



**Dated 27<sup>th</sup> March 2020**

## **Stroud District Council**

### **Invitation Document**

For a contract for Planned Maintenance Works (H1763 – Planned 2020-25)

**Internal reference:** 2020-041874

**Tender due in no later than 12:00:00 hours on 19<sup>th</sup> June 2020**

**SQ Issue – For Information Only**

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## Section 1: Invitation Document

### 1 Introduction

- 1.1 By a Contract Notice placed in the Official Journal of the European Union (OJEU reference number: 2020-041874 published on 27th March 2020 (the **Contract Notice**), Stroud District Council (**SDC**) invited expressions of interest from suitably qualified and experienced providers in relation to entering into contract to provide planned works (the **Contracts**) to SDC's housing stock and as further set out in the Term Brief set out in Annex 5 (the **Programme**).
- 1.2 This procurement is being conducted as a Restricted Procedure in accordance with the EU Directive 2014/24 on public procurement as implemented in England, Wales and Northern Ireland by the Public Contracts Regulations 2015 (SI 2015/102) (as amended) (the **Regulations**) and as further detailed in this document (the **Invitation Document**) (the **Procurement**).
- 1.3 Applicants were required to express their interest in the Programme by completing and returning to SDC an SQ Response. Applicants expressing an interest were required to satisfy minimum standards of financial standing and probity and to demonstrate their technical capacity and experience. Applicants who satisfied those minimum standards were then evaluated in accordance with the selection criteria set out in the SQ Instructions. SDC does not warrant the fitness of any Applicant to carry out the Works for the Programme.
- 1.4 SDC now invites your organisation and other short listed Applicants (each a **Tenderer**) to submit a tender (the **Tender**) for the Programme as detailed in this Invitation Document, which comprises the following documents:
  - 1.4.1 This Invitation Document
  - 1.4.2 Instructions to Tenderers (Annex 1);
  - 1.4.3 Form of Tender (Annex 2);
  - 1.4.4 Evaluation Criteria (Annex 3);
  - 1.4.5 Contract Particulars (Annex 4);
  - 1.4.6 Term Brief (Annex 5);
  - 1.4.7 Measures (Annex 6);
  - 1.4.8 Cost Model (Annex 7);
  - 1.4.9 Non-Collusion Certificate (Annex 8)
- 1.5 Tenderers should read all the documents forming this Invitation Document carefully, in conjunction with the other procurement documents, and ensure that they submit the following mandatory documents:
  - 1.5.1 Completed Form of Tender (as set out in Annex 2);

- 1.5.2 Completed Cost Model (as set out in this Annex 7);
- 1.5.3 Signed Non-Collusion Certificate (as set out in Annex 8).
- 1.6 **Following formal notification of being shortlisted, all Tenderers are requested to acknowledge receipt of this Invitation Document immediately by communicating this via the portal: <https://www.supplyingthesouthwest.org.uk/> (the Portal). The acknowledgement should state the following:**
  - 1.6.1 **The Tenderer's willingness or otherwise to submit a Tender; and**
  - 1.6.2 **The name of the Tenderer contact to whom all communications regarding this Invitation Document should be addressed.**

**If the Tenderer does not wish to, or is unable to submit a Tender, then these documents should be immediately deleted or destroyed.**
- 1.7 Tenderers are instructed not to include in their response anything other than the requested documents. Marketing material will be discarded and will not be read.
- 1.8 To be considered, Tenders must be received by SDC no later than **12:00:00 hours on 19th June 2020** (the **Submission Deadline**) only via the Portal.
- 1.9 Any Tender received after the Submission Deadline, may not be considered for acceptance by SDC (at their sole discretion).
- 1.10 Tenders should not be qualified in any way and must be submitted strictly in accordance with this Invitation Document. Tenders and supporting information must not be accompanied by any statement that could be construed as rendering the Tender equivocal and/or placing it on a different footing from other Tenders.
- 1.11 Some useful tips:
  - 1.11.1 Do allow sufficient time for documents to be properly uploaded by the Submission Deadline.
  - 1.11.2 Do check that all documents requested have been uploaded.
  - 1.11.3 Do upload originally signed pages as PDF's.
  - 1.11.4 Do check receipt electronic confirmation that submission has been properly uploaded.
  - 1.11.5 Do not send documents to SDC by post as they will NOT be evaluated.
  - 1.11.6 Do not send originals of any documents because SDC cannot return them.

## 2 **Meet the Buyer Event**

2.1 On the date the Invitation Document is formally released to Tenderers, the Tenderers shall be invited to attend a Meet the Buyer Event to be held on a day between 27th May 2020 and 5<sup>th</sup> June 2020 (exact date to be confirmed).

2.2 The day's event will:

2.2.1 Introduce Tenderers to SDC's team; and

2.2.2 Share SDC's Approach to its planned works service along with its expectations for the appointed Service Provider; and

2.2.3 Run through the tender documentation, including the Cost Model; and

2.2.4 Answer any of the Tenderers' queries.

## 3 **The Programme**

### 3.1 **The Project / Contract Areas**

3.2 SDC will enter into one Contract with a single 'Service Provider' being appointed to deliver the Programme as summarised below and as more fully detailed in the Term Brief.

3.3 Stroud is made up of 30 wards, these are:

Amberley and Woodchester  
Berkeley  
Bisley  
Cainscross  
Cam East  
Cam West  
Central  
Chalford  
Coaley and Uley  
Dursley  
Eastington and Standish  
Farmhill and Paganhill  
Hardwicke  
Kingswood  
Minchinhampton  
Nailsworth  
Randwick  
Whiteshill and Ruscombe  
Painswick  
Rodborough  
Severn  
Slade  
Stonehouse  
The Stanleys  
Thrupp  
Trinity

Uplands  
 Upton St Leonards  
 Vale  
 Valley  
 Wotton-under-Edge

3.4 The Project (together with the other procurement documents) will provide the context against which Tenders will be assessed and against which proposals should be prepared.

### 3.5 Overview of Programme

3.6 Planned Maintenance Works to various domestic properties and communal areas in line with Stroud Asset list (as detailed within Appendix 5)

Work-streams may include (but not be limited to) the following scope of work

Work Stream	Typical Scope of Work
<b>Bathroom</b>	Full and partial bathroom works including new bath, shower, WHB, WC, plastering, electrics, carpentry and decorations
<b>External Doors</b>	Removal and replacement of external doors
<b>Electrical</b>	Full and partial rewires to all property types, electrical testing and defect rectification
<b>Heating</b>	Central heating systems to all property types, boiler replacements and heating minor works
<b>Kitchens</b>	Full and partial kitchen works including replacement of units and worktops, electrics, plumbing, floor tiling, wall tiling, plastering and decorations
<b>Windows</b>	Removal and replacement of external window
<b>External Works</b>	Soft landscaping, fencing, replacement paths & garden remodelling
<b>Roofing</b>	Full and partial roof replacements to all types of properties. Chimney repairs, gutter and RWG replacements
<b>External Walls</b>	Render replacement, EWI, re-pointing, cavity wall insulation and structural repairs
<b>Communal Areas</b>	Works to communal areas with work from each work-stream above

3.7 The contractor will be required to deliver all planned works in line with specifications as provided in Appendix 1 (Specifications) and be commercially administrated as detailed in Appendix 4 (Price Framework Process Map)

3.8 The contractor will be required to deliver work to given timescales: Typically

Work Stream	Elements	Typical Time-frame
Bathroom	Full bathroom replacement	7 Days
External Doors	Front and back doors	1 Days
Electrical	Electrical Rewire	3 Days
Heating	Central Heating	3 Days
Kitchens	Full kitchen replacement	10 Days

Windows	Windows (Whole house)	1 Day
Roofing	Full roof & RWG	5 Days
EWI	Whole house EWI	10 Days

- 3.9 The contractor will be expected to have flexible resource available to deal with fluctuating workloads across various planned work-streams. Stroud typically finalise planned works budgets September to December involving the Service Provider to conclude the programmes of work for the following year. Work stream scope of work will vary from year to year dependant on the allocated budget and SDC corporate delivery strategy. Historically the following quantity of works have been delivered on an annual basis

Void Type	Average Annual Quantity
Bathroom	100
External Doors	300
Electrical	300 Tests – 50 rewires
Heating	40
Kitchens	100
Windows	200
External Works	100
Roofing	90
External Walls	150
Communal Areas	50

SDC are not able to guarantee any volume of work during the life of the contract

- 3.10 SDC anticipate the planned works contract will commence in September 2020 and the first 6 months of work (year 1) will be used as quality and process benchmarks for the service provider to deliver “pilot schemes”

Work Stream	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Bathrooms	191,837	487,187	277,047	223,598	174,315	1,353,984
Doors	284,491	359,385	141,442	165,529	129,499	1,080,346
Electricals	104,519	150,463	81,312	104,055	69,975	510,323
Heating	123,477	611,876	322,474	388,313	306,710	1,752,850
Kitchens	178,516	282,422	157,999	152,529	98,557	870,022
Windows	239,890	234,015	170,310	206,594	76,330	927,139
Externals	163,922	295,454	112,204	128,932	58,740	759,253
Roofs	347,744	1,751,506	917,572	938,074	603,896	4,558,792
Walls	327,027	1,188,719	634,394	405,460	509,725	3,065,324
Communal		276,000	276,000	276,000	276,000	1,104,000
<b>Total</b>	<b>1,961,423</b>	<b>5,637,026</b>	<b>3,090,754</b>	<b>2,989,083</b>	<b>2,303,748</b>	<b>15,982,033</b>



### 3.11 **Contract Value**

- 3.11.1 The anticipated total value of the Works is £16,000,000. Applicants should note that these figures are indicative only and are not a guarantee of any level of actual spend.
- 3.11.2 Tenderers should note that in the event they are awarded a Contract, that Contract is not a guarantee of volume of work.

## 4 **Form of Contract**

- 4.0 SDC intends to enter into a Contract (a form of TPC2005 Term Partnering Contract with bespoke amendments) with the successful Tenderer for the provision of the Programme. SDC also intends to enter into an Alliance Agreement with the successful Tenderer and its selected gas contractor, voids contractor and its internal repairs delivery services which will seek to encourage collaborative working across SDC's key supply chain members. The forms of Contract are set out at Annex 4 of this Invitation Document. Tenderers should acquaint themselves with the terms of the Contracts and be prepared to work under the Contracts as required.

- 4.1 The term of the Contract will be 3 + 1 +1 (5 years) (**The Term**).

## 5 **Background to SDC**

- 5.0 SDC owns and manages over 5,219 properties with 5,045 rented homes and 174 leasehold homes.
- 5.1 The District covers an area of more than 47,604 hectares and has a population of approximately 112,779.
- 5.2 As of 2014 there were 48,570 households in the District.
- 5.3 Further background information on SDC, Stroud and the procurement can be found in the SQ Instructions document at Section 2.
- 5.4 Details of the stock profile and assets for the Programme are set out in Appendix 5 "Asset list".

## 6 **SDC's Aims and Objectives**

- 6.0 SDC's aims and objectives are to:
  - 6.0.1 do the correct work, first time, so that the work stays fixed;
  - 6.0.2 focus on meeting customers' needs;
  - 6.0.3 adopt the principals of "unite the union construction charter" and expect all partners to do the same
  - 6.0.4 maintain housing assets by keeping the stock in a good, safe state of repair;
  - 6.0.5 integrate IT systems with the supply chain, managing workflows and providing information, knowledge and measures that facilitate learning and continuous improvement;

- 6.0.6 to commercially manage the contract in line with the price framework and as described within 4.1.3 of the Selection Questionnaire Instructions. SDC will during the life of the contract review the potential to migrate from commercially managing the contract via schedule of rate to open book cost management
- 6.0.7 utilise new ideas, systems and processes in the industry that benefit the service and workflow efficiency
- 6.0.8 work with contractors who are committed to working with SDC and other contractors to provide added value and investment in the economy and communities served by SDC;

## **7 Sustainability**

- 7.0 SDC recognises that sustainability encompasses environmental, social and economic concerns. SDC is committed to seeking continuous improvement in its performance on sustainability in terms of the services it delivers and through the engagement of its supply chain.
- 7.1 SDC acknowledges that agreeing statements and policies is only the start of the process and that its commitment must be supported by specific actions.
- 7.2 SDC is committed to using its purchasing power to influence, enable and encourage its suppliers to behave in an environmentally responsible way.
- 7.3 SDC will meet its commitment and objectives by working in partnership with others towards reducing the adverse environmental impact of its procurement decisions.
- 7.4 This will mainly be achieved by building industry-recommended environmental criteria into the Term Brief and working with the selected Service Providers' suppliers and sub-contractors to help them meet its requirements.
- 7.5 All purchases can have a detrimental impact on the environment so all suppliers and contractors have an important role to play in seeking to reduce the environmental impact of SDC's purchases

## **8 Apprenticeships / Training and Employment**

- 8.0 SDC is committed to using its commissioning and procurement activities to deliver Social Value benefits (such as employment, training, apprenticeship, local supply chain, health and wellbeing and environmental value) for its citizens.
- 8.1 SDC would like to secure one sponsored full time training position for each year of the Contract. SDC will work with the Service Provider to develop a suitable training programme or access suitable courses which underpin the principles of life-long learning, and will, as far as is reasonable, require the full cooperation of the Service Provider in this.

## **9 Interested Parties**

- 9.0 SDC has actively consulted and engaged with elected members and resident groups (**Interested Parties**).
- 9.1 These Interested Parties may be further involved in:

- 9.1.1 developing service standards and specifications;
- 9.1.2 determining the selection and award criteria for the contract;
- 9.1.3 (except resident groups) evaluating Tenders (including participating on the evaluation panel);
- 9.1.4 (except resident groups) interviewing Tenderers;
- 9.1.5 visiting premises and sites where Tenderers are carrying out works/services similar to the works/services to be delivered under the Contract;
- 9.1.6 monitoring the performance of the successful Tenderer in performance of the contract.

## 10 **Submission of Tenders**

10.0 To be considered, Tenders must be a "**Compliant Tender**".

10.1 A "Compliant Tender" is one that is submitted via the Portal and is compliant with:

- 10.1.1 the instructions in this Invitation Document, including at Annex 1; and
- 10.1.2 the terms and conditions set out below at paragraph 10.3; and
- 10.1.3 the Form of Tender at Annex 2.

10.2 Where a Tender is not a Compliant Tender, it will not be evaluated and will be rejected. SDC reserves the right to clarify with a Tenderer any aspects which prevent a Tender from being a Compliant Tender but is under no obligation to do so.

## 10.3 **Tender terms and conditions**

10.3.1 A Compliant Tender will comply with the following conditions as to content:

- (a) **Quality Proposals:** Tenderers are required to submit responses to the Tender Action Points set out in Section 2 of this Invitation Document.
- (b) **Organisation Information:** Tenderers are required to confirm by the Form of Tender that the information provided at SQ stage remains unchanged or otherwise set out what has changed with evidence sufficient for SDC to reassess that Tenderer against the qualification criteria as set out in the SQ.
- (c) **Contract Documentation:** Tenderers are required to provide an unequivocal statement by the Form of Tender that they accept the forms of contract as set out in Annex 4 and that they have been accepted and signed off without amendment by their Board, funders, insurers and legal advisors (as appropriate/required).
- (d) **Completed Financial Documents:** Tenderers are required to complete the Cost Model as set out in Annex 7 in accordance with the instructions set out therein.

- (e) Anti-Collusion Certificates: Tenderers are required to complete and return the form at Annex 8.
- (f) Signature pages: Tenderers, original signed pages must be uploaded in pdf format.
- (g) Tenders to remain open: Tenders must remain open and valid for acceptance for a minimum of six (6) months from the deadline for submission.

#### 10.4 **Rejection of Tenders**

10.4.1 Any Tender or other documents submitted by any Tenderer in respect of which the Tenderer:

- (a) fixes or adjusts the amount, prices, charges and rates shown:
  - i by or in connection with any agreement or arrangement with any other person; or
  - ii by reference to any other Tender from any other Tenderer; or
- (b) communicates to any person other than SDC any information except in accordance with paragraph 2 of Annex 1 of this Invitation Document (Confidentiality); or
- (c) enters into any agreement or arrangement with any other person that such other person shall refrain from submitting a Tender or shall limit or restrict the amounts, prices, charges, and rates to be shown by any other Tenderer in its Tender and other documents; or
- (d) offers or agrees to pay or give, or does pay or give, any sum of money, inducement or valuable consideration, directly or indirectly, to any person for doing, or having done, or causing, or having caused, to be done in relation to any other Tenderer, or any other proposed Tender, or other documents, any act or omission; or
- (e) has directly or indirectly canvassed any member or official of SDC concerning the acceptance of any Tender or has directly or indirectly obtained or attempted to obtain information from any such member or official concerning any other Tender submitted by any other Tenderer; or
- (f) fails to use the English language; or
- (g) fails to state monetary amounts in Pounds Sterling; or
- (h) causes SDC to breach any of its statutory or regulatory obligations; or
- (i) submits an abnormally low bid; or
- (j) fails to submit a complete or Compliant Tender;

shall not be considered for acceptance and may accordingly be rejected by SDC.

10.4.2 Such non-acceptance or rejection by SDC shall be without prejudice to any other civil remedies available to SDC in respect thereof or to any criminal liability that such conduct by a Tenderer may attract.

10.5 SDC may ask for further information at any point up to the entry into Contract with a Tenderer to satisfy itself that the Tenderer continues to qualify. Failure to provide any such information either as part of this Invitation Document or at contract award stage may lead to a Tenderer being disqualified from further consideration.

10.6 SDC reserves the right to disqualify any Tenderer which no longer qualifies if it becomes aware that the Tenderer did not qualify at the time its SQ Response or Tender were submitted.

10.7 SDC reserves the right, at its sole discretion, to supplement this Invitation Document at any time throughout this Procurement in order to identify and define the means best suited to satisfy its needs in relation to the Programme.

10.8 SDC reserves the right (but is not obliged) to accept any Tender or part of any Tender submitted pursuant to this Invitation Document. SDC will not be bound to accept any Tender and reserves the right at their absolute discretion to accept or not accept any Tender submitted and/or to abandon this procurement at any time.

10.9 For the avoidance of doubt, SDC shall have no liability whatsoever to any Tenderer should they elect not to accept any tender or to abandon this procurement at any time.

## 11 **Communications Protocol**

11.0 Tenderers should note that any communication with SDC in respect of this Tender should be via the Portal.

11.1 Any communication or attempt to contact any member of SDC's staff, officers, Housing Committee members or councillors may result in the Tenderer being disqualified from the Procurement and not considered further.

11.2 All information about this Procurement will be made freely available to Tenderers via the Portal. Tenderers should check the Portal regularly for any updated information relating to the Procurement.

11.3 Once Tenders have been initially screened and evaluated by SDC, SDC may have questions that they wish to raise with the individual Tenderers. These will be raised by SDC, in writing, to the individual Tenderers.

## 12 **Indicative Procurement Timetable**

Key Stage	Estimated / Actual Date
Publish Contract Notice and procurement documents	27 <sup>th</sup> March 2020

Deadline for clarification questions in respect of SQ	12:00:00 on 24th April 2020
SQ Response submission deadline	12:00:00 on 1 <sup>st</sup> May 2020
Evaluation of SQ Responses	1 <sup>st</sup> May to 15 <sup>th</sup> May 2020
Shortlisting and Approvals	15 <sup>th</sup> May 2020
Issue of Invitation to Tender Document	15 <sup>th</sup> May 2020
Deadline for clarification questions in respect of Tender Documents	12:00:00 on 12 <sup>th</sup> June 2020
Deadline for submission of Tenders	12:00:00 on 19 <sup>th</sup> June 2020
Evaluation of Tenders	19 <sup>th</sup> June to 10 <sup>th</sup> July 2020
Site Visits / Interviews / Moderation	13 <sup>th</sup> to 17 <sup>th</sup> July 2020
Identification of Preferred Tenderer	22 <sup>nd</sup> July 2020
Cabinet approval of award decision	July 2020
Statutory Leasehold Process	July to August 2020
Regulation 86 letters issued to Tenderers	August 2020
Mandatory standstill period	August 2020
Finalisation of Contract with Preferred Tenderer	September 2020
Publication of Contract Award Notice/ Contracts Finder Notice	Within 30 days of award

This timetable is subject to amendment by SDC at its sole discretion.

## Section 2: Price and Quality Criteria

### 13 Quality criteria

13.0 The scored Quality criteria will account for 60% of the total score. Questions that are labelled 'Pass/Fail' and 'Scored' will also be assessed as set out below in Annex 3 and as detailed in each Tender Action Point.

13.1 There is an overall page limit of **15 single-side A4 pages**. This is the **maximum** number of pages available for the response to Tender Action Points 1 to 10. Tenderers are able to allocate space for each answer as they deem fit. No additional information or supplementary documentation should be appended to the Tender response. Any additional information provided with a Tender response will be disregarded and will not be scored as part of the evaluation process.

13.2 Tender responses should be as accurate and concise as possible. Tender responses should be clear and well-presented.

### 14 Tender Action Points (TAP) – Response required

Tenderers are referred to the procurement documents including the Term Brief (Handbook) and Term Brief (Specification); Price Framework and the Contract for SDC's requirements. Key Procurement Document references have been provided to assist Tenderers in locating key information is not exhaustive and is provided for guidance purposes only.

TAP	Question and Topic	Weighting
1	Year 1 (6 Months Pilot Work-streams)	5%
2	Service Delivery and Quality of Product	10%
3	Culture, Productivity and Management	10%
4	Resident liaison and Communication	10%
5	Risk Management	10%
6	Community Benefits	5%
7	Commercial Management	10%
	<b>Sub-total</b>	<b>60%</b>
8	Contract Sign-off	Pass/ Fail
9	Insurance and security	Pass/ Fail
10	Non-Collusion	Pass/ Fail
11	<b>Pricing – Cost Model Annex 7</b>	<b>40%</b>
	<b>Total</b>	<b>100%</b>

15 **Year 1 (6 Months Pilot Work-streams)**

**Tender Action Point 1**

**Please tell us**

- i **How you will be involved in the mobilisation of the project and the key features of the service that should be focused on during the mobilisation period**
- ii **How you will help plan the pilot work-streams and dedicate resources to the delivery**
- iii **What you anticipate will be learned from the pilot scheme process which will help shape the delivery of the work during Years 2 to 5**

15.1 **Proposals should include:**

- 15.1.1 How you will work with SDC to do what is asked for.
- 15.1.2 Details of the skills and resources you will dedicate to mobilisation
- 15.1.3 The processes you will undertake working with SDC to formulate the pilot scheme programme by work type and location
- 15.1.4 Your view on how the delivery of the pilot scheme work may be less efficient in year 1 than in proceeding years and how this may impact the cost of the service
- 15.1.5 What lessons could be learned and any risks during the delivery of the pilot schemes and what should be the key areas of focus

16 **Service Delivery and quality of product**

**Tender Action Point 2**

**Please tell us how you will work in partnership with SDC to deliver the contract and continually improve your approach to delivery throughout the life of the contract.**

16.1 **Proposals should include:**

- 16.1.1 How you will work with SDC to do what is asked for.
- 16.1.2 How you will complete planned work in line with the agreed timescales and provide the required documentation to SDC
- 16.1.3 How you will work with SDC and other contractors in a culture / environment, strategically and operationally to deliver the scope of the Contract whilst ensuring resources remain optimised, flexible and efficient.
- 16.1.4 How you will ensure that the finished product is in line design and specification, and that the quality of the product is continuously challenged and improved.
- 16.1.5 How you will deliver the work safely and in line with legislation
- 16.1.6 The Measures you will use in addition to those nominated by SDC and set out in the procurement documents and how you will use them to continually improve.



## 17 **Culture, Productivity, and Management**

### **Tender Action Point 3**

#### **(a) Culture**

**Please tell us how you will ensure that your entire workforce will remain highly motivated to deliver a positive customer experience for the life of the Contract.**

#### **(b) Productivity Management**

**Please tell us:**

- i How you will manage the productivity of tradespeople and the supply chain and how poor productivity will be managed**
- ii How you will manage the different work streams which vary in terms of scope and scale**
- iii The percentage split between direct delivery and supply chain delivery for each work stream**
- iv How the works will be efficiently resourced and programmed**

#### **17.1 Proposals should include:**

- 17.1.1 How you will work with SDC to do what is asked for.
- 17.1.2 A proposal which relates to working in a customer focused environment.
- 17.1.3 A proposal which recognises the entire workforce and their cultural differences
- 17.1.4 How you will manage a diverse range of work in multiple locations at the same time
- 17.1.5 The management team and structure in place to manage the work with reference to back office support
- 17.1.6 How you will manage the work safely
- 17.1.7 Details of how you will effectively manage resources and fluctuations in demand across all aspects of the supply chain

## 18 **Resident liaison and Communication**

### **Tender Action Point 4**

**Please tell us how you will manage resident expectation before, during and after the work**

- 18.0.1 How you will work with SDC to do what is asked for.
- 18.0.2 How you will manage resident liaison during each stage, the processes you follow and resources you will use
- 18.0.3 How you manage and deal with complaints and issues and how these are escalated and communicated to SDC
- 18.0.4 Your views on engagement with resident groups
- 18.0.5 How you communicate risks to residents so they remain safe during the works
- 18.0.6 How you manage the impact of the work to homes and communities close by

## 19 **Risk Management**

### **Tender Action Point 5**

**Please tell us how you will manage all aspects risk, what you believe the key risks are and the methodology you will use to mitigate**

#### 19.1 **Proposals should include:**

- 19.1.1 How you will work with SDC to do what is asked for.
- 19.1.2 Details of risks you envisage in line with the proposed work stream
- 19.1.3 Your approach to risk management and mitigation
- 19.1.4 How you will use measures and feedback to communicate risks and near misses to SDC and its partners
- 19.1.5 How you communicate risk and mitigation to your workforce, supply chain, residents, communities and colleagues

## 21 **Community Benefits**

### **Tender Action Point 6**

**Please tell us how you will work strategically with SDC and key Specialists (sub-contractors and suppliers) to identify and provide sustainable Community Benefits/ initiatives**

#### 21.1 **Proposals should include:**

- 21.1.1 How you will work with SDC to do what is asked for.
- 21.1.2 A proposal which relates to working in a customer focused environment.
- 21.1.3 A strategic overview of how you will work with SDC and their other contractors to identify and manage sustainable benefits

## 22 **Commercial Management**

### **Tender Action Point 7**

**Please tell us how you will commercially manage the planned work contract including how you will assist the pre-scheduling process, value the works completed, manage any change process and ensure that you comply with the price framework**

#### 22.1 **Proposals should include:**

- 22.1.1 How you will work with SDC to do what is asked for.
- 22.1.2 Detail your understanding of the price framework
- 22.1.3 Detail the commercial staff you intend to utilise on the contract and their qualifications and experience
- 22.1.4 Describe your proposed methods to ensure SDC are in receipt of all completion documentation such as gas and electrical certification at handover
- 22.1.5 Describe how you will manage variations and forecasting the impact on the final account

## 23 **Award of Contract - Tender Action Point 8**

### **Tenderers are required to:**

- i obtain sign-off on the documentation set out in Annex 4 from their legal advisers, insurers, parent company, Board members etc. and confirm within their proposals that they are able to enter into contract with SDC on the forms of documents set out at Annex 4, without amendment. SDC will not enter into negotiation with a Tenderer either during or after the award decision; and
- ii confirm that, by submitting the Form of Tender, they are indicating their unequivocal acceptance of the contractual documentation in the forms attached to this Invitation Document. SDC reserves the right to reject any Tender where the Tenderer subsequently seeks any amendments, either pre or post award.

## 24 **Insurance and security - Tender Action Point 9**

### **Tenderers are required to confirm:**

- i if applicable, they will procure that their ultimate parent company will enter into a parent company guarantee in the form annexed to the Contract (TPC) at Annex 4 and the relevant details (registered name and address) of their parent company; and
- ii the availability of public liability, employer's liability and professional indemnity insurance in the cover stated below:
  - A public liability insurance of not less than ten million pounds (£10,000,000) for each and every event with the number of events unlimited;
  - B employer's liability insurance of not less than ten million pounds (£10,000,000) for each and every claim in respect of all customary risks;
  - C professional indemnity insurance of not less than three million pounds (£3,000,000) for each and every claim with the number of claims unlimited for the duration of the Programme and to maintain such insurance for a period ending twelve (12) years following completion of the Programme; and
- iii they will enter into the Data Processing Agreement immediately following award in the form in Appendix 3 of this invitation; and
- iv they will commit to using reasonable endeavours to comply with the principles stated in the Unite Construction Charter as described in the Term Brief

## 24.1 **Non-Collusion - Tender Action Point 10**

Tenderers are required to complete and sign the Certificate of Non-Collusion at Annex 8 and return this with their Tender response.

The Cost Model set out in Annex 7 (in line with Appendix 4) indicates the approach to be taken regarding pricing for the Programme.

Tenderers need to be aware that there may be a transfer of an "economic entity" as recognised by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) (the TUPE Regulations). In such circumstances, the TUPE Regulations will apply to the Contract. Tenderers should note that costs in respect of TUPE will be a pass-through cost, in accordance with the Price Framework and Contract.

**Tender Action Point 11**

**Tenderers are required to complete the Cost Model and return it in accordance with the Form of Tender.**

## Annex 1

### Instructions to Tenderers

Tenderers must submit a Tender in accordance with the following instructions (the **Instructions**). Tenders that do not comply with these Instructions in any particular way may be rejected by SDC at its sole discretion and SDC's decision in the matter shall be final.

#### 1 Introduction

- 1.1 In accordance with the Restricted Procedure, Tenderers are invited to submit Tenders for the Programme, as described in the Invitation Document to which these Instructions are attached. Words and expressions have the meanings used in the Invitation Document.
- 1.2 Tenders must be Compliant Tenders.
- 1.3 Tenders should be prepared under the same headings and in the same sequence as set out in the Invitation Document. Tenderers should include full details of their Tender in addition to the other information requested.
- 1.4 Tenderers are responsible for obtaining all information necessary for the preparation of their Tenders. All costs, expenses and liabilities incurred by any Tenderer in connection with the preparation and submission of a Tender or in connection with the execution of all and any contract documents, are to be borne by that Tenderer. Neither SDC nor any of its representatives (including its officers, members, employees and advisors) shall, under any circumstances, be liable in any way to any Tenderer for any costs, expenses or losses incurred by any Tenderer or other person in relation to their participation in this procurement or otherwise.
- 1.5 SDC in no way warrants the information given to Tenderers by SDC and Tenderers must satisfy themselves of the accuracy of any information provided by SDC. Save in the case of fraud, under no circumstances will SDC, its officers, members, employees, agents or advisers accept any responsibility or liability whatsoever for any loss or damage of whatever kind and howsoever caused arising from or in consequence of the use by Tenderers of such information.
- 1.6 The fact that a Tenderer has been invited to submit a Tender does not necessarily mean that it has satisfied SDC regarding any matters raised in the SQ previously submitted. SDC makes no representation regarding any Tenderer's financial stability, technical competence or ability in any way to carry out the Programme.
- 1.7 Tenderers' attention is drawn to the Contract set out at Annex 4 of the Invitation Document. It is essential that Tenderers are completely familiar with the contents of the Contract before compiling their Tender. Tenderers considering entering into a contractual relationship with SDC should make their own enquires and investigations of SDC's requirements beforehand. The subject matter of this Invitation Document shall only have contractual effect when it is contained in the express terms of an executed form of Contract on such or such other agreement properly entered into and executed by SDC.

## **2 Confidentiality**

- 2.0 Tenderers must treat all information supplied by SDC in connection with this procurement process as confidential (and shall ensure that their employees, consultants, subcontractors, advisers, insurers and funders shall treat documentation supplied in relation to this Invitation Document as confidential).
- 2.1 Tenderers shall not, without the prior written consent of SDC and subject at all times to paragraph 13 (Data Protection), at any time make use of such information for its own purposes or disclose such information to any person, except:
- 2.1.1 where the disclosure is required by law or any court, regulatory or government authority competent to require the same; or
  - 2.1.2 to the extent where such information is brought within the public domain otherwise than by the breach of this paragraph by the relevant Tenderer; or
  - 2.1.3 to the extent that the information becomes available to a party otherwise than pursuant to this competitive dialogue process; or
  - 2.1.4 where such information is disclosed for the purposes of obtaining sign-off from insurers and legal advisers on the Contract, or for obtaining sureties, guarantees or commitments from proposed sub-contractors or suppliers and other information required to be submitted with their Tender.
- 2.2 Tenderers must treat this Invitation Document (and all the documents forming part of or appended or scheduled to this Invitation Document) and all other information provided by or on behalf of SDC as private and confidential. No Tenderer should disclose that it has been invited to submit a Tender to SDC or release details of this Invitation Document (and all the documents forming part of or appended or scheduled to this Invitation Document) other than on a strictly confidential basis and to the extent strictly necessary to such parties as the Tenderer needs to consult in order to submit a Tender.
- 2.3 Tenderers shall not at any time (either during or after the procurement process) release any information concerning the Invitation Document and/or their Tender and/or any related documents and/or discussion with SDC in this connection for publication in the press or on radio, television, screen or any other medium.
- 2.4 This Invitation Document is issued in confidence and remains the property of SDC. The copyright in this Invitation Document is vested in SDC and may not be reproduced, copied or stored on any medium without the prior consent of SDC except in relation to the preparation of Tender.

## **3 Copyright and intellectual property**

- 3.0 By submitting a Tender each Tenderer agrees and acknowledges that it shall have granted to SDC and its advisors for all purposes related to the Programme a non-exclusive, irrevocable, perpetual, royalty free licence to use, copy, modify, adapt and translate any drawings, specifications, materials, data and other information relating to any element of any solution proposed by the Tenderer during the procurement process (together with the right to grant sub-licences).

- 3.1 Each Tenderer warrants to SDC that no document that it prepares as part of its Tender shall infringe any intellectual property rights (as may be defined in the Contract).
- 3.2 Each Tenderer undertakes to indemnify SDC and to keep SDC indemnified against all actions, claims, demands, liability, proceedings, damages, costs, charges and expenses whatsoever arising out of or in connection with any breach of the provisions of this paragraph of these Instructions.
- 4 **Conflicts of interest**
- 4.0 SDC may exclude any Tenderer if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest as set out in Regulation 24 of the EU Regulations, includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
- 4.1 Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Tenderer to inform SDC and provide details of the conflict. Please note that routine pre-market engagement carried out by SDC should not represent a conflict of interest for a Tenderer, provided that the engagement has been carried out in a transparent manner.
- 5 **Consortia**
- 5.0 Where a consortium is proposed, all members of the consortium will be required to provide the information required in all sections of the Invitation Document as part of a single composite response. Responses must enable SDC to assess the overall provision of services proposed.
- 5.1 Where the proposed lead consortium member is a special purpose vehicle or holding company, information should be provided of the extent to which it will call upon the resources and expertise of its members.
- 5.2 Where a consortium or other grouping of economic operators is proposed each member of the consortium (or grouping) shall provide a written undertaking addressed to SDC that it, together with the other members, shall make available to the consortium (or grouping) the resources necessary to perform the Contract.
- 5.3 SDC recognises that arrangements in relation to consortia may be subject to future change. Tenderers are directed to paragraph 6 of these Instructions for further information on changes to consortia. Tenderers should therefore respond in the light of such arrangements as are currently envisaged. Tenderers are reminded that SDC must be immediately notified of any changes, or proposed changes, in relation to the bidding model so that a further assessment can be carried out by applying the selection criteria to the new information provided. Any change in consortium membership may lead to subsequent disqualification from the Procurement. SDC also reserves the right to deselect any Tenderer prior to any award of contract, based on an assessment of any updated information supplied.

5.4 SDC will only enter into a Contract with a consortium which is a separate legal entity from those of its members. Any unincorporated consortium which is successful will be required to adopt a separate legal entity prior to, and as a condition to, entry into the Contract.

5.5 Where Tenderers are proposing to create a separate legal entity, such as a Special Purpose Vehicle (**SPV**), you should provide details of the actual or proposed percentage shareholding of the constituent members within the new legal entity.

## **6 Change of Consortium members or tender information**

6.0 The composition of any pre-qualified Tenderer (including consortium members) shall not be changed except with SDC's prior written consent. Tenderers should also notify SDC of any changes to the identity of any significant sub-contractor.

6.1 SDC reserves the right to determine whether or not to continue with the assessment of a Tenderer's Tender, whether or not to allow a Tenderer to continue to participate in the Procurement and/or whether or not to enter into any agreement in respect of the Programme with a Tenderer where there has been a change (direct or indirect) in the composition or ownership of that Tenderer or a change in the principal relationships between the Tenderer's consortium members.

6.2 If there has been a change to a Tenderer's consortium members, or a change to the identity of an essential sub-contractor or any other sub-contractor which SDC reasonably believes could significantly impact on the delivery of the Programme, SDC reserves the right (without being obliged) to require the Tenderer to complete a new SQ Response for assessment in accordance with the criteria used by SDC in relation to the assessment of the Tenderer's original SQ Response.

6.3 Tenderers are required to inform SDC immediately of any changes to the information provided in their SQ Response or this Invitation Document (including but not limited to information concerning members and structure of the consortium). Any new information that is provided to SDC in accordance with this requirement may be evaluated by SDC in accordance with the same assessment criteria used to evaluate the original SQ Responses or shortlisting stage as appropriate.

6.4 SDC reserves the right to withdraw the qualification of a Tenderer at any time following the assessment of new information where the conclusion of such assessment is that, had SDC been aware of the new information at the time of evaluating the Tenderer's initial SQ Response, the Tenderer would not have been shortlisted.

## **7 Sub-contracting**

7.0 Where the Tenderer proposes to use one or more sub-contractors to deliver some or the entire Programme, your organisation should provide details of the proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.

7.1 SDC recognises that arrangements in relation to sub-contracting may be subject to future change, and may not be finalised until a later date. However, Tenderers should be aware that where information provided to SDC indicates that sub-contractors are to play a significant role in delivering key contract requirements, any changes to those sub-



contracting arrangements may affect the ability of the Tenderer to proceed with the Procurement or to provide the supplies and/or services required. Tenderers should therefore notify SDC immediately of any change in the proposed sub-contractor arrangements. SDC reserves the right to deselect any Tenderer prior to any award of contract, based on an assessment of the updated information.

## **8 Submission of Tenders**

- 8.0 No unauthorised alteration or addition (save for the inclusion of the relevant information) should be made to the Tender or to any part of the Invitation Document. Tenders must not be qualified in any way apart from as allowed under the Invitation Document and must be submitted strictly in accordance with the Invitation Document, including these Instructions. Tenders must not be accompanied by any covering letter or any statement that could be construed as rendering the Tender equivocal and/or placing it on a different footing from other Tenders.
- 8.1 SDC reserves the right to retain all Tenders submitted by Tenderers throughout the period that their Tenders remain valid and open for acceptance and for six (6) months after that date.
- 8.2 Any failure to comply with these requirements of anonymity for the submission of the Tender and other requirements regarding time of receipt and submission of signed documents may cause the Tender to be disallowed. In such cases, the decision will be referred to SDC as the final arbiter.
- 8.3 Any Tenders received after the Submission Deadline, may not be considered for acceptance by SDC (at their sole discretion).
- 8.4 The Tender, Delivery Proposals and other supporting documents shall be completed in black ink or type in Arial font, size 11, in the English language and state all monetary amounts in British Pounds Sterling. Supporting information should be presented in the same order as and referenced to, the relevant question.
- 8.5 The Tender must be submitted with the authorisation:
- 8.5.1 where the Tenderer is an individual, by that individual; or
  - 8.5.2 where the Tenderer is a partnership, by all the partners or by at least two (2) partners signing under a power of attorney (a copy of which is to be provided with the Tender on behalf of the other partners); or
  - 8.5.3 where the Tenderer is a company, by either one (1) director (if the company's rules allow) or two (2) directors or by a director and the company secretary, such persons being duly authorised for that purpose.
- 8.6 Each Tenderer shall produce forthwith upon request by SDC documentary evidence of any authorisation referred to in paragraph 8.5 of these Instructions.
- 8.7 Tenderers should note that the Contracts and their formation, interpretation and performance shall be subject to and interpreted in accordance with the laws of England.

- 8.8 Tenderers should include in their Tender all information required by the Price Framework and should include in the proposals all information required by the Invitation Document and all costs necessary to undertake the Programme safely and in compliance with all statutory provisions and other rules or regulations relating to the Contracts.
- 8.9 The Invitation Document and all other documents provided to Tenderers will remain the property of SDC. Tenderers are advised to retain for themselves details of their submissions. SDC reserves the right to make a charge if a Tenderer requests a copy of its submitted tender.
- 8.10 Unless specifically stated otherwise, any information provided in response to a question, along with any promises, commitments, offers, etc. contained within Tenderers' responses will be deemed included in the Tenderers' submitted prices.

## **9 Rejection of Tenderers**

- 9.0 Any Tender submitted by any Tenderer in respect of which the Tenderer does any of the following may not be considered for acceptance and may, accordingly, be rejected by SDC and the relevant Tenderer excluded from further participation:
- 9.0.1 submits an abnormally low bid; or
  - 9.0.2 fixes or adjusts the amount, prices, charges and rates shown:
    - (a) by or in connection with any agreement or arrangement with any other person; or
    - (b) by reference to any other Tender; or
  - 9.0.3 communicates to any person other than SDC any information except in accordance with this Invitation Document; or
  - 9.0.4 enters into any agreement or arrangement with any other person that such other person shall refrain from submitting Tender or shall limit or restrict the amounts, prices, charges, and rates to be shown by any other Tenderer in its Tender and other documents; or
  - 9.0.5 offers or agrees to pay or give, or does pay or give, any sum of money, inducement or valuable consideration, directly or indirectly, to any person for doing, or having done, or causing, or having caused, to be done in relation to any other Tenderer, or any other proposed Tender or other documents, any act or omission; or
  - 9.0.6 fails to use the English language; or
  - 9.0.7 fails to state monetary amounts in Pounds Sterling; or
  - 9.0.8 fails to comply with these Instructions.
- 9.1 Such non-acceptance or rejection by SDC shall be without prejudice to any other civil remedies available to SDC in respect thereof or to any criminal liability that such conduct by a Tenderer may attract.

## 10 **Non-Consideration of Tenders**

Further to the above, SDC may in its absolute discretion refrain from considering a Tender if either:

10.0 it does not comply in any respect with the requirements of this Invitation Document; or

10.1 it contains any significant omissions or qualifications.

## 11 **Evaluation of Tenders**

11.0 In regard to the tender process, SDC reserves the right at any time at its absolute discretion:

11.0.1 to make whatever changes it sees fit to the content, process, timing and structure of the tender process and to issue amendments or modifications to this Invitation Document; and/or

11.0.2 to accept or not accept any Tender submitted pursuant to the Invitation Document; and/or

11.0.3 not to award a contract and to withdraw from, suspend or terminate the procurement procedure, any part of the procurement procedure and/or this Invitation Document and to procure the appointment of a Service Provider by any alternative means within the legal requirements which SDC is subject to (including by way of undertaking a new procurement process).

11.1 SDC may without limitation undertake site visits, seek references, require presentations to be given and undertake interviews as part of the evaluation process. All information and documents submitted by Tenderers by the Submission Date will be considered, as well as any other information that SDC requires to be submitted.

11.2 Tenderers should note that:

11.2.1 any information provided by or on behalf of SDC including, without limitation, the particulars of their properties are a general outline, for the guidance of the Tenderers and do not constitute the whole or any part of an offer or contract; and

11.2.2 neither SDC nor their professional advisers guarantee the accuracy of any description, dimensions, references to condition, necessary permissions for use and occupation and other details forming part of or appended to this Invitation Document and Tenderers must not rely on them as statements of fact or representations and must satisfy themselves as to their accuracy; and

11.2.3 neither SDC nor their professional advisers will be liable, in negligence or otherwise, for any loss arising from the use of the relevant information.

11.3 SDC gives notice that:

11.3.1 this Invitation Document is set out as a general outline only for the guidance of intended Tenderers and does not constitute, nor constitute any part of, an offer or contract; and

- 11.3.2 all descriptions, dimensions, references to condition and necessary permissions for use and occupation, and other details are given without responsibility and any intending Tenderer should not rely on them as statements or representations of fact but must satisfy themselves by inspection or otherwise as to the correctness of each of them.

## 12 **Tenderers' Warranties**

In submitting any Tender, each Tenderer warrants, represents and undertakes to SDC that:

- 12.0 it has not done any of the acts or matters referred to in paragraphs 9.0 (inclusive) of these Instructions and has complied in all respects with these Instructions; and
- 12.1 all information, representations and other matters of fact communicated (whether in writing or otherwise) to SDC by the Tenderer, its
- 12.2 employees or agents in connection with or arising out of the Tender are true, complete and accurate in all respects; and
- 12.3 it has made its own investigations and research and has satisfied itself in respect of all matters (whether actual or contingent) relating to the Tender; and
- 12.4 it has satisfied itself as to the correctness and sufficiency of the information it has inserted in the Price Framework and included in its Delivery Proposals; and
- 12.5 it has full power and authority to enter into the Contract and undertake the Programme; and
- 12.6 it is of sound financial standing and has and will have sufficient premises, working capital, skilled personnel, vehicles, plant, goods and materials and other resources available to it to carry out the Programme; and
- 12.7 it will obtain all necessary consents, licences and permissions to enable it to carry out the Programme and will from time to time obtain and maintain all further and other necessary consents, licences and permissions to enable it to continue to do so; and
- 12.8 it will not at any time claim or seek to enforce any lien, charge, or other encumbrances over property of whatever nature owned by SDC and that is for the time being in the possession of the Tenderer.

## 13 **Data Protection Act**

- 13.0 For the purposes of this Invitation Document, the terms **Data Controller**, **Data Subject**, **Data Processor**, **Personal Data**, **Process** and **Processing** shall have the meaning prescribed under the General Data Protection Regulation (2016/679) (**GDPR**). References in this Invitation Document to the **Data Protection Legislation** shall be references to the GDPR as appropriate and to any associated guidelines and Codes of Practice as issued from time to time.
- 13.1 Tenderers shall at all times during this procurement comply with the provisions and obligations imposed by the Data Protection Legislation and shall assist and/or co-operate with SDC in respect of SDC's compliance with Data Protection Legislation, where

appropriate, and shall indemnify SDC and keep SDC indemnified against all actions, claims, demands, proceedings, damages, costs, charges and expenses (including reasonable legal expenses) whatsoever in respect of any breach of this paragraph which causes SDC to be in receipt of any actions, claims, demands, proceedings and/or incur any damages costs, charges and / or expenses (including reasonable legal expenses).

13.2 Tenderers shall only Process Personal Data to the extent necessary for the preparation of their Tender.

13.3 In the event that a Tenderer is under a legal obligation to process the Personal Data outside of the terms of this Invitation Document, it shall notify SDC of that legal requirement prior to processing unless the law prohibits this on important grounds of public interest.

13.4 Tenderers shall notify SDC within three (3) Working Days if it receives:

- (a) a request from a Data Subject to exercise the Data Subject's Rights; or
- (b) a complaint or request relating to SDC's obligations under the Data Protection Legislation

and take no further steps in relation to the same until such time that it receives written instructions to do so from SDC.

13.5 Tenderers shall also comply fully with all applicable guidelines and codes of practice issued by the Information Commissioner in the UK from time to time.

13.6 Tenderers will upon submission of their Tender, the withdrawal of that Tenderer from this procurement process or at such time that a Tenderer no longer requires access to SDC's Personal Data for the purposes of submitting a Tender and at the request of SDC either return to SDC or destroy the Personal Data Processed under this Invitation Document (and all copies of such data) in Tenderers' possession or other as directed by SDC.

13.7 The provision of this paragraph shall apply during the continuance of this Invitation Document and indefinitely after its termination.

13.8 The successful Service Provider shall enter into the Data Processing Agreement immediately following award in the form in Appendix 3.

#### 14 **Freedom of Information Act**

14.0 Tenderers are to note that SDC is subject to the Freedom of Information Act 2000 (the **FOIA**) and the Environmental Information Regulations 2004 (**EIR**). Under the FOIA and EIR, members of the public or any interested party may make a request for information held by SDC at the time of the request.

14.1 Following such request, SDC will consider the disclosure of any information, including price quotes, contained in Tenders both successful and unsuccessful, subject to the exemptions of the FOIA. Tenderers should be aware that attaching a blanket label of 'private and confidential', 'commercially confidential' or similar to Tenders may not exempt those Tenders from disclosure under the FOIA.

14.2 If a Tenderer considers that all or any part of its Tender and/or any specific information contained therein constitute a “trade secret”, or that the Tender or information is commercially sensitive information disclosure of which would be likely to prejudice the commercial interests of any party, believes that a duty of confidentiality applies or otherwise considers that such documents and/or information falls within any other exemption set out in the FOIA, the Tenderer should:

14.2.1 attach information it considers to be commercially sensitive e.g. costing or trade secrets in a separate schedule marked ‘commercially sensitive information’ or ‘trade secret’ and include a time limit for the sensitivity of the information; and

(a) in respect of such schedule and/or specific information, identify the particular FOIA exemption that the Tenderer claims apply in the particular circumstances. Tenderers should do so in full knowledge of the relevant terms of the Secretary of State’s Code of Practice under Section 45 of FOIA (the **FOIA Code**) and Regulation 16 of EIR (the **EIR Code**), giving advice to public authorities on the handling of requests. This will enable Bidders to make such claims based on reasons that address the requirements of the FOIA Code or the EIR Code (as appropriate). Further information about FOIA, EIR and a copy of the FOIA Code and EIR Code is available from the Information Commissioner’s website at: <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/>.

14.2.2 Tenderers should be aware that, even when they have scheduled or identified relevant documents and/or information and claimed exemption pursuant to this paragraph, SDC will have complete discretion in deciding whether such documents and/or information should be disclosed under the FOIA.

## 15 **Small Business Enterprise and Employment Act 2015**

15.0 Tenderers are to note that SDC is subject to the Small Business Enterprise and Employment Act 2015 (**SBEEA**). Under SBEEA, the Government’s Public Procurement Review Service is empowered to investigate concerns raised on the Crown Commercial Service’s website about public sector procurement exercises. Contracting authorities are required to assist all investigations and to provide relevant information and/or documents within 30 calendar days of a formal notice. This may require SDC to disclose any information contained in any Tenders submitted by Tenderers.

15.1 By submitting a Tender, the Tenderer acknowledges and agrees that SDC has complete discretion in deciding whether such documents and/or information should be disclosed under SBEEA (even where Tenderers have identified certain information in their submissions as confidential) and the Tenderer agrees to waive any contractual or other confidentiality rights and obligations associated with the disclosure of information under SBEEA.

## **Annex 2**

### **Form of Tender**

#### **FORM OF TENDER FOR A CONTRACT FOR A PROGRAMME OF PLANNED WORKS**

**TENDER DUE IN BY 12:00:00 HOURS ON 19<sup>TH</sup> JUNE 2020**

Stroud District Council  
Ebley Mill,  
Westward Rd,  
Ebley,  
Stroud  
GL5 4UB

#### **UNCONDITIONAL AND IRREVOCABLE OFFER TO STROUD DISTRICT COUNCIL IN RESPECT OF A CONTRACT FOR A PROGRAMME OF PLANNED WORKS**

I/We the undersigned return this Tender and acknowledge that we are bound by our proposals submitted pursuant to the Invitation Document (receipt of which is also acknowledged) consisting of the following:

- i Invitation Document;
- ii Instructions to Tenderers (Annex 1);
- iii Form of Tender (Annex 2);
- iv Evaluation Criteria (Annex 3);
- v Contract Particulars (Annex 4);
- vi Term Brief (Annex 5);
- vii Measures (Annex 6);
- viii Cost Model (Annex 7);
- ix Non-Collusion Certificate (Annex 8);
- x Confidentiality Undertaking previously submitted

- 16 I/We hereby unconditionally and irrevocably offer to undertake the Programme requested to be provided and performed under the Invitation Document in accordance with the Contract in the form in Annex 4 of the Invitation Document and at the rates and prices stated in the Cost Model.
- 17 I/We understand that qualification in accordance with the requirements set out in the SQ is a continuing requirement. I/We confirm that there have been no changes to the information provided at SQ stage (such as accounts, ownership, technical and professional standing). Where any changes have occurred, these are set out in an annex

to this Form of Tender with supporting evidence sufficient to allow SDC to reassess my/our qualification in accordance with the qualification criteria set out in the SQ.

18 I/We confirm that:

18.0 I/We are fully conversant with all of the Invitation Document documentation; and

18.1 this Tender is submitted strictly in accordance with the Invitation Document documentation including, but not limited to the instructions to Tenderers.

19 I/We enclose under cover of this Form of Tender of the following mandatory documents:

- (a) Response to all of the Tender Action Points 1-10 (the **Proposals**);
- (b) the Proposals;
- (c) the completed cost model; and
- (d) any other required supporting documents.

20 I/We agree that this Tender shall remain open to be accepted or not by SDC and shall not be withdrawn for a period of 6 months from the deadline for receipt of Tenders as set out in the instructions to Tenderers, or such longer period as may be agreed with SDC.

21 I/We undertake to execute a Contract, to be prepared at your expense, for the proper and complete fulfilment of the Programme or any part or parts thereof, as you may in your absolute discretion award to us. We understand that by submitting this Form of Tender we confirm our unequivocal acceptance of the forms of:

- (a) Contract; and
- (b) Alliancing Agreement; and
- (c) Parent Company Guarantee;

as set out at Annex 4 of the Invitation Document without amendment and confirm that they have been accepted in that form (without amendment) by our insurers, legal advisers, Board and parent companies (as appropriate).

22 I/We agree that I/we shall commence the Programme when instructed to do so by SDC pursuant to the terms of the Contract.

23 I/We also agree and understand that by submitting this Form of Tender we accept the Measures set out in Annex 6 of the Invitation Document, and, if awarded the Contract, will work towards delivering the Programme in accordance with those Measures from the commencement of the Programme.

24 I/We certify that the details of this Tender and the Invitation Document have not been communicated to any other person or adjusted in accordance with any agreement or arrangement with any other person or organisation.

25 I/We acknowledge that SDC are not bound to accept the lowest or any Tender it may receive, and reserves the right at its absolute discretion to accept or not to accept any



tender submitted. We acknowledge the evaluation approach of SDC set out in Annex 3 and confirm our acceptance of that process, specifically the final decision-making process set out in Section 3.4 of Annex 3.

26 We confirm our tender price as calculated in the cost model summary Cell JK29 is

£.....

27 I/We certify that we have full power and authority to enter into a Contract and to undertake the Programme, and that this is a bona fide tender.

*[Select the appropriate signature block. If an alternative signature block is required, please contact SDC via the Portal]*

[Individual]

executed and delivered as a deed by : .....

(signature)

.....

(print name)

on date : .....

(date)

in the presence of a witness.

witness signature: : .....

(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....

[Company (without using common seal) – option 1 (two authorised signatories)]

executed and delivered as a deed by the

Tenderer on date : .....  
(date)

acting by a director (1) and : .....  
(signature of director)

.....  
(print name)

a director *OR* its secretary (2) : (signature of director or secretary)

.....  
(print name)

[Company (without using common seal) – option 2 (director and witness)]

executed and delivered as a deed by the

Tenderer on date : .....  
(date)

acting by a director : .....  
in the presence of a witness. (signature of director)

.....  
(print name)

witness signature: : .....  
(signature)

date: : .....  
(date)

name: : .....

address: : .....

occupation: : .....

[Partnership]

executed and delivered as a deed by : .....  
(signature of Partner)

.....  
(print name)

on date : .....  
(date)

for and on behalf of the Tenderer

under a power of attorney dated : .....  
(date)

in the presence of a witness.

witness signature: : .....  
(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....

[Limited Liability Partnership (without using common seal) – option 1 (two members)]

executed and delivered as a deed by the  
Tenderer

on date : .....  
(date)

acting by, a member (1) : .....  
(signature)  
.....  
(print name)

and a member (2) : .....  
(signature)  
.....  
(print name)

[Limited Liability Partnership (without using common seal) – option 2 (member and witness)]

executed and delivered as a deed by the  
Tenderer

on date : .....  
(date)

acting by, a member : .....  
(signature)

.....  
(print name)  
in the presence of a witness.

witness signature: : .....  
(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....

## **Annex 3**

### **Evaluation Methodology**

SDC will conduct a qualitative and financial evaluation of the Tenders received and the Contract will be awarded in accordance with the methodology set out in this Annex 3.

#### **1 The Evaluation Team**

An evaluation team will undertake a comprehensive, systematic and consistent evaluation of each Tender in accordance with this Annex. The evaluation team will comprise officers of SDC as follows:

Joe Gordon, Tara Skidmore, Hannah Perry-Gardiner and Elaine Booth who will be supported by Impart links in an advisory/non-scoring capacity only.

Tenderers are to inform SDC before the opening of Tenders in the event that the members of the evaluation panel present a conflict of interest.

#### **2 General Information on the Evaluation Process**

All Tenders will be subject to a five-stage evaluation process:

- Stage 1 – Initial screening assessment; then
- Stage 2 – Quality evaluation; then
- Stage 3 – Price evaluation
- Stage 4 – Interview or Visit
- Stage 5 – Final Decision and Housing Committee Approval

Failing any stage of the process will terminate moving on to the next stage and evaluation will cease.

#### **3 Evaluation Process**

3.0 SDC will first evaluate all of the Tenders submitted in accordance with the stage 1 to 3 noted below.

3.1 SDC will select the bid that provides the Most Economically Advantageous Tender (MEAT), in line with the quality/ price split.

#### **4 Stage 1 – Initial Screening Assessment**

Tenders will be subject to an initial screening assessment to confirm:

- (a) the Tender has been submitted on time; and
- (b) the Tender is a Compliant Tender; and
- (c) the Tender should not be rejected for breach of any of the grounds at Section 1, paragraph 10.3 & 10.5 of this Invitation Document; and

- (d) The Tenderer has not contravened any of the terms and conditions of the Restricted Procedure or the tender process, either provided in the EU Regulations.

**Tenders that are not substantially complete or which are non-compliant with the requirements of the Invitation Documents may be rejected at this stage.**

## **5 Stages 2 and 3 – Quality and Price Evaluation**

5.0 Tenders which successfully pass the Stage 1 initial screening assessment will be subject to a detailed evaluation in accordance with the evaluation criteria and weightings set out below for Stages 2 and 3.

5.1 As part of Stage 3, due diligence checks will be used to validate the financial submission of Tenders in terms of viability, risk and linkage with the Tenderer's business.

5.2 Where the Tender fails to satisfy these tests, SDC will reject the Tender.

5.3 The successful Tender will be that which achieves the best overall score. The Tenders will be assessed according to the criteria set out below and in proportion to the following weighting:

### **(a) Stage 2, Quality – 60%**

60% of the score available will be allocated to the Quality submissions. The criteria are based on the responses requested in the Invitation Document.

### **(b) Stage 3, Price – 40%**

40% of the score available will be allocated according to the prices and rates indicated in the Price Framework.

## **5.4 Stage 2 – Quality evaluation of Tender Action Points**

5.4.1 Compliance with Quality criteria Tender Action Points summarised in Table 1 overleaf will be evaluated first and marked on an 'information only' basis or a pass or fail basis, as indicated in the 'scoring' column.

5.4.2 The Tender will be scored according to the evaluation criteria noted in Table 2 and Table 3 overleaf. Each of the questions will be marked out of five (5) using the scoring scale set out in Table 3. Each member of the evaluation team will mark individually and allocate provisional scores. These provisional scores will be subject to moderation in discussion with the entire evaluation team to reach a consensus score. The agreed scores will then be weighted in accordance with the weighting set out in Table 2.

5.4.3 All weightings, including sub-criteria, are based on a percentage of the total marks available in respect of Quality. Once each mark has been weighted in accordance with the percentage weightings set out in Table 2, the weighted marks will be added together to identify the total mark in respect of Quality for that Tender.



- 5.4.4 The Tender with the highest Quality score will be weighted to 60% (i.e. 100% of the marks available for Quality). Other Tenders will be scored based relative to how much lower their Quality score was than the highest scoring Tenderer.

**Table 1 – Information and Pass/Fail Questions**

<b>Tender Action Point</b>	<b>Quality Criteria</b>	<b>Scoring</b>	<b>Guidance</b>
<b>PASS / FAIL QUESTIONS</b>			
Please return the following documents included with this Invitation:			Pass = Return of all Tender documents, complete and with all requested information included.
<b>n/a</b>	Form of Tender	<b>Pass/Fail</b>	
<b>8</b>	Contract sign off	<b>Pass/Fail</b>	
<b>9</b>	Insurance and Security: <ul style="list-style-type: none"> <li>Confirmation of the availability of insurances</li> <li>Confirmation that the Service Provider shall enter into the Data Processing Agreement immediately following award in the form in Appendix 3</li> <li>Confirmation that the Service Provider will sign up to the Clients Developer and Partner Charter as described in the Term Brief</li> <li>Confirmation that the Service Provider will commit to using reasonable endeavours to comply with the principles stated in the Unite Construction Charter as described in the Term Brief</li> </ul>	<b>Pass/Fail</b>	
<b>10</b>	Signed Non-Collusion Certificate	<b>Pass/Fail</b>	
<b>11</b>	Completed Cost Model	<b>Pass/Fail</b>	

**Table 2 – Scored Questions**

<b>TAP</b>	<b>Question and Topic</b>	<b>Weighting</b>
1	Year 1 (6 Months Pilot Work-streams)	5%
2	Service Delivery and Quality of Product	10%
3	Culture, Productivity and Management	10%
4	Resident liaison and Communication	10%
5	Risk Management	10%
6	Community Benefits	5%
7	Commercial Management	10%
<b>Total</b>		<b>60%</b>

**Table 3 – Evaluation Matrix**

Tenderers will note that this refers to meeting the "required standard"; this are set out in each Tender Action Point (which should be read in the context of the procurement documents). Further context is set out in the remaining procurement documents (including but not limited to the Term Brief). **Applicants which score below a "1" on any of the scored elements will be rejected from the Procurement and will not be considered further.**

Score	Judgment	Description
5	Excellent	Exceeds the required standard and is likely to deliver either improvement through innovation or added value.
4	Good	Meets the required standard.
3	Acceptable	Meets the required standard in most material aspects but is lacking or inconsistent in other minor aspects.
2	Inadequate	Fails to meet the required standard in most material aspects but meets it in only some material or minor aspects.
1	Poor	Significantly fails to meet the required standard.
0	No score	Fails to meet the required standard in all aspects or response does not allow the Client to evaluate its contents or is irrelevant or no response has been submitted.

## 6 Stage 3 – Evaluation of Price

6.0 Following completion of Stage 2 (Quality evaluation) Tenders will be evaluated for the remaining 40% on the prices submitted in the Cost Model.

6.1 The price submissions will be evaluated in accordance with the lowest price formula set out below at 6.2.6 and as follows:

6.1.1 The Cost Model set out at Annex 7 is to be completed by Tenderers. The pricing instructions within indicate how the cost model should be completed

6.1.2 The Cost Model includes 8 pricing tools to be completed and input into the Cost model summary and cost allocation table

Pricing Tools – Tenders include their costs for the elements of work described within each pricing tool, plus their percentage uplifts for site overheads & preliminaries, central office overhead and profit

Cost Allocation table – Tenderers leave un-amended or amend to suit their submission

6.1.3 The total price of each pricing tool is summarised within Cost Model Summary

6.1.4 The costs captured within the Cost Model Summary are subject to a weighting which makes up the 40% price element of the evaluation:

Pricing Element from Cost Model Summary	Price Weighting	40% Tender Weighting
Total Measured Works	50.00%	20.00%
Total Site Preliminaries %	20.00%	8.00%
Total Central Office Overheads %	15.00%	6.00%
Total Profit %	15.00%	6.00%
<b>Total</b>	<b>100.00%</b>	<b>40.00%</b>

6.1.5 The prices that will be evaluated for each pricing tool will be taken from the cost model summary

Pricing Element from Cost Model Summary	Cost Model Summary Cell Reference	Provenance
Total Measured Works	i35	The combined sum of each measured works total multiplied by the annual quantity defined in the cost model summary
Total Site Preliminaries %	i36	The total sum of the site preliminaries (each voids pricing tool preliminary cost multiplied by the annual quantity) expressed as a percentage (on cost) of the measured works total
Total Central Office Overheads %	i37	The total sum of the central office overheads (each pricing tool overhead cost multiplied by the annual quantity) expressed as a percentage (on cost) of the measured works plus the preliminaries cost
Total Profit %	i38	The total sum of the profit (each voids pricing tool profit cost multiplied by the annual quantity) expressed as a percentage (on cost) of the measured works plus the preliminaries cost

6.1.6 Each pricing element will be evaluated using standard differential:

$$\left( \frac{\text{Lowest Price}}{\text{Tendered Price}} \right) \times \text{Price Weighting (as set out in the table at 6.2.4)} = \text{Pricing Element Score}$$

6.1.7 The lowest price for each pricing element will receive 100% of the marks available for that element, as set out in the 'Pricing Element' table above. Weightings for prices higher than the lowest price will be awarded marks in accordance with the standard differential model, set out above. The percentage scores for each of the five pricing elements will be added together to generate the Tenderer's total price score.

6.1.8 If any aspect of a price submission is deemed by SDC to be abnormally low, SDC may, at their discretion, reject that offer but will first seek clarification in accordance with Regulation 69 of the EU Regulations.

6.1.9 The unrealistic, unsustainable and/ or non-viable pricing of any part of this Tender as deemed by SDC is to result in it being excluded.

## 7 Stage 4 – Interview or Visit

7.0 Tenderers may be invited to an interview and/ or SDC may ask to visit offices or sites or other facilities where the Tenderer is currently working in relation to work of a similar scope to the Contract.

7.1 The purposes of the interview and/ or visit is to 'moderate' the desktop evaluation of the Tender by seeking to gather further evidence to clarify the Tender in respect of the Quality proposals.

7.2 In this regard, interviews and visits will be used to moderate each Tender Action Point for Quality score given. The score cannot be improved at this point, but will be moderated down if the contractor cannot substantiate claims made within the bid.

7.3 Tenderers are required to note that only the scores in relation to Quality can be moderated, scores in relation to Price will not be subject to moderation.

7.4 SDC will interview or visit only those Tenderers who have submitted a Tender which has a realistic prospect of being identified as the most economically advantageous tender in accordance with the evaluation criteria set out in this Invitation Document.

7.5 Where interviews or visits will not result in any determinative difference in a Tenderer's scores, SDC will not conduct an interview or visit for this Tenderer.

## 8 Stage 5 – Final decision and Housing Committee Approval

- 8.0 SDC will select the preferred Tenderer in accordance with the principles set out in Annex 3 above. It is expected SDC will need to obtain formal approval from its Housing Committee to award the contract to the preferred Tenderer(s).
- 8.1 Following SDC's formal approval, SDC intends to award the contract to the preferred Tenderer(s).

**Annex 4**

**Form of Contract**

**(See Separate Document)**

**Annex 5**  
**Term Brief**  
**(See Separate Document)**

**Annex 6**  
**Measures**  
**See Separate Document**



**Annex 7**  
**Cost Model**  
**(See Excel Cost Model)**

## **Annex 8**

### **Certificate of Non-Collusion**

**To: Stroud District Council**

**RE: A CONTRACT FOR A PROGRAMME OF PLANNED WORKS**

**The essence of the public procurement process is that SDC shall receive bona fide competitive tenders from all Tenderers.**

- 1 In recognition of this principle we hereby certify that this is a bona fide Tender, intended to be competitive, and that we have not fixed or adjusted the amount of the Tender or the rates or prices quoted by or under or in accordance with any agreement or arrangement with any other we have not:
  - 1.1 Entered into an agreement with any other person with the aim or preventing Tenders being made or as to the fixing or adjusting of the amount of any Tender or the conditions on which any Tender is made; or
  - 1.2 Informed any other person, other than the person calling for this Tender, of the amount or the approximate amount of the Tender; or
  - 1.3 Caused or induced any person to enter into such an agreement as is mentioned in paragraph (1) and (2) above or to inform us of the amount or the approximate amount of any rival tender for the Contract; or
  - 1.4 Offered or agreed to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or to having caused to be done in relation to any other Tender or proposed Tender for the services covered by the Tender; or
  - 1.5 Canvassed any other persons referred to in paragraph (1) above in connection with the contract; or
  - 1.6 Done any act which would amount to a breach of the Bribery Act 2010, or would have done if such action had been carried out in the UK, and no Associate Person (as defined in the Bribery Act 2010) has done any act which would cause SDC to be in breach of section 7(1) of the Bribery Act.

In this certificate:

The word 'person' includes any person, body or association, corporate or incorporate and 'agreement' includes any arrangement whether formal or informal and whether legally binding or not.

*[Select the appropriate signature block. If an alternative signature block is required, please contact SDC via the Portal]*

[Individual]

executed and delivered as a deed by : .....  
(signature)  
.....  
(print name)

on date : .....  
(date)

in the presence of a witness.

witness signature: : .....  
(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....

[Company (without using common seal) – option 1 (two authorised signatories)]

executed and delivered as a deed by the

Tenderer on date : .....  
(date)

acting by a director (1) and : .....  
(signature of director)

.....  
(print name)

a director *OR* its secretary (2) : (signature of director or secretary)

.....  
(print name)

[Company (without using common seal) – option 2 (director and witness)]

executed and delivered as a deed by the

Tenderer on date : .....  
(date)

acting by a director : .....  
in the presence of a witness. (signature of director)

.....  
(print name)

witness signature: : .....  
(signature)

date: : .....  
(date)

name: : .....

address: : .....

occupation: : .....

[Partnership]

executed and delivered as a deed by : .....  
(signature of Partner)

.....  
(print name)

on date : .....  
(date)

for and on behalf of the Tenderer

under a power of attorney dated : .....  
(date)

in the presence of a witness.

witness signature: : .....  
(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....

[Limited Liability Partnership (without using common seal) – option 1 (two members)]

executed and delivered as a deed by the  
Tenderer

on date : .....  
(date)

acting by, a member (1) : .....  
(signature)  
.....  
(print name)

and a member (2) : .....  
(signature)  
.....  
(print name)

[Limited Liability Partnership (without using common seal) – option 2 (member and witness)]

executed and delivered as a deed by the  
Tenderer

on date : .....  
(date)

acting by, a member : .....  
(signature)

.....  
(print name)  
in the presence of a witness.

witness signature: : .....  
(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....



## **Appendix 1**

### **Specification**

**Will be latest revision of the NBS specification**

**Appendix 2**  
**Historic Indicative Delivery Data**  
**(See Separate Document)**

## Appendix 3

### Data Processing Agreement

THIS AGREEMENT is made 2020

#### **BETWEEN:**

(1) Stroud District Council (the 'Council');

and

(2) [ ] of [ ] (the "Service Provider/Supplier")

Together the "Parties" and each a "party"

#### **Background:**

The Council has engaged the Service Provider/Supplier to provide certain Services.

In consideration of the Council engaging the Services of the Service Provider/Supplier to process personal data on its behalf the Service Provider/Supplier shall comply with the security, confidentiality and other obligations imposed on it under this Agreement.

This Agreement shall remain in full force and effect so far as still relevant to be carried out.

This Agreement shall remain in force until such time as the Service Provider/Supplier stops processing data on behalf of the Council, whereupon this Agreement shall terminate.

IT IS HEREBY AGREED as follows:

#### Interpretation

In this Agreement the following words and expressions shall have the following meanings, unless the context otherwise requires:

#### **GDPR CLAUSE DEFINITIONS:**

**Data Protection Legislation:** (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.

**Data Protection Impact Assessment:** an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

**Data Controller, Data Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer** take the meaning given in the Data Protection Legislation.

**Data Loss Event:** any event that results, or may result, in unauthorised access to Personal Data held by the Service Provider/Supplier under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

**Data Subject Access Request:** a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**DPA 2018:** Data Protection Act 2018

**GDPR:** the General Data Protection Regulation (*Regulation (EU) 2016/679*).

**LED:** Law Enforcement Directive (*Direction (EU) 2016/680*)

**Protective Measures:** appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.

**Schedule:** means the schedule attached as Schedule 1 to this document titled: Schedule of Processing of Personal Data.

**Services:** means the services that are provided by the Service Provider/Supplier under the Existing Agreement.

**Sub-processor:** any third Party appointed to process Personal Data on behalf of the Service Provider/Supplier related to this Agreement.

**Variation Agreement** means this variation agreement.

## DATA PROTECTION

### 1.

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Data Controller and the Service Provider/Supplier is the Data Processor.
- 1.2 The Service Provider/Supplier shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.
- 1.3 The Service Provider/Supplier shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment (if necessary) prior to commencing any processing. Such assistance may, at the discretion of the Council, include:
  - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and

- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

#### **Obligations of the Data Processor**

1.4 The Service Provider/Supplier shall in relation to any Personal Data processed in connection with its obligations under this Agreement:

- (a) process that Personal Data only in accordance with instructions from the Council, (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by the Council to the Service Provider/Supplier during the term of this Agreement Period) unless the Service Provider/Supplier is required to do otherwise by Law. If it is so required the Service provider/Supplier shall promptly notify the Council before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures appropriate to protect against a Data Loss Event having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from a Data Loss Event;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- (c) ensure that:
  - (i) the Service Provider's Staff/Suppliers Staff do not process Personal Data except in accordance with this Agreement;
  - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Service Provider's Staff/Suppliers Staff who have access to the Personal Data and ensure that they:
    - (a) are aware of and comply with the Service Provider's/Suppliers duties under this clause;
    - (b) are subject to appropriate confidentiality undertakings with the Service Provider/Supplier or any Sub-processor;
    - (c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and
    - (d) have undergone adequate training in the use, care, protection and handling of Personal Data;

- (d) not transfer Personal Data outside of the EU.
  - (e) at the written direction of the Council (or on termination of this Agreement), delete or return Personal Data (and any copies of it) to the Council unless the Service Provider/Supplier is required by Law to retain the Personal.
- 1.5 Subject to clause 1.6, the Service Provider/Supplier shall notify the Council immediately if it:
- (a) receives a Data Subject Access Request (or purposed Data Subject Access Request);
  - (b) receives a request to rectify, restrict or object to processing or erase any Personal Data;
  - (c) receives any other request, complain or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Variation Agreement;
  - (e) receives a request from any third party for disclosure of Personal Data. Where compliance with such request is required or purported to be required by Law; or
  - (f) becomes aware of a Data Loss Event.
- 1.6 The Service/Provider's/Supplier's obligation to notify under clause 1.5 shall include the provision of further information to the Council in phases, as details become available.
- 1.7 Taking into account the nature of the processing, the Service Provider/Supplier shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:
- (a) the Council with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Council following any Data Loss Event;
  - (e) assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.

### **Requirement to Keep Records**

- 1.8 The Service Provider/Supplier shall maintain complete and accurate records and information to demonstrate its compliance with clause 1. This requirement does not apply where the Service Provider/Supplier employs fewer than 250 staff, unless:
- (a) the Council determines that the processing is not occasional;
  - (b) the Council determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
  - (c) the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

### **Audit**

- 1.9 If required, the Service Provider/Supplier shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor, subject to the following: -
- (a) the Council may perform such audits once per year or more frequently if required by the Data Protection Legislation as applicable to the Council;
  - (b) the Council may use a third party to perform the audit on its behalf, provided the third party is mutually agreed to by the Council and the Service Provider/Supplier and executes a confidentially agreement acceptable to the Service Provider/Supplier before the audit; and
  - (c) audits must be conducted during regular business hours, subject to the Service Provider/Supplier's policies, and may not unreasonably interfere with the Service Provider/Supplier's business activities.

### **Data Protection Officer**

- 1.10 The Service Provider/Supplier shall designate a data protection officer if required by the Data Protection Legislation.

### **Third Party Processing**

- 1.11 Before allowing any Sub-processor to process any Personal Data related to this Variation Agreement, the Service Provider must:
- (a) notify the Council in writing of the intended Sub-processor and processing;
  - (b) obtain the written consent of the Council;
  - (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Agreement such that they apply to the Sub-processor; and
  - (d) provide the Council with such information regarding the Sub-processor as the Council may reasonably require.

- 1.12 The Service Provider/Supplier shall remain fully liable for all acts or omissions of any Sub-processor.

#### **Amendments**

- 1.13 The Council may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may, on not less than 30 Working Days' notice to the Service Provider/Supplier amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 1.15 The Service Provider/Supplier shall comply with any written instructions with respect to processing by the Council.

#### **Governing Law and Jurisdiction**

- 1.16 This Variation Agreement and any dispute or claim arising in connection shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Variation Agreement.



*[Select the appropriate signature block. If an alternative signature block is required, please contact SDC via the Portal]*

[Individual]

executed and delivered as a deed by : .....  
(signature)  
.....  
(print name)

on date : .....  
(date)

in the presence of a witness.

witness signature: : .....  
(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....

[Company (without using common seal) – option 1 (two authorised signatories)]

executed and delivered as a deed by the

Tenderer on date : .....  
(date)

acting by a director (1) and : .....  
(signature of director)

.....  
(print name)

a director *OR* its secretary (2) : (signature of director or secretary)

.....  
(print name)

[Company (without using common seal) – option 2 (director and witness)]

executed and delivered as a deed by the

Tenderer on date : .....  
(date)

acting by a director : .....  
in the presence of a witness. (signature of director)

.....  
(print name)

witness signature: : .....  
(signature)

date: : .....  
(date)

name: : .....

address: : .....

occupation: : .....

[Partnership]

executed and delivered as a deed by : .....  
(signature of Partner)

.....  
(print name)

on date : .....  
(date)

for and on behalf of the Tenderer

under a power of attorney dated : .....  
(date)

in the presence of a witness.

witness signature: : .....  
(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....

[Limited Liability Partnership (without using common seal) – option 1 (two members)]

executed and delivered as a deed by the  
Tenderer

on date : .....  
(date)

acting by, a member (1) : .....  
(signature)  
.....  
(print name)

and a member (2) : .....  
(signature)  
.....  
(print name)

[Limited Liability Partnership (without using common seal) – option 2 (member and witness)]

executed and delivered as a deed by the  
Tenderer

on date : .....  
(date)

acting by, a member : .....  
(signature)

.....  
(print name)  
in the presence of a witness.

witness signature: : .....  
(signature)

date: : .....

name: : .....

address: : .....

occupation: : .....

**Appendix 4**  
**Price Framework Process Map**  
**(See Separate Document)**

**Appendix 5**  
**SDC Asset List**  
**(See Separate Document)**