial Tenders will be treated confidentially. However, it should be recognised by Bidders that ideas they have are not necessarily unique to them and may have been considered by the Authority or other Bidders. Accordingly, while treating all Bidders equally and fairly, the Authority reserves the right to explore with all Bidders ideas and proposals which are topics in the public domain (in the specialist media for example) notwithstanding that the idea or solution already appears in the proposals of one Bidder.

The Information in this ISIT is being made available by the Authority on condition that:

Bidders shall at all times treat the Information as confidential;

Bidders shall not (or allow anyone else to) disclose, copy, reproduce, distribute or pass the Information to any other person (other than a Bidder Party) at any time;

Bidders shall not use the Information for any purpose other than for the purposes of submitting (or deciding whether to submit) a Solution;

Bidders shall comply with the provisions of these instructions (which contains restrictions on publicity activity within any section of the media); and

Bidders shall ensure that each of its Bidder Parties to the bidding consortia who receives any of the Information is made aware of, and complies with the provisions of, this section as if it were a Bidder.

Bidders may disclose, distribute or pass Information to another person if either:

this is done for the sole purpose of enabling a Solution to be made and the person receiving the Information undertakes in writing to the person providing the Information to keep the Information confidential on the same terms as set out in this paragraph; or

the Bidder obtains the prior written consent of the Authority in relation to such disclosure, distribution or passing of Information.

The Authority may disclose detailed information relating to Solutions to the Authority's members, directors, officers, employees, agents or advisors and the Authority may make the key Project Documents available for private inspection by the Authority's members, directors, officers, employees, agents or advisors.

The Authority also reserves the right to disseminate information that is materially relevant to the Project to all Bidders, even if the information has only been requested by one Bidder, subject to the duty to protect any Bidder's commercial confidence in its Solution. Should Bidders wish to avoid such disclosure (for example, on the basis that the request or response contains commercially confidential information or may give another Bidder a commercial advantage) the request must be clearly marked "In confidence – not to be circulated to other Bidders" and the Bidder must set out the reason(s) for the request for non-disclosure to other Bidders, which the Authority will then



consider. The Authority will consider each such request for non-disclosure on its merits, and in particular whether any regulations or considerations of probity require it to be denied. Where the Authority decides that the question or request, and their response, cannot be withheld from circulation, the Bidder will have the opportunity to withdraw the question or request, or otherwise to represent it in a different format. The Bidder must, as soon as practicable thereafter, respond in writing requesting that either the request be withdrawn or treated as not confidential. The Authority will deem that the request for clarification has been withdrawn if the Authority is not contacted within three (3) Business Days following informing the Bidder as referred to above.

The Authority will act reasonably as regards the protection of commercially sensitive information relating to the Bidder in the light of the latest published guidance on this area.

## **5. Instructions and Explanation of Bids Required**

### **5.1 General**

This section provides Bidders with instructions, details of the form and content of Bids that are invited and other administrative requirements for the Bid process. It sets out:

- The number and type of Bids which Bidders may make
- The minimum information requirements to be included in Bids.

This section also sets out the procedural requirements with which Bidders must comply when submitting Bids in order for their Bids to be considered by the Authority. The process has been structured in the way that it has in order to:

- Assist the Authority in choosing the Bid (or Bids) which will be most economically advantageous to the Authority having regard to the Authority's stated objectives
- Assist the Authority in determining whether the chosen Bid (or Bids) represents value for money
- To enable Bidders to submit different pricing options based on the scenarios outlined in the pricing schedule and this ISIT;
- To make clear the requirements with which Bidders must comply and the basis on which the Bids will be evaluated
- To maintain Dialogue throughout.

If a Bidder does not comply with any of the requirements contained in this section the Authority may (in their sole discretion) disqualify the Bid of that Bidder.

### **5.2 Number, Type and Content of Bids**

Following the evaluation of SQ responses, the Bidders who have qualified as candidates for the tender stage of the procurement are invited to submit Initial Tenders for dialogue.

The Authority does not bind itself to accept any tender. At the Authority's sole discretion, the Authority may accept the whole or part of any Tender.

Within section 5.6 further detail is provided on the Bids and also sub options for each of the bids.

The Bids should be submitted in accordance with the bid requirements in this Volume One (1) Instructions and Guidance to Bidders.

The Authority shall only evaluate Bids which meet all minimum requirements set out by the Specification and/or Section 5.6, below.

Each such Bid shall be submitted in separate volumes, with each page numbered consecutively. Each volume shall contain a 'contents' list for that volume. Any drawings included with a Bid shall be numbered and a drawing list shall be included as part of the contents list.

Bidders must include, when submitting their Bids, all of the information requirements set out in this

## Volume One (1) Instructions and Guidance to Bidders.

Where method statements, documents and drawings are common to the pricing options they need to be produced once.

Bids should be as concise as possible, whilst providing sufficient information to enable the Authority to evaluate Bids in accordance with this ISIT.

Any Bid submitted will be regarded as unconditional and capable of acceptance. Bidders must therefore involve their own, and their funders', legal, technical and financial advisors prior to the submission of the Bids. The Authority reserves the right to decline to conduct any further Dialogue following the submission of Bids.

Bidders must also notify the Authority of any change to any responses provided in its SQ submission. The Authority reserves the right (with no liability on its part), to disqualify any Bidder whose standing changes in a material way from their SQ.

### **5.3 Submission of Bids**

Bids shall be submitted in accordance with the Submission requirements detailed comprehensively throughout this Volume One (1) Instructions and Guidance to Bidders.

### **5.4 The Bids**

The Authority invites bids in the format set out in section 5.6 below.

A Bid must indicate whether it accepts all of the terms of the draft Agreement or outline proposed amendments (in accordance with section 4.3), based on the services specified, the required level of performance, and the risk transfer that the draft Agreement assumes. Bidders will be required to confirm as part of their Bid that they accept all of those terms or have proposed amendments.

For a Bid to be considered by the Authority, the Bidder should ensure that its Bid is compliant with all the minimum requirements set out in section 5.6 and assumptions set out in these Instructions (except to the extent that the Authority issues specific instructions to Bidders after the date of issue of this ISIT that any minimum requirements or assumptions are to be amended or disclaimed, in which case the Bid must comply with such amendments).

Failure to provide the information in accordance with part 6 may lead to the Authority rejecting the Bidder's submission.

If Bidders believe that they can only submit a sustainable Bid with certain qualifications to the draft Agreement, Bidders may propose amendments to the draft Agreement to the minimum extent necessary. Bidders should note, however, that the Authority's strong preference is for an unqualified Bid and that accordingly any such qualifications will be taken into account in the evaluation of Bids and in subsequent stages of dialogue.

### **5.5 Capital Development**

In relation to any capital developments included within the Bid, it is envisaged that a contractual project approval process will be incorporated into the Contract to take account of any future developments that may need to be finalised post Contract award.

With regard to all capital development proposals Bidders will be required to provide technical submissions based on concept designs to RIBA Stage 2 that meet the requirements set out in the relevant Capital Development Requirements schedule with full consideration of environmental and sustainability proposals.

Bidders will be asked to provide the capital cost and net revenue impact of each Capital Development proposal, subject to a number of assumptions (which bidders should identify) including detailed design development and award of planning.

## 5.6 Pricing Options

As part of their Bids, Bidders are required to provide pricing options based on the scenarios set out in section 5.6

## 5.6 Bid Requirements

Note: For clarity we have identified the requirements which set out the basis on which bidders should make their bids. These are to enable bids to be compared on a like for like basis

Bid	Requirements
Mandatory Solution (MS)	<ul style="list-style-type: none"> <li>• Operation of the leisure centres to include the new Chard Leisure Centre</li> <li>• Investment in refurbishment and development of the Centres.</li> <li>• 15 Year Contract Term</li> <li>• Bidders should identify any potential additional investment which can deliver additional commercial return.</li> <li>• Full Repair and Renewal responsibilities</li> <li>• TUPE will apply and existing staff at the Leisure Centres will transfer to the new operator.</li> </ul>
Mandatory Pricing Options	<ul style="list-style-type: none"> <li>• Exclusion of the Chard Leisure Centre</li> <li>• Inclusion of Yeovil Recreation Centre</li> </ul>
Optional Pricing Options	<p>The bidder can submit any additional variant bids which provide added value to the Council and deliver either an improved service or better value for money. In particular some of the areas which the Council has identified as possible added value items include</p> <ul style="list-style-type: none"> <li>• Differing contract terms (either longer or shorter)</li> <li>• Different risk profiles, such as life cycle costs</li> <li>• Different prices to customers</li> </ul>

## **6. Detailed Bid requirements**

### **6.1 Bid Requirements**

This section sets out the general and detailed information on service delivery and technical, financial and commercial, and legal and contractual issues, which the Authority requires from Bidders as part of a Bid.

### **6.2 General Requirements**

Bids should contain all of the information as set out in this section and be submitted in four (4) separate sections as set out below:

- Executive Summary
- Technical Capacity
- Cost
- Other Commercial.

Bidders shall submit copies in accordance with the instructions in this Volume One (1) Instructions and Guidance to Bidders.

Each section of the Bid Solution shall:

- be page numbered consecutively and have a contents list;
- have the name of the Bidder and the section and sub-section reference clearly indicated at the top of each page of the Solution;
- clearly identify whether there have been changes in the information supplied by the Bidder to the Authority at any time previous to the submission of the ISIT, such changes should be disclosed in full; and
- include the relevant method statements as provided in the list of method statements, included in these Instructions.

The Authority will evaluate compliant bids against the Evaluation Criteria and generate a quality and price score for each asset.

The Authority intends to shortlist to a maximum of three bidders to submit final tenders to participate in the next stage of dialogue and subsequently award a contract to the bidder who scores highest overall score against the Evaluation Criteria for each asset or combination of assets. The Authority reserves the right to accept the whole or any part of any tender.

### **6.3 Detailed Solution Requirements: Executive Summary**

Bidders must include when submitting their Initial Tenders the following:

An executive summary which includes:

The name of the legal organisation;

Contact names, numbers and descriptions of roles of all relevant persons within the

Bidder's team;

Clear indication of how the management structure of the Bidder will supervise, organise and manage the Contract and the details of any proposed sub-contractors proposed to deliver the Services and how the sub-contractors will be managed; and

Clear indications of the reporting and monitoring structure in relation to the Contractor and the Authority.

Details of any material changes to the Bidder's response to the Pre-Qualification Questionnaire (including any details previously disclosed to the Authority) or confirmation that there are no such changes.

Completed Pricing Tables.

Confirmation of the Bidder's willingness to provide a Guarantee and/or a Bond.

Initial Tenders may offer a range of options, provided that it can be demonstrated that the proposals are fully capable of meeting the Authority's stated aims and objectives and targets. The Initial Tenders must also demonstrate compliance with foreseeable Legislation.

#### **6.4 Detailed Solution Requirements: Technical Capacity**

The Authority wants to encourage innovation by Bidders in the formulation of their proposals for the Services, within the constraints set out in the ISIT documents, to deliver better value for money solutions.

Volume Four (4) Output Specifications set out the Authority's requirements in relation to the Services.

Applicants must provide the Method Statements set out below to illustrate in practical terms how it intends to deliver the Services over the Contract Period in accordance with the Specification.

The Method Statements will be assessed as part of the evaluation of Initial Tenders and the Successful Bidder's proposals, when agreed following the dialogue phase, will be incorporated into the Contract and become contractually binding on both parties. The Method Statements should therefore be written in a manner that allows them to be incorporated into the Contract (and any drafting which is not intended to be incorporated in to the Method Statement should be clearly highlighted).

The Method Statements required by the Authority are as set out below. Each Method Statement will be evaluated in accordance with the Criteria for Assessing Score (see section 7.5). A maximum of 5 marks is available for each Method Statement submission. The weightings set out in the Evaluation Criteria (and confirmed below for ease of reference) will be applied to the unweighted scores.

Method Statement (MS)	Requirements	Weighting
<b>MS1 - The Outcomes</b>	<p><b>Outcomes Delivery Plan and Service Development Plan</b></p> <p>Bidders are required to show an understanding of the Authority's strategic outcomes and objectives and to provide evidence in the Method Statements and Initial Tenders to show ability to meet all the requirements of the Specification. Bidders shall set out how they will work with the Authority to achieve the Authority's strategic outcomes and address the service outcomes as set out in the Specifications. The proposals shall include examples of mechanisms adopted which show successful working in partnership with local authorities, health partners, local communities and stakeholders/members.</p> <p>Bidders should also provide draft outcomes delivery plan and service development plan as per the specification.</p>	<b>10%</b>
<b>MS2 Annual Marketing Plan</b>	<p><b>Annual Marketing Plan</b></p> <p>Bidders shall submit draft proposals for marketing to demonstrate how they will meet the requirements and standards set out in the Specification. In particular the marketing proposals shall set out how the proposed participation levels will be achieved.</p>	<b>5%</b>
<b>MS3 - Participation Targets</b>	<p>Bidders shall provide details of how they propose Participation Targets are to be met and increased through programming and systems. The proposals shall meet the requirements as set out in the Specification.</p>	<b>5%</b>
<b>MS4 – Quality Accreditation and Customer Care</b>	<p>Bidders shall demonstrate how they would maintain any quality accreditation requirements. The proposals shall include how performance is monitored and measured.</p> <p>Bidders shall submit proposals of their Customer care policies and standards required in order to meet the Specification. This shall include dealing with Customer Complaints, Customer satisfaction and non user research.</p>	<b>5%</b>
<b>MS5 – Opening Hours, Programming and Pricing Requirements</b>	<p>Bidders are required to demonstrate that they will meet the Authority's Opening Hours in the Specification and as applicable propose any additional opening hours/extended hours.</p> <p>Bidders are required to demonstrate how they plan to programme the facilities and deliver on the requirements in the Specification.</p> <p>Evidence of understanding of the Authority's maximum pricing structure and discount schemes should be demonstrated. Bidders are required to propose detailed pricing structures and evidence their proposals to show they are realistic and marketable.</p>	<b>5%</b>

Method Statement (MS)	Requirements	Weighting
<b>MS6 – Staffing</b>	<p><b>This Method Statement should be divided into the following sections:</b></p> <p><b>Management Structures:</b> Bidders shall provide details of appropriate staffing levels and management structure in order to demonstrate the organisation, qualification and experience of staff who will be assigned to perform the contract. The proposals should meet the requirements set out in the Specification. Details of proposed staff should be set out to include the name of the proposed Contract Manager and other senior staff members together with details of relevant experience. This should include a diagrammatic structure together with numbers of staff at all levels. Bidders should clearly identify where they propose to change the structure from the existing.</p> <p><b>Staffing Proposals</b> Bidders shall set out the proposed staffing levels together with policies for staffing. This shall include specific qualification requirements, duties, competency and responsibilities for staff delivering the services.</p> <p><b>Training Recruitment and Retention</b> The Method Statement should include details of training proposals, recruitment to show evidence of trying to advertise positions locally as well as more widespread and policies aimed at retaining staff.</p>	<b>3%</b>
<b>MS7 - Maintenance</b>	<p><b>This Method Statement should be divided into the following sections:</b></p> <p><b>Building Maintenance:</b> Bidders should set out how they will meet the requirements as set out in the Specification. Bidders should show an understanding of the allocation of maintenance responsibilities as set out in Appendix 6 of the Specification. Details of planned preventative maintenance and reactive maintenance responsibilities should be set out.</p> <p><b>Life Cycle Maintenance</b> Bidders should identify how they will approach the life cycle maintenance of the facilities</p>	<b>5%</b>
<b>MS8 - Health and Safety Management</b>	<p>Bidders are required to prepare a Method Statement setting out how the Bidder proposes to manage all health and safety issues at the Facilities in order to meet the performance standards set out in the Specification and show how these will be met through their management procedures, audits and inspections. Details of reporting procedures should also be included.</p>	<b>2%</b>
<b>MS9 – Facility Management</b>	<p>Bidders are required to demonstrate how they will deliver facility management services for the facilities as set out in the Specification and should include cleaning, environmental management, equipment and catering.</p>	<b>3%</b>
<b>MS10 - Mobilisation and TUPE</b>	<p>Bidders should provide their approach to TUPE within their submission and also their approach to the mobilisation of the Contract, setting out their proposed consultation process with staff, approach to pensions, transfer of equipment and assets, mobilisation plan.</p>	<b>2%</b>



<b>Method Statement (MS)</b>	<b>Requirements</b>	<b>Weighting</b>
<b>MS11 – Investment Proposals</b>	Bidders are required to provide details of any investments they propose at the facilities as set out below in capital proposals. This should include any refurbishment of the existing leisure centres and new facilities they would propose.	<b>5%</b>
<b>MS12 – Social Value</b>	Bidders are required to provide details of how they will deliver social value in accordance with the requirements set out in the specification and the Council's approach to Social Value.	<b>5%</b>
<b>MS13 - Affordability</b>	Bidders should complete the pricing tables and provide any key financial assumptions underpinning the tables. This method statement will be assessed in accordance with the affordability calculation set out in the evaluation section.	<b>25%</b>
<b>MS14 – Business Plan Delivery</b>	Bidders should provide a method statement setting out how they propose to ensure that the financial projections are deliverable, identifying the rationale for the projections and ideally examples of where they have delivered similar projections	<b>10%</b>
<b>MS15 – Contract Acceptance &amp; Risk</b>	Bidders are required to provide a commentary table on any key changes they require to the contract, with the expectation that a full mark up will be required at ISFT	<b>10%</b>

## 6.5 Bid Requirements

Bids must contain written confirmation that any comments represent the views of all members of the Bidder's consortium.

A clear confirmation is required that the Bidder agrees with the Authority's proposed allocation of risk as embodied in the draft Agreement, or if it does not, an explanation of the qualifications and proposed amendments to the draft Agreement must be provided, in accordance with these Instructions.

A description of the key Contracts to be entered into by the Service Provider is required, together with a diagram defining the relationship between the various parties. Any Contracts proposed, inter alia, in respect of design, build/refurbishment/installation, commissioning, operation and maintenance, shall be entered into by the Service Provider prior to, or at the time of execution of the Contract.

A clear and detailed explanation of the structure of the Bid, clearly indicating which organisations will be shareholders in any special purpose vehicle and which organisations will act as funders, advisors and sub-contractors.

Details of any material changes to the Bidder's response to the Pre-Qualification Questionnaire (including any details previously disclosed to the Authority) or confirmation that there are no such changes.

## 6.6 Detailed Solution Requirements: Cost

### ***Capital Proposals***

For all Capital Development proposals Bidders should provide:

Outline plans of the proposed development to include as far as possible how the functional areas relate to each other and calculations of floor area.

Project plan for the delivery of the capital programme commencing from 1 April 2018 (when the Contract is expected to be awarded);

A risk analysis of the proposed development identifying key risks associated with the development and how these would be proposed to be overcome, including planning, site and design risks;

An understanding of how you would approach planning (if required) and any issues that there may be with planning for any development;

A capital cost for the development including all assumptions used in developing the capital costs, any provisional sum items and including all fees, contingency sums, inflation, risks, etc; and

Income and expenditure projections for the capital developments, to include the funding of any capital based on the assumption that the Bidder will fund the capital. Bidders should also present the projections assuming that the Authority will fund the capital so the Authority can see the impact on the Management Fee through funding capital themselves.

### ***Price Proposals***

Set out at Appendix A of this ISIT are the guidance notes and key assumptions for completion of the pricing proposals. Bidders are required to complete the pricing tables in full.

### **The Draft Contract**

Set out in Volume 3 of this ISIT is the Authority's draft Contract which includes at Schedule 5 the Performance Monitoring System (both of these are within the Attachments Area). The Authority does not envisage substantial departure from the draft Contract.

If Bidders do decide to make any changes to the draft Contract, then they should submit any proposed amendments strictly in accordance with this paragraph. Bidders should note that such amendments should only be proposed for genuine reasons. At ISIT bidders should submit a commentary on the Contract and any key areas they would wish to change.

At ISFT bidders are expected to submit a mark-up of the draft Contract. Mark-ups should be submitted in a format which clearly highlights additions, deletions and movements to the original drafting in the draft Contract, for example Deltaview. Bidders should not utilise track changing.

Each drafting amendment to the draft Contract must also be accompanied by a separate commentary, which:

provides reasoning to support the proposed amendment or explains why the current drafting does not function; and

confirms what effect (if any) the proposed amendment will have in varying the price of the Bid.

Bidders should note that any proposed amendments to the draft Contract will be one of the criteria taken into account in evaluating Bidders Initial Tenders.

### **Contract Structure, Parent Company Guarantees and Bond**

As part of the Executive Summary Bidders should set out the structural organisation proposed for the provision of the Services. This shall include details of any sub-contracting proposals together with details of the sub-contractor and applicable sub-contractor undertakings and, where the sub-contractor is to provide a significant level of services, draft terms of appointment.

The Authority may require direct guarantees from the ultimate parent company to ensure that the Contractor is financially robust and properly secured.

Bidders are also required to price for the provision of a Bond.

### **6.7 Detailed Solution Requirements: Other Commercial**

#### **Insurance**

The Draft Agreement (Volume Three (3) Agreement and Schedules) requires the Service Provider to arrange insurance appropriate to a project of this type. The Service Provider will be required to take out and maintain insurance on the terms, and with insurers, acceptable to the Authority throughout the Contract period. The insurance schedule in the Draft Agreement is expected to be completed during this dialogue stage.

Bidders are required to disclose details of their insurance proposals as part of their Bids and to include premiums associated with such insurance cover in the Financial Model as a separate line. Details required to be submitted, as part of the Bid shall include:

- Assumptions used in the financial model
- The type and cost of each policy
- Indemnity limits, excesses and deductibles
- Details of any variations from the Draft Agreement.

#### **Legal and Contractual Requirements**

The Authority is seeking to achieve the optimal transfer of risk and responsibility to the Service Provider whilst recognising and taking into account the fact that certain risks are best retained by the Authority, or shared between the Authority and the Service Provider

### **6.8 Parent Company Guarantees**

The Authority may require direct guarantees from the ultimate parent company, associated companies, Funders or other entities to ensure that the Service Provider is financially robust and properly secured or alternatively may require a performance bond. Additionally, the Authority would expect the Service Provider to agree to enforce the guarantees where required. Bidders should note that the failure of a guarantor would be a termination event.

If the funding providers require guarantees from the ultimate parent company, associated companies or other entities then details of these requirements and confirmation from the body concerned that they are prepared and able to meet these requirements should be provided with the

Bid.

If guarantees are proposed, or deemed by the Authority to be necessary, the Authority will agree the format and terms during the dialogue stage.

### **6.9 End of Term Arrangements**

Following the expiry of the Contract, the Service Provider will be required to handover the Facilities to the Authority at nil cost and must ensure that the Facilities meets the hand-back requirements set out in the Draft Agreement.

## **7. Evaluation of Bid Submissions**

### **7.1 Introduction**

The Contract will be awarded under the Competitive Procedure with Negotiation of the Public Contracts Regulations 2015, and the Authority, in accordance with those regulations, intends to award a Contract to the Bidder offering the most economically advantageous tender for the Authority.

### **7.2 Evaluation Methodology**

This part of the ISIT provides guidance on the methodology that will be used for the evaluation of the ISIT Solutions. Pursuant to the Public Contracts Regulations 2015, Regulation 67 the Solutions will be evaluated on the basis of the most economically advantageous Solution for the Authority having regard to the criteria set out in this Volume One (1) Instructions and Guidance to Bidders.

Bidders will be scored only on the information contained within their Initial Tenders and only against the evaluation criteria in the Evaluation Model.

By applying the Evaluation Model (set out in 7.3 below) the Authority will select three (3) Bidders to proceed to the detailed dialogue stage (provided sufficient acceptable solutions have been received). The Authority reserves the right at its discretion to increase this number if circumstances warrant it (for example, Initial Tenders are unaffordable, they score very closely or if significant issues emerge leading to the Authority adding additional stages to the dialogue).

At this ISIT stage, each Bid will be checked initially for completeness and compliance with the ISIT. Clarification may be sought from Bidders in order to determine if a Bid is complete and compliant. Bids that are not substantially complete and/or compliant may be rejected.

### **7.3 Evaluation Criteria and Weightings**

The following criteria and weightings will be applied in the evaluation of the Initial Tenders and Final Tender stages (together with any other stages which are introduced during the dialogue process). Please note the scoring will be completed against tier 3 criteria, except if there is no tier 3 and then against tier 2, with reference to the table below.

Tier 1	Tier 1 Weighting	Tier 2	Tier 2 Weighting	Tier 3	Tier 3 Weighting	Basis of Evaluation
<b>Services</b>	55%	Delivery against Outcomes	25%	Outcome Delivery Plan & Service Development Plan	10%	MS1
				Marketing Plan	5%	MS2
				Participation Targets	5%	MS3
				Quality Accreditation and Customer Care	5%	MS4
		Operational Delivery	20%	Opening Hours, Programming & Pricing Requirements	5%	MS5
				Staffing	3%	MS6
				Maintenance Proposals	5%	MS7
				Health & Safety	2%	MS8
				Facility Management	3%	MS9
				Mobilisation and TUPE	2%	MS10
		Investment Proposals	5%			MS11
		Social Value	5%			MS12
<b>Commercial</b>	45%	Affordability	25%			MS13
		Business Plan Delivery	10%			MS14
		Contract Acceptance	10%			MS15

## 7.4 Evaluation Panel

The Authority has established an Evaluation Panel which will conduct the evaluation of the Bids.

The evaluation of the Bids will be undertaken by the joint Evaluation Panel. The evaluation panel shall consist of the following:

Evaluation Panel Lead with overall lead and overall moderator

Lead of the technical and service delivery evaluation team and to act as moderator for the technical and service delivery evaluation

Technical and service delivery evaluation team to participate in the evaluation process and provide specialist technical advice and input

Lead of the finance evaluation team and to act as moderator for the finance team

Financial evaluation team to participate in the evaluation process and provide specialist financial and commercial advice and input

Lead of the legal evaluation team and to act as moderator for the legal team. Legal evaluation team to participate in the evaluation process and provide specialist legal, commercial and procurement advice.

Once the Evaluation Panel has completed its evaluation and clarification of the Bids, there will be a moderation stage of the evaluation scores, following which it will make recommendations to the Authority Members through the relevant Committee or Executive meetings.

## 7.5 Scoring

The Authority will score the Initial Tenders (and Final Tenders) against the Tier 2 (and where applicable Tier 3) sub-criteria set out in the Evaluation Model. The Evaluation Panel will score the Initial Tenders (and Final Tenders) in accordance with the general principles and descriptions shown in the table below, with the responses used against each of the tier 2/3 criteria to score the responses as set out in Appendix B. Each response, will be marked out of a total possible score of ten (10).

Score	Rating	Criteria for Assessing Score
0	Unacceptable	Does not meet any of the Council's requirements.
1	Very Weak	Insufficient information provided / unsatisfactory.
2	Poor	Fails to meet the minimum standard, some major concerns
3	Acceptable	Satisfactorily achieves the minimum standard, acceptable, no major concerns
4	Very Good	Exceeds the requirements, good, full and robust response, gives confidence and will bring added value/benefit to the Council
5	Excellent	Considerably exceeds requirements, outstanding, and will bring significant added value/benefit to the Council, shows innovation and the Council has full confidence in response.

The pass mark for the following evaluation areas is three (3) out of five (5) and any responses scoring less than 3 for any area listed below will be considered to not meet the requirements and therefore fail the evaluation and the submission may be rejected. These evaluation areas are:

Health and safety

Staffing

## 7.6 Affordability

For the evaluation of affordability the following scoring mechanism will be used, and will apply to the overall annual average Management Fee, to include any costs of capital through prudential borrowing requirements.

The Council is expecting that the overall cost of the Initial Tenders submitted will be within the Council's affordability threshold

The Council reserves the right to reject any Initial Tenders which exceed the affordability threshold as being non-compliant.

At ISIT the overall annual Management Fee of the Detailed Solution will be scored on a scale which is fixed as follows:

- (a) an overall annual Management Fee which achieves the affordability threshold will score 1
- (b) an overall annual Management Fee that exceeds the affordability threshold will score 0.
- (c) an overall annual Management Fee of £500,000 under the affordability threshold or less will score the maximum score of 5.

The scores will be calculated to one decimal place. A worked example is shown below based on a management fee which is £350,000 below the affordability level, based on the approach above:

- Receives 1 mark for achieving the affordability level
- receives a further 2.8 marks for the pro rata'd amount between affordability level and £500,000 below, i.e.  $350,000/500,000 = 0.7 \times 4$  marks (difference between 1 & 5) = 2.8
- total marks received is 3.8 marks (1+2.8)



## Appendix A – Definitions

Any meanings given to words and expressions used in the Draft Agreement shall have the same meanings in this ISIT. In the event of inconsistencies the Draft Agreement shall prevail.

<b>Agreement</b>	Shall mean Contract
<b>Applicant</b>	Shall mean the organisation responding to any SQ, ISIT, ISFT or any other stage as determined by the procurement procedure
<b>Award</b>	Shall mean the process by which the Authority shall determine to whom the Contract will be awarded in accordance with the criteria listed at Regulation 67 of the Public Contracts Regulations 2015
<b>Authority</b>	Shall mean South Somerset District Council and its successors, transferees and assigns.
<b>Bid</b>	Shall mean the Applicant's response to the Invitation to Submit Initial Tenders (ISIT)
<b>Bidder</b>	Shall mean Applicant
<b>Bidder Party or Parties</b>	Any employee, consultant, advisor, agent, officer or Sub-Contractor (of any tier) of the Bidder
<b>Business Day</b>	Shall mean 09:00 – 17:00 Monday to Friday with the exception of Bank Holidays
<b>Commercially Sensitive information</b>	Shall mean the information listed by an Applicant within its Bid at Volume Two (2) Applicant's Offer comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated to the Authority that, if disclosed by the Authority, would cause the Contractor significant commercial disadvantage or material financial loss
<b>Competitive Procedure with Negotiation</b>	Shall mean the public procurement procedure detailed at Regulation 30 of the Public Contracts Regulations 2015
<b>Consortia/Consortium</b>	Shall mean two (2) or more persons, at least one of whom is an economic operator, acting jointly for the purpose of being awarded a public contract (pursuant to Regulation 19 Public Contracts Regulations 2015)
<b>Contract</b>	Shall mean the Agreement between the Authority and Contractor for the execution of the Goods/Works or Services, including all documents to which reference may properly be made in order to ascertain the rights and obligations of all the parties involved
<b>Contract Commencement Date</b>	Shall be 1 April 2021
<b>Contractor</b>	Shall mean the Applicant awarded the Contract culminating from an offer to supply accepted by this Authority
<b>Contract Period</b>	Shall be up to twenty (20) years
<b>Descriptive Document</b>	The document so named containing information about the Project issued by the Authority.
<b>Dialogue</b>	Shall mean the opportunity provided by the Authority for the Bidders to present its solution and negotiate on its Bid
<b>Facility/ies</b>	Shall mean the facilities identified within the Output Specifications (Volume 4)
<b>Instructions</b>	As defined in Volume One (1) Instructions and Guidance Bidders
<b>Internal Approval Process</b>	Shall mean all or any statutory or official process or processes (or process or processes required under any governance arrangements) of the Authority or any other public or regulatory authority for the granting of all or any approval or approvals in relation to the Project and / or the award of the Contract.

<b>ISIT (Initial Tenders)</b>	Shall mean Invitation to Submit Initial Tenders
<b>ISIT Documents</b>	Shall mean as defined at section 4.1 of this Volume One (1) Instructions and Guidance to Bidders
<b>ISIT Period</b>	Shall mean the period from issue of this ISIT to close of dialogue and call for Final Tenders
<b>ISFT (Final Tenders)</b>	Shall mean Invitation to Submit Final Tenders
<b>Lead Applicant</b>	Shall mean the organisation leading the bidding process on behalf of its consortia or sub-contractor partners
<b>Management Fee</b>	Shall mean the amount which the Bidder offers to pay (or receive) from the Authority in return for delivering the Contract.
<b>MEAT</b>	Shall mean most economically advantageous tender from the point of view of the contracting authority in relation to the subject matter of the contract, by applying the award criteria stated in the procurement documents
<b>Method Statement</b>	The method statements to be prepared by the Bidder as part of the Solution to explain how the service will be delivered.
<b>Output Specification</b>	The Output Specification set out in Volume 4 of this ISIT (which will form Schedule 2 of the completed Contract) and which sets out the Authority's required outcomes and standards for the service to be provided
<b>Preferred Bidder</b>	Shall mean a Bidder that the Authority selects after evaluation of Final Tenders as their preferred partner for the Project
<b>Project</b>	Shall mean the procurement of an operator for the operation of the Leisure Centres and New Community Arts and Entertainment Venue
<b>Public Contracts Regulations</b>	Shall mean the legislation incorporated in to English law concerning public procurement, which can be found at <a href="http://www.legislation.gov.uk/ukxi/2015/102/contents/made">http://www.legislation.gov.uk/ukxi/2015/102/contents/made</a>
<b>Selection</b>	Shall mean the process by which Applicants have been selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulation 58 of the Public Contracts Regulations 2015
<b>SQ or Selection Questionnaire</b>	SQ means the questionnaire issued to potential providers interested in being invited to take part in dialogue
<b>Submission</b>	<p>Shall mean the correct and proper process for submitting the Applicant's Bid electronically.</p> <p>Applicants will not send their Bids to the Authority in a paper or other 'hard' format unless specifically requested to do so within the associated bid documentation.</p> <p>Any Submissions that do not accord with the guidelines set out above shall be considered as non-compliant and will be treated as such.</p>
<b>Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006</b>	Shall mean the legislation concerned with the rights and obligations relating to employers and employees on the transfer or merger of undertakings, businesses or parts of businesses, which can be found at the following <a href="http://www.legislation.gov.uk/ukxi/2006/246/contents/made">http://www.legislation.gov.uk/ukxi/2006/246/contents/made</a>
<b>Volume One (1) Instructions and Guidance to Bidders</b>	Shall mean the document containing advice to Applicants concerning the way that the procurement process will be conducted, the way in which the documentation should be completed and shall contain information pertaining to the procurement including the specification

<b>Volume Two (2) Descriptive Document</b>	Shall mean the document containing background information about the Contract
<b>Volume Three (3) Agreement and Schedules</b>	Shall mean the Contract and Schedules, which will be finalised following Contract award and are presented in draft at this stage
<b>Volume Four (4) Output Specification</b>	Shall mean the specifications which the Authority is expecting the Applicants to deliver the Service against.

