



FALMOUTH  
TOWN COUNCIL

## Volume One (1)

Contract for: Heritage Restoration of Falmouth's  
Ponsharden Cemeteries  
Main Contractor

## INVITATION TO TENDER (ITT)

Background Information, Instructions and  
Conditions of Tender

Applicants should read this Volume first

**If you would like this information in another format please email**

John Cox at Randall Simmonds (QS)

[john.cox@randallsimmonds.co.uk](mailto:john.cox@randallsimmonds.co.uk)

# Contents

Information and Instructions.....	4
Section 1 – About the Council .....	4
Section 2 – About the Tender.....	5
Contract / Contract Period.....	6
Insurance Levels .....	6
Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) (as amended).....	6
Section 3 - About the Procurement Process.....	7
Procurement Procedure .....	7
Instructions for Completion.....	7
Clarification Process .....	7
Council Representatives .....	7
Format of Response / Submission .....	8
Validity Period.....	8
Procurement Timetable .....	8
Eligible Users .....	8
Evaluation Approach .....	8
Selection Questionnaire .....	9
Award Criteria .....	11
Scoring Guidelines .....	12
Commercial / Price Evaluation .....	13
<b>Section 4 – Conditions of Tender .....</b>	<b>14</b>
<b>Council's Warranties and Disclaimers .....</b>	<b>14</b>
<b>Ownership .....</b>	<b>14</b>
<b>Discrepancies, Omissions and Enquiries concerning the Documents .....</b>	<b>14</b>
<b>Relevant and Associated Legislation, Directives and Codes .....</b>	<b>15</b>
<b>Study of the Document .....</b>	<b>16</b>
<b>Consortia and Sub-contracting.....</b>	<b>16</b>
<b>Terms and Conditions .....</b>	<b>17</b>
<b>Clarification and Circular Advices .....</b>	<b>18</b>
<b>Completion of the Document .....</b>	<b>18</b>
<b>Applicant Site Visits.....</b>	<b>19</b>
<b>Alternatives and Variations .....</b>	<b>19</b>
<b>Return of Document.....</b>	<b>19</b>
<b>Applicant's Warranties .....</b>	<b>20</b>
<b>Evaluation of Bids.....</b>	<b>20</b>
<b>Applicant's Price .....</b>	<b>20</b>
<b>Errors and Omissions in the Applicant's Bid.....</b>	<b>20</b>
<b>Abnormally Low Bids.....</b>	<b>21</b>
<b>Council Site Visits.....</b>	<b>21</b>
<b>Demonstrations and Presentations .....</b>	<b>21</b>
<b>Rejection of Offers .....</b>	<b>21</b>
<b>Acceptance of Offers .....</b>	<b>22</b>

<b>Award of Contract (or Framework Agreement)</b> .....	22
<b>Intellectual Property Rights</b> .....	23
<b>Definitions</b> .....	24

# Information and Instructions

## Section 1 – About the Council

### 1.1 The Council

1.1.1 The Client for this Project and in effect Contracting Authority is Falmouth Town Council (The Town Council). The Town Council was formed on local government reorganisation in 1974 from the former Falmouth Borough Council. The town received Royal Charter in 1661.

1.1.2 Falmouth is formally twinned with Douarnenez in Brittany and Rotenburg (Wümme) in Germany and is encouraging informal cultural links with Villagarcia in Spain.

**Total electorate 17,625.**

**Total population 21,385.**

**Area 776 hectares.** See also: <https://www.falmouthtowncouncil.co.uk/>

1.1.3 Randall Simmonds (QS) are to be the Council appointed point of contact in regards to this Tender opportunity.

## **Section 2 – About the Tender**

2.1.1 This tender is for the selection of a Main Contractor.

2.1.2 The Works comprise repair and restoration works to the Congregationalist and Jewish Cemeteries at Ponsharden, Falmouth, including selected monuments and headstones, boundary works and reinstatement, retained road bank, entrances and landscaping.

2.1.3 The monument and headstone repair works are subject to a separate tender process, which is not concluded at the time of issue of this tender. The Main Contractor appointed to this tender will appoint the named Specialist Conservator sub-contractor(s) which have been split into three lots:

- i. Jewish Cemetery headstones
- ii. major monuments in the Congregationalist Cemetery and
- iii. the balance of monuments in the Congregationalist Cemetery.

2.1.4 The Main Contractor will be skilled and experienced across a range of trade / professions, including:

- i. building conservation works
- ii. structural stabilisation work of banks and retaining walls
- iii. working alongside a highways / main road with issues of traffic management consents
- iv. working on scheduled ancient monuments
- v. managing subcontractors, ideally specialist conservator
- vi. landscaping works
- vii. working with archaeologists and a watching brief
- viii. working with volunteers occasionally accessing the site
- ix. working on constrained sites with difficult access
- x. proven positive environmental track record
- xi. Experience in managing construction works within Tree Preservation Order (TPO)

2.1.5 The Tender Documentation comprises:-

- Volume 1 Instruction to Tenderers (this document)
- Volume 2 Applicant Offer
- Volume 3 – Design information (see List of Drawings)
- Volume 4 – Preliminaries and General Conditions
- Volume 5 – Contract Particulars

## Volume 6 – Priced Schedule of Works

- 2.1.6 The Employer would like to achieve a start on site in July 2021 for the main contract.
- 2.1.7 The Employer is seeking a Main Contractor to deliver a high-quality scheme on this site.
- 2.1.8 The Contract will only be executed if the proposed price is within the available budget and the proposals meet the Employers planning and quality requirements.
- 2.1.9 The total budget envelope for this Work is between £250k and £300k. The Conservator (to be performed by Named Sub-Contractors) is between £80k and £120k.

### Contract / Contract Period

- 2.2 The form of Contract for the construction element of the Works is to be **JCT Intermediate Building Contract with Contractors Design – 2016** and it is intended that any resultant Contract shall commence as soon after receipt of formal letter of award as may be agreed.
- 2.3 A sum of £500 per week or part week would apply in the event of applying Liquidated Damages under the Contract.

### Insurance Levels

- 2.4 Employer's Liability Insurance - The Council's minimum requirement is **£5m**.
- 2.5 Product Liability - The Council's minimum requirement is **£5m**.
- 2.6 Professional Indemnity – The Council's minimum requirement is **£1m**
- 2.7 Public Liability Insurance - The Council's minimum requirement is **£10m**.

### Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) (as amended)

- 2.8 It is the responsibility of the Applicant to consider whether or not TUPE is likely to apply in the particular circumstances of this tender exercise and to act accordingly. Applicants should therefore take their own advice regarding the likelihood of TUPE applying.
- 2.9 It is the view of the Council that TUPE is **does not** to apply to this tender.
- 2.10 The Applicant shall indemnify the other against any direct losses sustained as a result of any breach of the TUPE Regulations by the party in default.
- 2.11 For more information please use the websites listed below:

[www.gov.uk/transfers-takeovers](http://www.gov.uk/transfers-takeovers)

The Transfer of Undertakings (Protection of Employment) Regulations 2006  
<https://www.legislation.gov.uk/ukxi/2006/246/contents/made>

## **Section 3 - About the Procurement Process**

### **Procurement Procedure**

- 3.1 The Tender is below Threshold Works level and the Town Council is issuing this Invitation to Tender (ITT) and is inviting bids from Applicants in response to the published Contract Notice.
- 3.2 The procurement process that the Council has selected is the Open Procedure in line with the Public Contracts Regulations (the Regulations) 2015, which means that all Applicants that submit a Bid shall be evaluated in accordance with these Instructions and set process.

### **Instructions for Completion**

- 3.3 Where details are provided by the Applicant in literature that they submit in connection with the response, they must ensure that clear cross-references are given to the Town Council.
- 3.4 The following documents must be completed, signed and returned with the tender:
  - Certificates and Declarations
  - Selection Questionnaire
  - Specification Response / Method Statements
  - Pricing Schedule
- 3.5 Any information relating to the Town Council and supplied by the Council shall be kept by the Applicant in strictest confidence.
- 3.6 Applicants are advised that the Town Council is not bound to accept the lowest tender submitted, nor to reimburse any expense incurred during the process.

### **Clarification Process**

- 3.7 All clarification enquiries should be directed to the Authorised Representative and by no later than the date indicated in the Procurement Timetable detailed elsewhere in this document.
- 3.8 Applicants are advised that where such enquiries have been made, and it is appropriate to do so, the Town Council will distribute to all Applicants a copy of the Clarification and the written reply, with anonymity preserved.

### **Council Representatives**

- 3.9 No person in the Town Council's employ or other agent, except as so authorised by the Council Authorised Representative, has any authority to make any representation or explanation to Applicants as to the meaning of the Contract or any other document or as to anything to be done or not to be done by Applicants or the **successful** Applicant or as to these instructions or as to any other matter or thing so as to bind the Town Council.

### Council Authorised Representative contact details:

John Cox at Randall Simmonds (QS) john.cox@randallsimmonds.co.uk

Arrangements to visit and gain access to inspect the site can be arranged with Tim Kellett (Project Manager) on 07554 277012 or tim.urbandesign@gmail.com.

## Format of Response / Submission

3.10 The response (by email) must be delivered by no later than the time / date on Volume 2.

3.11 Loading and submitting of the tender must be completed by the final submission time. Applicants must take into account the speed of Internet connection, size of files, system configuration and general web traffic that may impact on the time required to complete the transaction.

## Validity Period

3.12 The Tender response must remain valid for acceptance for a period of 90 days from the return date.

## Procurement Timetable

3.13 This procurement will follow a clear and transparent process, to ensure that all Applicants are treated equally. The key dates for this procurement are anticipated to be as follows:

Procurement Stage	Applicable to	Dates
Publication of advertisement (Contract Notice)	ITT	26/03/2021
Latest date for Clarification questions to be submitted by	ITT	18/04/2021
Clarification responses to be issued by	ITT	23/04/2021
<b>Bid Deadline (noon)</b>	<b>ITT</b>	<b>04/06/2021</b>
Evaluation (completed)	ITT	18/06/2021
Notification of Contract award (Contract Award Notice)	ITT	28/06/2021
Contract start	ITT	July 2021
Contract End	ITT	May 2022

3.14 The above is indicative and the Town Council reserves the right to change the timetable.

## Eligible Users

3.15 The Town Council is not procuring on behalf of any other users.

## Evaluation Approach

3.16 Bids will be evaluated in two parts:

- Selection
- Award



- 3.17 The Town Council will first evaluate is the Selection Questionnaire (SQ) response (if applicable). Applicants deemed not to satisfy the elements of the SQ in line with the scored approach will be excluded from the remainder of the process and their bid shall not be considered further. Applicants who satisfy the SQ stage (if applicable) will have the remainder of their bid evaluated in accordance with the Award Criteria.

## **Selection Questionnaire**

- 3.18 This Tender is based on the Government Standards Questionnaire but noting that some sections may have been removed at the Town Council's discretion. For full details around Government Standard Supplier Questionnaire please reference here:

**[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/558531/PPN\\_8\\_16\\_StandardSQ\\_Template\\_v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/558531/PPN_8_16_StandardSQ_Template_v3.pdf)**

**<https://www.gov.uk/government/publications/procurement-policy-note-816-standard-selection-questionnaire-sq-template>**

- 3.19 Selection is the process by which the Town Council is able to assess the suitability of the Applicant to undertake work on behalf of the Town Council. The questions asked within Selection Questionnaire are compliant with Regulation 57 of the Regulations.
- 3.20 The Town Council requires all Applicants to complete all sections of the Selection Questionnaire included within Volume Two (2) Applicant's Offer in full. Any Applicants who do not fully meet the requirements of or misrepresent any information or evidence provided in relation to Regulation 57 may be excluded from further consideration.
- 3.21 The Applicant's responses to the Selection questions should be succinct, concise and self-contained not referring to additional documents or other supporting statements other than the European Single Procurement Document (ESPD).
- 3.22 Where Applicants choose to submit all or any part of the ESPD in place of an element required in the Selection questions this must be clearly identified and referenced by the Applicant. Any ESPD responses will be assessed in the same way as any other response.

## **Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.**

- 3.23 This standard Selection Questionnaire is a self-declaration, made by the Applicant (the potential supplier), that they do not meet any of the grounds for exclusion. If there are grounds for exclusion, there is an opportunity to explain the background and any measures taken to rectify the situation (also referred to as self-cleaning).
- 3.24 A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently, the Town Council will require all the organisations that the Applicant would rely on to meet the selection criteria to provide a completed Part 1 and Part 2.
- 3.25 For example, these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where the

Applicant is joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that are relied on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

### Supplier Selection Questions: Part 3

- 3.26 Where an Applicant is bidding on behalf of a group (consortium) or it is intending to use sub-contractors, the Applicant should complete all selection questions on behalf of the consortium and / or any sub-contractors.
- 3.27 If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay the Town Council reserve the right to amend the contract award decision and award to the next compliant bidder.

### Selection Questionnaire Approach

- 3.28 The Town Council proposes to use the following criteria to assess Selection Questionnaire submissions:

Section	Title	Type of Question	Weighting (%)
Part 1	Potential supplier information	Information only	Not evaluated and scored
Part 3 Section 8			
8.1	Insurance	Pass/Fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.
<b>NOTE ON EVALUATION:</b> The Authority seek confirmation that the required insurance and levels of insurance exist, and that they would be maintained during any contract that would be awarded, or in the case that they do not exist currently that the Contractor would firstly be able to obtain the required levels of insurance and would if successful in the Tender actually obtain that insurance. If this cannot be demonstrated, then this would be deemed a "fail"			
8.6	Health & Safety Management	Pass/Fail	In the event of a supplier being awarded a 'fail', the remainder of their submission will not be evaluated and they will be eliminated from the process.
<b>NOTE ON EVALUATION:</b> The Authority will be looking for evidence to support that the Applicant robust processes to ensure Health and Safety arrangements are in place and as such the Applicant has a positive track record in ensuring Health and Safety in a suitable market sector. <a href="#">[In the case of Construction based industry – this would include experience as acting as Principal Contractor in relation to the Construction (Design and Management) Regulations]</a> . PAS 91 Accreditation would be deemed a "pass".			

Where the Applicant has had previous situations of failings and remedial matters around Health and Safety, the Authority will want to understand the severity of these failings, what lessons have been learned and what remedial measures / lessons have been put in place. Where the failings are deemed significant and / or the Applicant cannot provide assurances to future practices then this shall be deemed a “fail”.

### Information Only Questions

3.29 These must be completed but will be used for information purposes only and not scored. However, failure to provide sufficient information as requested may still lead to disqualification for non-compliance. It is important that where a question does not apply this is recorded as ‘Not applicable’ or ‘None’ in the spaces provided.

3.30 Where sections are scored as being ‘**Pass / Fail**’ the following definitions will apply:

Definition	Criteria
Pass	Demonstration of a clear response given with good level of detail and evidence to support the response from the Applicant in line with and applicable to the Selection Questionnaire question.
Fail	A limited, or non-complete response from the Applicant and / or not relevant or demonstrating the expectations as set out and applicable to the Selection Questionnaire question.

3.31 Where an Applicant is awarded a “fail” (inc. evaluation of the Tender response), the remainder of their submission will not be evaluated and they will be eliminated from the process.

### Consequences of misrepresentation

3.32 If the Applicant seriously misrepresent any factual information in filling in the Selection Questionnaire and so induce an Town Council to enter into a contract, there may be significant consequences. They may include be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into the Applicant may be sued for damages and the contract may be rescinded.

3.33 If fraud, or fraudulent intent, can be proved, the Applicant or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

### Award Criteria

3.34 Award is the process that considers the extent to which the Applicant’s Bid delivers the Most Economically Advantageous solution to the Town Council requirements and as such Applicants responses to the questions asked should give a clear indication of what the organisation is offering for the tendered price.

3.35 The Town Council has not provided a word limit for responses to the Award questions however, the Town Council would like to inform Applicants that responses should be relevant to the question and be proportionate in length. Supporting information may be submitted, provided that it is clearly referenced in the question to which it relates and appended to the main bid.

3.36 The following Award Criteria / weightings will be used in evaluation of the Applicants response:

Evaluation Criteria Breakdown		Means of Evaluation	
		Sub Criteria	Main Criteria
<b>Criteria: Quality</b>			<b>50%</b>
PROVEN TECHNICAL EXPERIENCE:		50%	
PROVEN DELIVERY AND PROJECT MANAGEMENT CREDENTIALS:		50%	
<b>Criteria: Price</b>			<b>50%</b>
This will be the total sum of the submitted prices in the Price Schedule. The maximum total budget cost of £400k (including sub-contractors).			

## Scoring Guidelines

3.37 The questions asked of Applicants as part of their response to the Tender shall be scored using the marking system described within this section. Applicants should refer to the Council's requirements to ensure that they meet. All scored question shall be evaluated in accordance with the guidelines below:

Scoring Matrix for Quality Criteria		
Score	Judgement	Interpretation
5	Excellent	Exceptional demonstration of the relevant ability, understanding, experience / expertise, skills, resource and/or quality measures required to provide the services. Full evidence provided where required to support the response.
4	Good	Above average demonstration of the relevant ability, understanding, experience / expertise, skills, resource and/or quality measures required to provide the services. Majority evidence provided to support the response.
3	Acceptable	Demonstration of the relevant ability, understanding, experience / expertise, skills, resource and / or quality measures required to provide the services, with some evidence to support the response.
2	Minor Reservations	Some minor reservations of the relevant ability, understanding, experience / expertise, skills, resource and / or quality measures required to provide the services, with little or no evidence to support the response.
1	Serious Reservations	Considerable reservations of the relevant ability, understanding, experience / expertise, skills, resource and / or quality measures required to provide the services, with little or no evidence to support the response.
0	Unacceptable	Does not comply and/or insufficient information provided to demonstrate that there is the ability, understanding, experience / expertise, skills, resource and / or quality measures required to provide the services, with little or no evidence to support the response.

## Commercial / Price Evaluation

3.38 The Pricing Document contains the details and requirements relating to the price element of this Tender. This may include, but is not limited to, the inclusion of specific instructions, documents, templates, pricing structures, etc for the Applicant's to return as part of their response.

3.39 Price shall be evaluated using the following scoring methodology, the Tenderer's prices will be scored on a comparative basis. For example:

This will be done by recording the lowest price submitted by any of the Tenderers, then for each Tenderer, dividing this lowest price by the Tenderers' price and then multiplying it by the allocated weighting (e.g. 20% if that is the percentage chosen by the Town Council). The equation set out below explains this in a simpler way:

$$(\text{Lowest Price} \div \text{Tenderer's price}) \times \text{Weighting} = \text{Score}$$

3.40 To accompany the above there is a worked example below to help explain this. The example assumes only 3 prices were submitted and that price was awarded 30% of the overall marks (i.e. quality was awarded 70%):

	L	W	Tenderer 1		Tenderer 2		Tenderer 3	
Evaluation Elements	Lowest Submitted price (£)	Weighting %	Tendered Price	Score	Tendered Price	Score	Tendered Price	Score
Total Sum	£185,000	30	£185,000	30	£200,000	27.8	£195,000	28.5
<b>Total Score</b>		<b>30%</b>		<b>30%</b>		<b>27.8%</b>		<b>28.5%</b>

Example summary of totals scores:

Evaluation elements	Tenderer 1	Tenderer 2	Tenderer 3
Quality (70%)	59	64	65
Price (30%)	30	27.8	28.5
<b>Total Score</b>	<b>89%</b>	<b>91.8%</b>	<b>93.5%</b>

## **Section 4 – Conditions of Tender**

### **Council's Warranties and Disclaimers**

- 4.1 The fact that an Applicant has been invited to bid does not necessarily mean that the Applicant has completely satisfied all the Town Council's criteria and the Town Council may require further information as appropriate and assess this as part of the evaluation process.
- 4.2 The Applicant shall have no claim whatsoever against the Town Council in respect of such matters and in particular (but without limitation) the Town Council shall not make any payments to the successful Applicant save as expressly provided for in the (Call-Off) Contract and (save to the extent set out in the (Call-Off) Contract) no compensation or remuneration shall otherwise be payable by the Town Council to the Applicant in respect of the services by reason of the specification being different from that envisaged by the Applicant or otherwise.
- 4.3 Whilst the information in this document has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. With the exception of statements made fraudulently, the Town Council does not accept any liability or responsibility for the adequacy, accuracy or completeness of such information. The Town Council does not make any representation or warranty (express or implied) with respect to the information contained in the document or with respect to any written or oral information made or to be made available to any Applicant or its professional advisors.
- 4.4 Each Applicant to whom the document is sent must make its own independent assessment of the proposed terms after making such investigation and taking such professional advice as it deems necessary to determine its interest in the Contract.
- 4.5 This document is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded the Applicant to bid or enter into any other contractual agreement. Under no circumstances shall the Town Council be liable to an Applicant in respect of any costs incurred by an Applicant (whether directly or otherwise) in relation to the preparation or submission of an offer.

### **Ownership**

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

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

- 4.7 Should the Applicant find discrepancies in, or omissions from, the procurement documents, the Town Council shall be immediately notified by the Applicant.
- 4.8 Should any additions or deletions arising from such notification, or in the event that the Town Council requires an amendment to be made, these will be issued by the Town Council to Applicants and will be deemed to form part of the documentation.
- 4.9 The Town Council reserves the right to extend any date of submission accordingly.

## **Relevant and Associated Legislation, Directives and Codes**

4.10 This is a Tender being conducted under Public Sector procurement rules and Regulations. The Applicant shall ensure that they are aware of their obligations and comply with all relevant Legislation and Regulatory matters, plus the obligations placed on the Town Council, particular reference shall be taken to the following Legislation:

Public Contracts Regulations (2015):

**<https://www.legislation.gov.uk/uksi/2015/102/contents>**

The Bribery Act (2010):

**<https://www.legislation.gov.uk/ukpga/2010/23/contents>**

Public Services (Social Value) Act 2012:

**<https://www.legislation.gov.uk/ukpga/2012/3/contents>**

Freedom of Information Act 2000:

**<https://www.legislation.gov.uk/ukpga/2000/36/contents>**

Environmental Information Regulations 2004:

**<https://www.legislation.gov.uk/uksi/2004/3391/contents>**

Data Protection Act 2018

**<https://www.legislation.gov.uk/ukpga/2018/12/contents>**

Transparency Code 2015

**<https://www.gov.uk/government/publications/local-government-transparency-code-2015>**

Counter Terrorism and Security Act 2015

**<https://www.legislation.gov.uk/ukpga/2015/6/contents>**

Modern Slavery Act 2015

**<https://www.legislation.gov.uk/ukpga/2015/30/contents>**

Late Payment Directive 2015

**<https://www.gov.uk/government/publications/late-payment-directive-user-guide-to-the-recast-directive>**

## **Study of the Document**

- 4.11 Documents issued by the Council to a prospective Applicant must not be passed on to a third party without the express permission of the Town Council.
- 4.12 Applicants are expected to read, understand and agree to the Volumes (including the terms and conditions) of the document as they will in their entirety form part of the resultant Contract.
- 4.13 The Applicant is required to obtain all information as it may require them to make a Bid. The Applicant shall be deemed to have satisfied itself as to the correctness and sufficiency of its Bid. No claims whatsoever shall be entertained arising out of the Applicants failure to study the documents; the information provided will be relied upon as being true and accurate and will form part of the Contract with the successful Applicant. If any of the information given by your organisation within the document is subsequently identified as being inaccurate, this may exclude your organisation from further consideration.
- 4.14 The Applicant's price shall (except in so far as it is otherwise provided in the Contract (or Framework Agreement) cover all obligations under the (Call-Off) Contract and Applicants shall also be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect it's Bid.
- 4.15 The Applicant is responsible for all costs, expenses and liabilities incurred by the Applicant in connection with preparing its Bid.

## **Consortia and Sub-contracting**

- 4.16 Where an Applicant wishes to make its application as a Consortium or utilising sub-contractors the Council advises the group of organisations to select a Lead Applicant in whose name the Bid is to be submitted.
- 4.17 The Lead Applicant is advised to confirm precisely what the arrangements are within its Bid including providing the names of all the organisations to be involved, the nature and extent of their involvement and proposals regarding the structure and management of the Consortium or arrangements.
- 4.18 The Lead Applicant should provide details of the actual or proposed percentage shareholding of the constituent members within the Consortium or the exact nature of and degree to which the Supplies / Services or Works will be sub-contracted.
- 4.19 Applicants that wish to bid as a Consortium or sub-contractor are discouraged from also making their own individual application or from participating in Consortia or providing sub-contracting arrangements for multiple Lead Applicants.
- 4.20 The Town Council recognises that arrangements in relation to Consortia and sub-contracting may (within limits) be subject to future change. Applicants should therefore respond to this opportunity in the light of the arrangements as they are currently envisaged. Applicants are informed that any future change in relation to Consortia and sub-contracting must be notified to the Council during the procurement process or in the event that they are the successful Contractor and in any event as soon as that change is known.



- 4.21 The Town Council may then make a further evaluation of that Applicant or Contractor by applying the Selection criteria to the new information provided. In the event that the Town Council's evaluation of the new information results in an outcome that is different from the original, the Town Council reserves the right to deselect that Applicant from the process on those grounds and the Applicant shall be notified accordingly. As such, the Lead Applicant shall undertake to ensure that any change to its Consortium or sub-contractors shall not have a negative impact upon the arrangements.
- 4.22 If a Consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided. Where the proposed Lead Applicant is a special purpose vehicle or holding company, information should be provided regarding the extent to which it will call upon the resources and expertise of its members.
- 4.23 Please note that the Town Council reserves the right to require a successful Consortium to form a single legal entity in accordance with Regulation 19 of the Regulations.
- 4.24 Where an Applicant requires additional time in the procurement process to establish relationships with suitable consortia partners it is advised to notify the Town Council at the earliest convenience and request an extension to the procurement timescales. Applicants may do this through the messaging facility described at section Clarification and Circular Advices of this Volume One (1) Instructions and Information.

## **Terms and Conditions**

- 4.25 The applicable terms and conditions accompany this tender. Applicants will be required to declare that they have read and understood and will comply with said clauses as part of the submission process.
- 4.26 Any queries regarding the terms and conditions, including an Applicant's request to suggest alternative drafting on some or all of the clauses contained therein, may be raised during the clarification period and in accordance with the Clarification Process.
- 4.27 Where the Town Council is in agreement with any changes to the terms and conditions proposed during that period it will update and republish the relevant documentation and all Applicants will be notified accordingly.
- 4.28 When the period for clarification has closed Applicants shall no longer be allowed to raise any further queries regarding the terms and conditions. Applicant shall not be permitted to reserve their right to comment or negotiate upon the terms and conditions at any point thereafter.
- 4.29 Applicants are required to agree to the terms and conditions associated with this procurement opportunity as part of the submission process and the Town Council reserves its right to class any Bid submitted to the contrary as non-compliant. All such Applicants shall be judged to have failed with their submitted Bids, shall be evaluated no further and notified accordingly.
- 4.30 The Contractor(s) shall accept the terms and conditions as they are drafted in the final Contract. No further negotiation shall take place nor changes allowed. Where a Contractor disputes this position the Town Council reserves the right to withdraw the Contract award and class the submission as non-compliant.

## **Clarification and Circular Advices**

- 4.31 Upon commencement of the procurement process the Applicant shall not approach any member of the Council in relation to this tender, other than by using the agreed contact email.
- 4.32 Applicants should note that unless a question is innovation based, responses will be provided to all Applicants.
- 4.33 Where a question is of a commercially confidential nature and the Applicant does not wish it or the associated answer to be shared with other Applicants, the Applicant shall state this clearly within its question.
- 4.34 The identity of Applicants raising any questions will remain confidential.
- 4.35 Relevant questions together with the answers will be posted on Contracts Finder and it will be the requirement for the Applicant to check any updates.
- 4.36 When Applicants first access the procurement documentation, they should satisfy themselves that they have seen any further messages posted via Contracts Finder. It is in the Applicant's interest to visit the site regularly as clarifications may fundamentally affect requirements.
- 4.37 If during the period the Town Council, issues any circular letters to Applicants in order to clarify or alter part of the documents then such circular letters shall form part of the Contract and Applicants shall be deemed to have taken account of them in preparing their Bid. Applicants shall promptly acknowledge any circular letters that they receive.

## **Completion of the Document**

- 4.38 For the avoidance of doubt all of the sections included within Volume Two (2) Applicant's Offer must be completed and submitted by the Applicant in order to be considered by the Council as a fully complete and official Bid.
- 4.39 Any Bids made omitting any of the sections, or any of the requirements therein, will be considered as incomplete and may be disqualified from further evaluation and therefore exclusion from the procurement process.
- 4.40 Documents should only be completed and submitted in the format in which they currently appear. It is essential that Applicants do not re-format or re-brand any of the procurement documentation in accordance with their own standards on formatting, e.g. if the documents are issued in Microsoft Word, the Town Council requires them to be returned in the same format.
- 4.41 Applicants will answer all appropriate questions and sign (if possible) where specified. Applicants will clearly reference its replies and any supporting documentation.
- 4.42 Any pro-formas must be fully completed even if your organisation has previously submitted Bids to the Town Council. It is not sufficient to cross-refer to previous responses.
- 4.43 Where an Applicant requires assistance in completing the documents or meeting the submission requirements it is advised to notify the Council at the earliest convenience and request additional support, to include meeting with the Town Council Authorised Representative.

## **Applicant Site Visits**

- 4.44 The Applicant is strongly advised to make necessary visit(s) to the site prior to completing its offer to ensure that it is fully familiar with the site locations, relevant conditions and features, and ensure all necessary due diligence as would reasonably be expected in submitting such a tender of this scale. The information in the attached schedules is given as an indication of the general requirements of the Contract. Claims on the grounds of lack of knowledge of site locations / conditions will not be accepted by the Town Council.

## **Alternatives and Variations**

- 4.45 Innovative offers may be made in addition to making a full and complete Bid unless otherwise stated. The submission of an alternative or variant Bid will not be considered if the Applicant fails to make a compliant Bid in the prescribed format.
- 4.46 Should the Applicant wish to offer a variation or alternative Bid, including innovations to the Specification, please complete the Bid as described. This will constitute the 'compliant Bid'.
- 4.47 The Applicant's alternative or variant Bid should be prepared separately and submitted as such, giving clear details of your organisation's departure from the compliant Bid.
- 4.48 Applicants may submit alternative or variant Bids in instances where it believes it is able to offer an innovative solution to a 'traditional' specification or where elements of its proposed service delivery deviate from the specification and / or procurement requirements such that this may render an Applicant's Bid as non-compliant.

## **Return of Document**

- 4.49 Documents must be returned in the correct and proper process for submitting the Applicant's Bid electronically. All Bids shall be submitted via the email address highlighted.
- 4.50 Applicants will not send their Bids to the Town Council in a paper or other 'hard' format unless specifically requested to do so within the associated bid documentation.
- 4.51 Any submissions that do not accord with the guidelines set out above shall be considered as non-compliant and will be treated as such.
- 4.52 It is the Applicant's responsibility to ensure the Bid is submitted prior to the deadline date / time. As such, Applicants are urged to make their submission well in advance of the stated deadline in order to avoid such issues as technical difficulties with the electronic system that may be due to the high volume of traffic attempting to submit offers.
- 4.53 Submissions made after the date and time specified on the documents or to a different address, electronically or otherwise, will not be considered under any circumstances.

## **Applicant's Warranties**

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

- it has full power and authority to enter into the Contract and provide the Supplies, Works or Services will if requested produce evidence of such to the Town Council;
- it is of sound financial standing and the Applicant, its partners, directors, officers and employees are not aware of any circumstances (other than such circumstances as may be disclosed in the audited accounts or other financial statements of the Applicant submitted bid) which may adversely affect such financial standing in the future.

## **Evaluation of Bids**

4.55 All Bids will be treated equally and assessed with transparency throughout the evaluation process. The successful offer(s) will be that which achieves the highest score within a best value framework (optimum combination of whole-life costs and quality) in line with the best value principles of Most Economically Advantageous Tender (MEAT).

4.56 The evaluation process is a critical part of the procurement process and is the means by which the Town Council is able to assess which Applicant will progress to the next stage of this procurement process and / or award the Contract.

4.57 The information disclosed by Applicants in its Bid will be used for the purposes of evaluation and shall form part of the resultant Contract.

4.58 Any responses to any of the Selection or Award questions or any other part of the Bid that are later found to be incorrect may lead to the Contractor being exempted from this procurement process or any future procurement process lead by the Town Council and could cause the termination of any resultant Contract.

## **Applicant's Price**

4.59 The price offered by the Applicant shall be firm and fixed for the duration of the Contract. Any percentage discounts that may be applied must be detailed by the Applicant in its Bid.

4.60 All prices submitted shall be in pounds sterling and be exclusive of Value Added Tax (VAT).

4.61 The Applicant's price will be evaluated in accordance with the scoring methodology and weightings as set by the Council and declared within Volume Two (2) Applicant's Offer.

## **Errors and Omissions in the Applicant's Bid**

4.62 If the Town Council discovers errors or omissions in the Bid, the Applicant may be required to justify the price or item(s) concerned. Any price adjustments to the Bid made by agreement between the parties concerned shall be confirmed in writing by the Applicant to the Council before final acceptance of the Bid.

## **Abnormally Low Bids**

- 4.63 In the event that the Town Council receives a Bid which is abnormally low, in accordance with Regulation 69 of the Regulations, it shall require the Applicant to explain in writing the price or cost proposed in the submission. The Town Council shall assess the information provided by the Applicant and may reject the Bid where the evidence supplied does not satisfactorily account for the low level of price or costs proposed.

## **Council Site Visits**

- 4.64 The Town Council reserves the right to pay a site visit to short listed Applicant's premises and / or exemplar site/s at which it performs the service required under the Contract.
- 4.65 Applicants must grant access to any premises requested to be visited by the Council within that allocated time period.
- 4.66 Site visits will be for the purpose of ensuring that Applicants are appropriately skilled and experienced to deliver the service required under the Contract.

## **Demonstrations and Presentations**

- 4.67 The Town Council reserves the right to invite Applicants, to attend a presentation or demonstration at which stage it will be a requirement to reinforce your position by presenting your bid to the key stakeholders involved. Where this forms part of the evaluation this will be detailed in Volume Two (2) Applicant's Offer.
- 4.68 Applicants will be contacted to be invited to the presentation / demonstration. The invite will detail the date, time and location and the required content of the demonstration / presentation, which will include any specific questions / topics to be covered and the marking system.
- 4.69 Presentations / demonstrations will be for the purpose of ensuring that shortlisted Applicants have full comprehension of all that is required under this Contract and that all information submitted is accurate.

## **Rejection of Offers**

- 4.70 The Town Council may at its absolute discretion refrain from considering or reject a Bid if:
- (i) it is incomplete or vague or is submitted later than the prescribed date and time; or
  - (ii) it is not in accordance with the approved format and all other provisions of the documents;  
or
  - (iii) is in breach of any condition contained within it.
- 4.71 The Town Council reserves the right, subject to relevant legislation, at any time to reject any Bid and / or terminate the procurement process with one or all of the Applicants.
- 4.72 The Town Council reserves the right to disqualify any or all Applicants who makes material changes to, or (in the Town Council's opinion) a material change takes place in respect of, any

aspect of either its pre-qualification submission or Bid unless substantial justification can be provided to the satisfaction of the Town Council.

4.73 Any submission in respect of which the Applicant

- has directly or indirectly canvassed any Official, Member, Officer, Agent or Advisor of the Council or obtained information from any other person who has been contracted to supply Supplies or provide the Service or Works to the Town Council concerning the award of the Contract or who has directly or indirectly obtained or attempted to obtain information from any such Official, Member, Officer, Agent or Advisor concerning any other Applicant; or
- fixes or adjusts the prices by or in accordance with any agreement or arrangement with any other person; or
- communicates to any person other than the Town Council the price or approximate price except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the bid or for the purposes of insurance or financing; or
- enters into any agreement with any other person that such other person shall refrain from submitting an offer or shall limit or restrict the prices to be shown or referred to by another Applicant; or
- offers to agree to pay to any person having direct connection with the procurement process or does pay or give any sum of money, inducement or valuable consideration, directly or indirectly, for doing or having done or causing or having caused to be done in relation to any other Applicant or any other person's proposal, any act or omission

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

## **Acceptance of Offers**

4.75 The Council does not bind itself to accept the lowest or any Bid and reserves the right to accept a Bid either in whole or in part, or such item or items specified in the procurement documents, and for such place or places of delivery as it thinks fit, each item and establishment being for this purpose considered as bid for separately, or to make no award at all.

## **Award of Contract (or Framework Agreement)**

4.76 Submitted documents shall constitute an irrevocable offer to provide the Supplies / Works or Services. Any acceptance of it by the Town Council shall be communicated in writing to the Applicant. Upon such acceptance the Contract shall become binding on all parties.

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

- 4.78 The offer shall remain open for acceptance for a period of six (6) months from the closing date for the receipt of submission.

## **Intellectual Property Rights**

- 4.79 Intellectual property rights (IPR) to any original ideas, designs, concepts or plans contained in any document, plan, specification, drawing or design submitted in response to this process will vest with the Town Council unless copyright is claimed prior to the lodgement of such materials with the Town Council.

## **COVID Secure Site Practice**

- 4.80 The appointed Contractor shall ensure that works are carried out in line with current guidance and regulations in respect of COVID-19.

**<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/construction-and-other-outdoor-work>**

**<https://www.gov.uk/work/health-safety-at-work>**

- 4.81 To avoid spread of infections and germs, the Contractor shall ensure that cleaning equipment for different environments / areas are different colour coded to other areas, for example the British Institute of Cleaning Sciences Colour Code (or equivalent). Cleaning equipment itself to be kept clean and serviceable and replaced as required, to ensure it remains effective and where possible not contaminated

## Definitions

<b>Applicant</b>	Shall mean the organisation responding to the procurement through the procurement process
<b>Authority</b>	Shall mean the organisation preparing the procurement documents and/or the organisation for whom the resultant Contract will be performed
<b>Council Authorised Representative</b>	Shall mean the main client Officer for the procurement process and/or resultant Contract
<b>Award</b>	Shall mean the process by which the Town Council shall determine to whom the Contract will be awarded in accordance with the criteria listed at Regulation 67 of the Public Contracts Regulations 2015
<b>Awarding Council</b>	Shall mean the organisation for whom the resultant Contract will be performed; in this case it will be the Town Council
<b>Bid</b>	Shall mean the Applicant's offer to the Town Council, which shall be submitted as the completed procurement documents
<b>Clarification</b>	Shall mean the process by which queries on the Town Council's procurement document are raised by the Applicants and the process by which queries on the Applicant's Bid are raised by the Town Council
<b>Commercially Sensitive information</b>	Shall mean the information listed by an Applicant within its Bid at Volume Two (2) Applicant's Offer comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated to the Town Council that, if disclosed by the Town Council, would cause the Contractor significant commercial disadvantage or material financial loss
<b>Consortia Consortium</b> /	Shall mean two (2) or more companies or organisations, at least one of whom is an economic operator, acting jointly for the purpose of being awarded a public contract (pursuant to Regulation 19 Public Contracts Regulations 2015)
<b>Contract</b>	Shall mean a formal and legally binding agreement entered in to between two or more parties to provide Supplies, Services or Works in return for financial remuneration including all documents to which reference may properly be made in order to ascertain the rights and obligations of all the parties involved
<b>Contract Notice</b>	Shall mean the publication in the Tender opportunity by the Town Council and its intention to procure a public supplies, services, or works Contract
<b>Contracting Authority</b>	Shall mean the Town Council
<b>Contractor</b>	Shall mean the Applicant awarded the Contract culminating from an offer to supply accepted by the Town Council
<b>Town Council</b>	Shall mean the Town Council
<b>Disclosure and Barring Service (DBS) check</b>	Shall mean the organisation formed on 01 December 2012 from the merger of the Criminal Records Bureau and Independent Safeguarding Authority. Further information can be found at the following: <a href="http://www.homeoffice.gov.uk/dbs">www.homeoffice.gov.uk/dbs</a>
<b>Employers' Liability (Compulsory Insurance)</b>	<p>Shall mean an insurance that enables organisations to meet the costs of damages and legal fees for employees who are injured or made ill at work through the fault of the employer. Employees injured due to an employer's negligence can seek compensation even if the organisation goes into liquidation or receivership. The NHS can also claim the costs of hospital treatment (including ambulance costs) when personal injury compensation is paid. This applies to incidents that occur either on or after 29 January 2007.</p> <p>By law, an employer must have EL insurance and be insured for at least £5 million. Most insurers automatically provide cover of at least £10 million. The insurance must cover all the organisation's employees in England, Scotland, Wales and Northern Ireland. If the organisation is not a limited company, and you are the only employee or you only employ close family members, you do not need compulsory Employers' Liability Insurance. Limited companies with only one employee, where that employee also owns 50 per cent or more of the issued share capital in the company, are also exempt from compulsory Employers' Liability Insurance. However, there is nothing to prevent an exempt employer from choosing to buy this insurance in view of the financial security it can provide.</p>



<b>Evaluation</b>	Shall mean the process through which the Applicant's Bid is reviewed in accordance with the Evaluation Criteria, following which a decision to award a Contract is made
<b>Evaluation Criteria</b>	The means by which the Town Council will Evaluate an Applicant's Bid, to include all of the issues that must be considered so as to be able to judge the suitability of an Applicant's Bid
<b>Invitation to Tender (ITT)</b>	Shall mean the written request by the Town Council for an interested Applicant to submit a written Bid to facilitate the Town Council's requirements
<b>Lead Applicant</b>	Shall mean the organisation leading the bidding process on behalf of its consortia or sub-contractor partners
<b>Lowest Price</b>	Shall mean a means of evaluation whereby all Applicants to a procurement process will be assessed solely on the basis of their offer of price
<b>Mandatory Requirements: Pass / Fail</b>	Shall mean the Town Council's essential requirements that Applicants will be required to demonstrate their ability to meet so as to be able to pass through to the next stage of the procurement process
<b>Mandatory Requirements: Scored</b>	Shall mean the Town Council's essential requirements that Applicants will be required to demonstrate their ability to meet and that will be scored so as to be able to pass through to the next stage of the procurement process and / or as part of the Award criteria
<b>Most Economically Advantageous Tender (MEAT)</b>	Shall mean a means of evaluation whereby all Applicants to a procurement process will be assessed the basis of their offer of a combination of both quality factors and price
<b>Officer</b>	Shall mean the individual completing the procurement documents on behalf of the Town Council
<b>Official Purchase Order</b>	Shall mean the Town Council's Official Purchase Order, to which these conditions apply
<b>Open</b>	Shall mean the procurement process determined by the Public Contracts Regulations 2015
<b>Pricing</b>	Shall mean the value placed on a Bid by the Applicant that will purchase their offer to facilitate the Town Council's requirements
<b>Procurement</b>	Shall mean the acquisition of Supplies, Services or Works from an external source
<b>Product Liability Insurance</b>	Shall mean a liability cover that provides protection for failure of Product.
<b>Public Contracts Regulations 2015 (the Regulations)</b>	Shall mean the legislation of the United Kingdom concerning the procedures for the award of public works contracts, public supply contracts and public service contracts
<b>Public Liability Insurance</b>	Shall mean an insurance that covers members of the public or customers coming to the organisation's premises or if the organisation's staff go to theirs (including if the organisation is based 'at home'). It covers any awards of damages given to a member of the public because of an injury or damage to their property caused by the organisation. It also covers any related legal fees, costs and expenses as well as costs of hospital treatment (including ambulance costs) that the NHS may claim from the organisation. Premiums are based on the type of business and rated on an estimate for the level of activity of the business.
<b>Selection</b>	Shall mean the process by which Applicants will be selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulation 58 of the Public Contracts Regulations 2015
<b>Selection Qualification</b>	Shall mean the process by which Applicants will be selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulation 58 of the Public Contracts Regulations 2015
<b>Selection Questionnaire</b>	Shall mean the pro-forma that all Applicants will be required to complete and submit as part of their Bid, pursuant to Regulation 58 of the Public Contracts Regulations 2015
<b>Services</b>	Shall mean a system supplying a need such as communications and transport, utilities such as electricity and fuel, the provision of advice or the performance of routine maintenance or repair work
<b>Specification</b>	Shall mean the detailed description of the Town Council's requirements
<b>Supplies</b>	Shall mean the items offered by an Applicant and / or the items requested by the Town Council

<b>TUPE</b>	Shall mean the "Transfer of Undertakings (Protection of Employment) Regulations 2006" as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014"
<b>Volume One (1) Instructions and Information</b>	Shall mean the document containing advice to Applicants concerning the way that the procurement process will be conducted and the way in which the documentation should be completed - the Selection and Award criteria to be used in the procurement process and shall be the document in which the Applicant shall make its response to those criteria plus pricing and information concerning the Applicant's organisation
<b>Volume Two (2) Applicant's Offer</b>	Shall mean the document containing information specific to the opportunity, to include the specification
<b>Works</b>	Shall mean the carrying out of any work which includes assembling, construction, building, altering, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property