|  |  |  |  |
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|  |  |  |  |

Request for Quote (Light)

|  |
| --- |
| **Draycott and Wells Multi User Path**  Reference number: MDC PO31 |

**Strictly Private & Confidential**

|  |
| --- |
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# Request for Quote

## Conditions of RFQ

Mendip District Council (MDC) “The Council” invites you to submit a Quote for the requirements detailed below in accordance with the conditions outlined within this document.

## General Conditions

Your submission must be in accordance with our attached terms and conditions. Submission of your Quote will signify your acceptance of these, unless otherwise agreed by us in writing.

We are not bound to accept the lowest price submission, or any Quote, or to accept you as a sole supplier, and reserve the right to accept the whole or any part of any Quote submitted

Prices you include in your Quote are to remain fixed for the duration of the agreement.

The Council reserves the right to extend or cancel the RFQ process at any point. The Council is not liable for any costs resulting from any cancellation of this RFQ process or for any other costs incurred by those quoting for this Contract.

Quotes must be completed in the English language.

Only one Quote is permitted from each Bidder. If more than one is submitted by a Bidder, the one with the latest time of submission prior to the RFQ close date/time will be evaluated and the other(s) disregarded.

The Quote should remain valid for a minimum period of 90 days.

Any signatures must be made by a person who is authorised to commit the Bidder to the Contract.

Your full registered business name, registered company number and main office address (including your registered and operational addresses if relevant) must be provided on all documents.

Bidders should complete all Schedules where required for submission at the time of bidding to receive full consideration. No documents or variances supplied after the RFQ return date/time shall be considered unless expressly requested by the Council.

Bidders should ensure that the organisations named as references are happy to be contacted by the Council to verify the information provided within the Quote.

## Confidentiality & Publicity

The contents of this RFQ and of any other documentation sent to you in respect of this process are provided on the basis that they remain the property of the Council and must be treated as confidential.

You may not undertake any publicity activities with any part of the media or other third party in relation to this RFQ process or the Contract without the prior written agreement of the Council, including agreement on the format and content of any publicity.

## Contact Details and Deadline for Submission

Your Quote must be submitted via the MDC Procurement e-mail account procurement@mendip.gov.uk by no later than the date and time set out below. Please quote the name of the procurement in the email title.

The timetable\* for the RFQ is as follows:

|  |  |
| --- | --- |
| **Stage / Action** | **Date** |
| RFQ open and documents released | **22 Feb 2022** |
| Clarification questions open | **22 Feb 2022** |
| Deadline for clarification questions | **25 Feb 2022 17:00** |
| Final clarification responses | **1 March 2022** |
| Deadline for submissions in response to this document. | **10 March 2022 17:00** |
| Evaluation of submissions and post-quote clarifications | **11 March 2022** |
| Award decision and notification to suppliers | **14 March 2022** |
| Contract signature | **15 March 2022** |
| Contract start | **21 March 2022** |

\*The dates in this table are provisional, any change to this timetable will be communicated.

## Documents required for submission

The following must be included as part of your Quote. Failure to do so may result in your submission not being evaluated.

* Completion of the questions and declarations
* Completion of Sections 3-10
* Any documents or information specifically requested in the Technical Questions
* Completed Pricing Schedule
* Signed Form of Quote

Submitted documentation must be in the form in which it was sent as part of the RFQ i.e. an MS Excel form must be submitted in MS Excel; documents should not be converted to ‘.pdf’ format.

## Clarifications

If you have any queries, you are welcome to request further details via the Clarification process. Clarifications should be sought in accordance with the timescales detailed in 1.4 above.

Questions & answers will be shared with all Bidders unless the questions and answers are deemed to be commercially or otherwise sensitive.

## Contract details

The contract term is for 3 months from appointment with no option to extend.

Any resulting Contract will consist of the agreed Terms and Conditions, this RFQ and your submission, and will be subject to the laws of England and Wales.

Bidders are permitted to sub-contract elements of the requirements. Portions of the Works or Service to be sub-contracted must be highlighted in your Quote. However, no elements of the requirements can be sub-contracted without prior approval by the Council.

## Evaluation

The information provided as part of Section 4 (Suitability Assessment), Section 5 (Technical Questions) and Section 7 (Pricing) will be used to evaluate the successful Quote as follows.

Each submission will be subject to:

1. an initial check for compliance with all requirements of the RFQ
2. an assessment of supplier suitability – Section 4 (Pass/Fail)
3. an assessment of technical competency – Section 5 (scored)
4. an assessment of price – Section 7 (scored)

The evaluation criteria and associated weighting will be:

|  |  |  |
| --- | --- | --- |
| **Award Evaluation Criteria Breakdown** | **Section Score (maximum available) as a %age** | |
|  | **Main Criteria** | **Sub Criteria** |
| **Technical (Quality)** | **70%** | **-** |
| Sub-Criteria Technical – Question 5.1 | - | **10%** |
| Sub-Criteria Technical – Question 5.2 | - | **10%** |
| Sub-Criteria Technical – Question 5.3 |  | **10%** |
| Sub-Criteria Technical – Question 5.4 |  | **10%** |
| Sub-Criteria Technical – Question 5.5 |  | **10%** |
| Sub-Criteria Technical – Question 5.6 |  | **20%** |
| **Commercial (Price)** | **30%** | **-** |
| Sub-Criteria commercial: Capacity to complete the assignment to budget; value for money on price | - | **30%** |
| **TOTAL** | **100%** |  |

The Council may undertake a Financial Assessment via our credit rating agency. We plan to use this financial appraisal to assess the risk and impact of a supplier failure.

### Technical (Quality) evaluation methodology

Quality will be measured upon evaluation of Bidders’ responses to the technical questions. All technical questions must be completed.

Your responses to each technical question will be evaluated by the evaluation panel using the following scores:

|  |  |  |
| --- | --- | --- |
| **Definition** | **Score** | **Criteria** |
| Excellent | 5 | Excellent response.  Comprehensive and useful.  No weakness noted.  The response includes a full description of techniques and measurements to be employed. |
| Very Good | 4 | Response meets our expected requirement/standard and exceeds minimum expectations, including a level of detail which adds value to the quote.  No significant weakness noted. |
| Good | 3 | Response is acceptable and meets minimum requirement but remains basic and could have been expanded upon.  Response is enough but does not inspire.  Reasonable probability of success, weaknesses can be readily corrected. |
| Poor | 2 | Poor response only partially satisfying requirement/standard, with deficiencies apparent.  Some useful evidence provided but response falls well short of minimum requirements. |
| Very Poor | 1 | Very poor response and not acceptable – fails to meet minimum requirement/standard; requires major revision to make it acceptable.  Only partially answers requirement, with major deficiencies and little relevant detail proposed. |
| Not Complete | 0 | Question is not answered, or the response is completely unacceptable e.g. the answer completely missed the point of the question. |

Each technical question has a weighting, as specified within the question. The weighting will be applied to your scores and a total quality score will be calculated.

### Commercial (Price) evaluation methodology

Price will be evaluated based on the lowest price Quote achieving the maximum %age for the pricing element. Higher priced Quotes will receive a proportional score based on the amount higher they are than the lowest quoted price. The calculation is:

|  |  |  |
| --- | --- | --- |
|  | Lowest Compliant Quoted Price (A) |  |
| Price Score = | ----------------------------------------- | x Score Weighting |
|  | Supplier’s Comparative Quoted Price (B) |  |

For example, where the pricing score will comprise 30% of the overall score, where the lowest quoted price (A) is £100, and where the Bidder’s quoted price (B) is £120, the Bidder’s score would be calculated as follows:

(100/120) x 30 = 25%

### Award of the Contract

The Bidder’s weighted quality and price scores will be added together to give a total weighted score. The Bidder with the highest weighted score will be awarded the contract.

Where there are two Bidders with the same weighted total scores (to 2 decimal places), the provider out of the two with the highest score for pricing will be the first ranked Bidder.

The Council reserves the right to award a part contract.

The Council reserves the right to not award a contract.

The Council reserves the right to make changes of a drafting nature to the Contract Documents.

# Requirements

## General

Overview

Mendip District Council is working to deliver a network of multi-user paths across privately owned land and is seeking professional services to approach, negotiate and ascertain costs for the access for sections of the proposed connection between Wells and Draycott.  
The council has identified a network of potential connections across the District, to facilitate active travel and reduce car journeys. We have prepared route proposals for some of the desired connections and are now looking to achieve land access across sections of the Wells – Shepton Draycott path.

We are looking to engage with private landowners on the suggested route to achieve access on agreeable terms for all parties. We are therefore seeking professional services to negotiate and ascertain the costs for access to permit accurate bids into future funding opportunities to deliver the paths.

Insurance Cover

Prior to signing any Contract, the successful contractor will be required to provide evidence that the following insurances are in place

|  |  |
| --- | --- |
| Public Liability Insurance | £5 million |
| Employer’s Liability Insurance | £5 million |
| Professional Indemnity Insurance | £2 million |

Insurance cover must be maintained with no lapses or breaks for the entire period of the contract and evidence of renewal must be provided before the expiry date of the current cover. The contractor will be required to provide information as to what liabilities the contractor is covered for and not covered for and what liabilities the contractor would expect the Council to be covered for.

Invoicing

Payment Terms

Invoiced monthly for works/services undertaken

Payment Days

Payment will be made within 30days of receipt of a complete and valid invoice.

## Scope & Specification

1. **Initial outcomes sought**· The Council is looking to secure a mutually agreeable route with various landowners along the railway trackbed, between the existing Strawberry Line at Wells and Draycott, to deliver missing sections of the path as detailed in section 4 to extend the Wells path.

* This will require access to the proposed and agreed locations of the path to enable the appropriate surveys to be carried out as part of the planning application. The surveys would be agreed in advance and could include but may not be limited to topographical surveys, protected species surveys, tree surveys and ecological impact assessments.
* In addition, we are also looking to ascertain the costs of the land access with any mitigation works. This will enable us to prepare accurate funding bids for access and construction. If funding is secured, construction should be possible in relatively quick timeframes with all permissions already in place.
* We will need to understand the terms of access to draw up the relevant legal documents for permissive access, dedication to the highway or existing Right of Way.
* Finally, we would like to understand if the landowner would be open to any tree planting as part of the path construction works and the Council’s commitment to reduce carbon.

1. **Path specification**

The Council is working to deliver equal, non-motorised access for all. The multi-user paths will be open to pedestrians, ‘wheelers’ (cycles tricycles, recumbent bikes and all types of mobility assisting devices) and the various types of equestrian activity, facilitating Mendip residents to travel safely without the use of a car.

The paths should be:

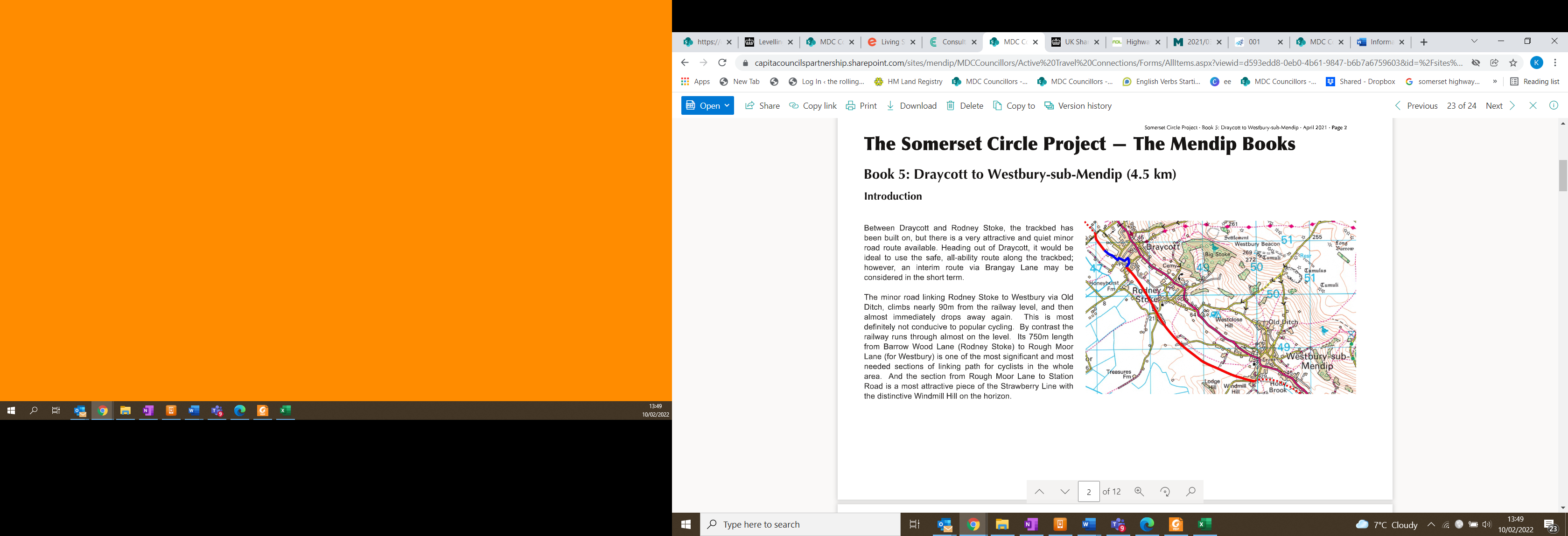
* Where possible, a standard width of 4m. Lesser widths may be required in small sections, but a minimum width of 3m must be achieved where the path is to be fenced.
* Any gates to be installed must be accessible to all users, including mobility scooters, wheelchairs and equestrians.
* The design of the path and any gradients will be required to comply with LTN 1/20 guidelines and or Sustrans Cycle Design Guide. The source of funding may determine the construction standard.
* The maintenance of the path including frequency and access is an important element of the access agreement.

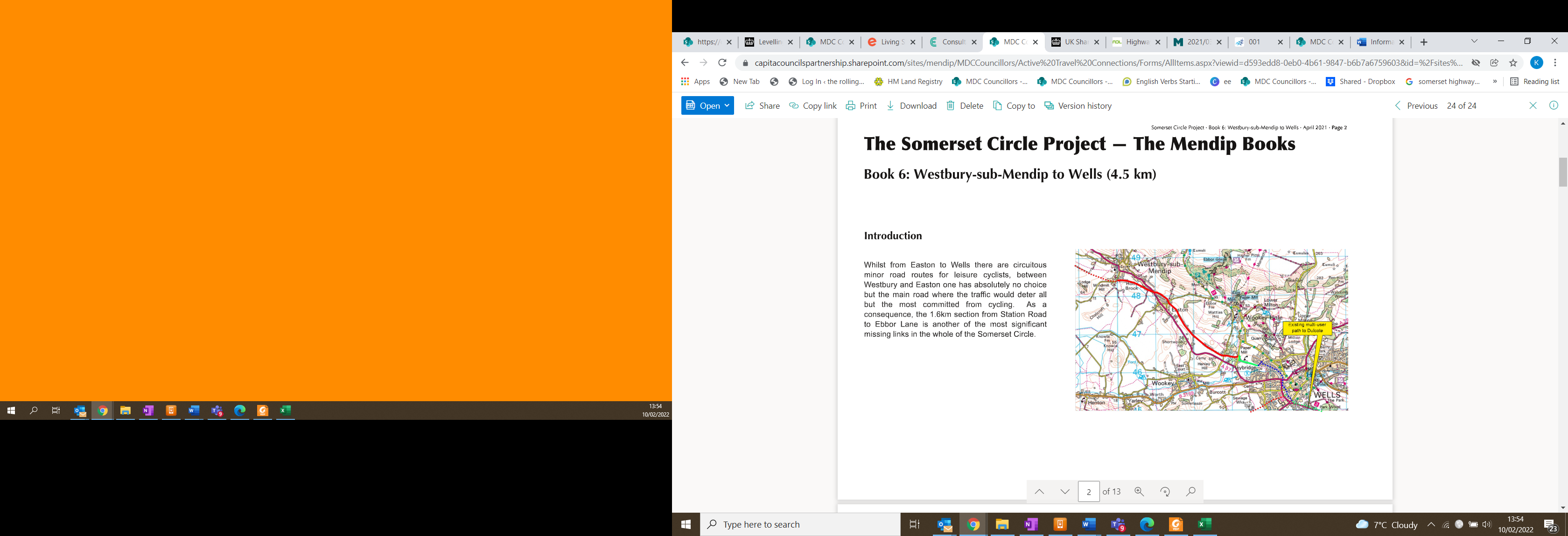
**3. The route**

Map

Description automatically generated

The red line below shows the proposed route that corresponds with the Western part of the Mendip section of the dashed yellow line between Cheddar and Wells on the above Somerset Circle map.





The red line in the above map shows the Eastern part of the Mendip section of the dashed yellow line between Cheddar and Wells on the above Somerset Circle map. The green line here is the existing path in Wells.

The proposed route is protected under Mendip Planning Policy DP18: Safeguarding corridors for Sustainable Travel and follows the former railway track bed – offering a stable base and the most favourable gradient. Although this is the suggested route, the exact location is negotiable, provided it can connect to the neighbouring titles to the East and West.

We have detailed workbooks and landownership information for the route, and are seeking access across 21 separate land titles, from 16 landowners.

**4. The Requirement:  
·** Costs for negotiations – as the Council is looking for the lowest price, we are looking for a fee per landowner and would not accommodate any additional % fees for any lease / purchase agreements.

Costs for final agreement –based on type of access (licence, lease or purchase) with a higher fee paid for a licence agreement.     
**·** Details of any standardised processes for delivery

Details of who will be working on the project

**·** Commitment to follow route proposal where possible   
**·** If a route is secured, the following information for each title would be captured into a legal agreement:

* full contact details
* any concerns they may have
* map with agreed location of path
* agreed path construction specifications
* cost and type of land access (purchase, lease, dedication to highway)
* any mitigation works with costings, materials and who will complete the work
* permitted users
* maintenance agreements
* any time constraints
* permissions around access for surveys to prepare planning application
* details of any additional tree planting that may take place during construction

**5. Performance Requirements (Outputs sought)**· Agreed route across land in line with path design specifications

* Access to carry out surveys for preparation of planning application
* Detailed costs for access
* Details of access – location, duration, and type
* Costs and types of accommodation works
* Maintenance costs or access agreements
* Commitment to follow the Council’s code of conduct
* Confidentiality of workbooks upheld
* Workbooks to be deleted upon conclusion of contract

**6. Monitoring Information**

The consultant we be expected to:

* provide bi-weekly updates on negotiations
* report any concerns immediately

**7. Implementation Requirements**  
· Commence work 21st March 2022   
· Provide contracted service as stated

# Supplier information

All questions in this section must be answered.

|  |  |  |  |
| --- | --- | --- | --- |
| **Supplier Information** | | | |
| **3.1 Supplier details** | | **Answer** | |
| Full name of the Supplier completing the questionnaire | |  | |
| Registered company address | |  | |
| Registered company/charity or other organisation number | |  | |
| Registered VAT number | |  | |
| Name of immediate parent company | |  | |
| Name of ultimate parent company | |  | |
| Please mark ‘X’ in the relevant box to indicate your trading status | | i) a public limited company | ▢ Yes |
| ii) a limited company | ▢ Yes |
| iii) a limited liability partnership | ▢ Yes |
| iv) other partnership | ▢ Yes |
| v) sole trader | ▢ Yes |
| vi) other (please specify) | ▢ Yes |
| Please mark ‘X’ in the relevant boxes to indicate whether any of the following classifications apply to you | | i)Voluntary, Community and Social Enterprise (VCSE) | ▢ Yes |
| ii) Small or Medium Enterprise (SME) | ▢ Yes |
| iii) Charity | ▢ Yes |
| iv) Sheltered workshop | ▢ Yes |
| v) Public service mutual | ▢ Yes |
| **3.2 Contact details** | | | |
| Supplier contact details for enquiries about this submission. | | | |
| Name |  | | |
| Postal address |  | | |
| Country |  | | |
| Phone |  | | |
| Mobile |  | | |
| E-mail |  | | |
| Are you aware of any potential conflict of interest? (Yes / No) | [Y / N] | | |
| If yes, please explain |  | | |
| **3.3 Contact details (invoicing)** | | | |
| Supplier contact details for enquiries about invoicing. These details will be used to generate an invite to the named contact for them to enroll your organisation and/or update your company details. | | | |
| Name |  | | |
| Telephone number |  | | |
| Email address |  | | |
| **3.4 Collaboration** | | | |
| Are you submitting a collaborative Quote?  *NB a ‘collaboration’ is a formal agreement between two or more companies and will likely include an agreement/contract MoU/SLA between those companies* | [Y / N] | | |
| If yes, please ensure that all sections are completed by the lead bidder. Please ensure that only one submission is completed and returned to the Council, which consolidates the offering from any other party/ies you are quoting with. Please provide the name(s) of the organisation(s) you are collaborating with: | | | |
|  | | | |
| **3.5 Additional information** | | | |
| Does your company voluntarily subscribe to the Real Living Wage? | [Y / N] | | |
| If you have supplied works/services/goods to the Council in the last 12 months, please supply your vendor number or your service contact name at the Council. If you have not, please mark as N/A. | | | |
| Vendor number |  | | |
| Service contract name |  | | |
| Please indicate which **one** of the following you would be willing to provide:  **(please indicate which one by ticking the relevant box)** | | | |
| *A copy of your audited accounts for the most recent two years* | ▢ Yes | | |
| *A statement of your turnover, profit & loss account, and cash flow for the most recent year of trading* | ▢ Yes | | |
| *A statement of your cash flow forecast for the current year and a bank letter outlining the current cash and credit position* | ▢ Yes | | |
| *Alternative means of demonstrating financial status if trading for less than a year* | ▢ Yes | | |

# Suitability Assessment

These questions are subject to Pass/Fail criteria.

Should you fail on any individual question, your submission will be disqualified and will not progress any further. The Council may, at their discretion, investigate any of the answers post-submission.

|  |  |  |
| --- | --- | --- |
| **Suitability Assessment Questions (Pass/Fail)** | | |
| 4.1 | The Contractor confirms their latest annual turnover is over £100k (if your company is less than 12 months old please confirm your extracted accounts from your Parent Company meet the minimum Turnover threshold). If you are the preferred bidder following evaluation you will have to provide a copy of your company accounts to support this. | ▢ Confirm |
| 4.2 | The Contractor confirms that none of their Directors or relatives has been, or is presently, a Member of the Council or an employee of the Council. | ▢ Confirm |
| 4.3 | The Contractor confirms that no legal proceedings are in progress that might affect the performance of the contract obligations and that your Organisation has not been prosecuted under EU/UK law in the last three years.  If unable to confirm, please give full details below. | ▢ Confirm |
|  | | |
| 4.4 | The Contractor confirms that, if awarded the contract, they are willing to have the levels of insurance cover stipulated in Section 2.1. If you are the preferred bidder following evaluation you will have to provide a copy of your insurance certificates. | ▢ Confirm |
| 4.5 | The Contractor confirms that none of their Directors or Organisation has been prosecuted (or has a pending prosecution):   * for fraud, or * under the Bribery Act 2010.   NB Where any person acting on behalf of the contractor:   1. Offers, gives, or agrees to give, any Member or officer of the Council consideration of any kind as an inducement or reward with respect to the contract, or 2. Commits any offence under the Bribery Act 2010.   the contract will be cancelled, and any loss recovered. | ▢ Confirm |
| 4.6 | The Contractor confirms that, if they are the preferred bidder following evaluation, they will provide, upon request, the relevant references. | ▢ Confirm |
| ***If selected as the preferred Bidder, the Contractor must be able to provide all evidence relating to these criteria within 5 working days of being notified to this effect.*** | | |

# Quality (Technical Questions)

|  |  |
| --- | --- |
| **Quality Questions** | |
| The Technical Questions will form your quality assessment.  All questions must be answered in this section within the response boxes provided in this document unless otherwise stated. Responses submitted in alternative formats and templates will be rejected. | |
| 5.1 | What experience, if any, do you have of negotiating on behalf of a Local Authority? |
| **CONTRACTOR RESPONSE** | |
|  | |
| 5.2 | What experience do you have of negotiations in relation to agricultural land? |
| **CONTRACTOR RESPONSE** | |
|  | |
| 5.3 | What links do you have to the farming community? |
| **CONTRACTOR RESPONSE** | |
|  | |
| 5.4 | How many members of staff would be working on the contract? |
| **CONTRACTOR RESPONSE** | |
|  | |
| 5.5 | When the contract starts, there may be a high volume of dialogue, that will require a swift response. Do you have capacity to manage the approach and engagement of 16 landowners? |
| **CONTRACTOR RESPONSE** | |
|  | |
| 5.6 | Have you availability to start the project from March 21st 2022? |
| **CONTRACTOR RESPONSE** | |
|  | |

# Previous Experience

|  |  |
| --- | --- |
| **Previous Experience** | |
| The Bidder shall include details of previous experience of one contract relevant to this activity, which is either still running or has been completed within the last three years. | |
| **BIDDER RESPONSE** | Example One |
| Company Name |  |
| Address |  |
| Contact Name |  |
| Telephone No. |  |
| Email |  |
| Description of the work carried out  (word count 200 words) |  |
| Approximate annual contract value (£) |  |
| Contract start and end date |  |

# Pricing

All pricing submissions must be addressed in this section within the response boxes provided. Responses submitted in alternative formats and templates will be rejected.

This is a most economically advantageous Quote, with 70% awarded for quality/capability and 30% for the price of the works/service. Please add your pricing submission in the table.

Please note that the values you enter here within this pricing schedule are:

* the full amount to invoice the Council for - no other expenses will be accepted e.g. travel, food, vehicles, equipment, or tools. The price shall include all profit, transport, labour, materials, fuel, insurance, and all other expenses of every kind which, under the Conditions of the Contract, are borne by the Supplier.
* for all hours of all days - no uplifts will be allowed for bank holidays, weekends or unsociable hours unless otherwise stated
* fixed for the contract term
* exclusive of VAT

|  |  |
| --- | --- |
| **Price** | |
| The Bidder shall confirm the price (exclusive of VAT) to complete the works/services/supplies in the attached Pricing Schedule. Bidders must also complete the pricing table below. The pricing schedule summary should be submitted as part of your overall submission, as well as submitting a detailed supporting document itemising each area in detail, line by line. | |
| **BIDDER RESPONSE (PASS/FAIL QUESTION)** | |
| Bidders must provide a response to each of the items set out below. | |
| Item Description | Itemised Cost (Excluding VAT) |
| Fee per landowner to reach agreement |  |
| Cost per hour for additional services, please include services |  |
| **Total Cost** |  |

# Legal Compliance

|  |
| --- |
| Legal Compliance |
| The following documents will form any subsequent binding agreement |
| **Form of Contract**  MDC Terms & Conditions |
| **Agreement**  The additional documents which make up the agreement are the RFQ submission, pricing table, Instructions to Bidders, Preliminaries, Preambles, General Requirements, Clarifications and any other relevant documents. |
| **Council address**  Kelly Knight  Principal Sustainable Travel & Tourism Officer  Mendip District Council  Council Offices,  Cannards Grave Road  Shepton Mallet  Somerset  BA4 5BT |
| **Review Meetings**  Provide bi-weekly updates on negotiations  Report any concerns immediately |
| **Possible Extension of Term**  No contract extensions |

# Data Processing Schedule

* + 1. The Contractor shall comply with any further written instructions with respect to processing by the Council.
    2. Any such further instructions shall be incorporated into this Schedule.

|  |  |
| --- | --- |
| **Description** | **Details** |
| Subject matter of the processing | **[insert]** |
| Duration of the processing | From commencement of contract to its termination. |
| Nature and purposes of the processing | **[insert]** |
| Type of Personal Data | **[insert]** |
| Categories of Data Subject | **[insert]** |
| Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data | **[insert]** |

# Bidder’s Warranties

Please confirm your organisation’s acceptance of the terms of this RFQ by ticking the relevant boxes below:

**Please note, should you make a submission, it will be deemed that you have accepted the below documents.**

|  |  |  |
| --- | --- | --- |
|  | **Yes** | **No** |
| We have read the RFQ documents and subject to, and in accordance with, the Council’s Purchasing terms and conditions, the Conditions of Quote and all relevant documents attached, we offer to supply and deliver the works/services/supplies specified in this submission, in the quantities and at the rate or prices shown above. |  |  |
| We confirm our submission together with the Council’s written acceptance thereof and any subsequent Contract and/or Purchase Order and/or Works Order and/or Service Schedule shall constitute a binding Contract between us. |  |  |
| We agree to abide by this submission and agree to its validity and enforceability for a period of 90 days from the date of return of this submission. |  |  |

# 

# APPENDIX A – Terms & Conditions

**CONSULTANCY AGREEMENT FOR [ ] SERVICES**

Made the day of 20

BETWEEN

(1) MENDIP DISTRICT COUNCIL of Cannards Grave Road Shepton Mallet BA4 5BT Somerset (“the Client”)

AND

(2) [ ] (registered company number) of [ ] (“the Consultant/ or other term”)

**WHEREAS**

A. The Client is undertaking the [ ] (“the Project”).

C. The Client has resolved to engage the services of the Consultant as a consultant to the Project (subject to relevant resolutions etc).

D The Client has agreed to enter into this Agreement as part of its powers and obligations under [xxxxxx[[1]](#footnote-2)].

**NOW IT IS HEREBY AGREED**

1. **DEFINITIONS AND INTERPRETATION**

|  |  |
| --- | --- |
| “Additional Fees” | means the charges set out in Part II of Schedule 2 which may be chargeable by the Consultant for any Additional Services |
| “Additional Services” | means any services in addition to the Consultancy Services which are agreed in accordance with Part II of Schedule 1 |
| “Client’s Representative” | means the [ ] Officer employed by the Client |
| “Commencement Date” | means the date of this Agreement |
| “Confidential Information” | means all information properly and reasonably designated as such by either party (but having due regard to the requirements of the Freedom of Information Act 2000 and guidance issued in connection therewith) in writing together with all other information which relates to the business, affairs, products, developments, trade secrets, know-how, personnel, customers and suppliers of either party, records relating to the recipients of the Client’s services and information which may reasonably be regarded as the confidential information of the disclosing party and which, if disclosed, would constitute a breach of confidence. |
| “Consultancy Services” | means the services to be provided by the Consultant as set out in Schedule 1 |
| “Contract” | means the contract or contracts to be entered into between the Client and a contractor or contractors for the works required as part of the Project |
| “Material Breach” | means the following breaches of this Agreement which shall be treated as a breach of condition:- |
|  | * by the Consultant which, in the opinion of the Client, delays or obstructs [the Timetable[[2]](#footnote-3)] or the Project without any reasonable explanation provided by the Consultant |
|  | * by the Client in persistently failing to pay the charges as set out in Clause 6. |
| “Consultant’s Fee” | means the fixed fee set out in Part I of Schedule 2 which shall be charged by the Consultant for the Consultancy Services |
| *“Timetable”* | *means the projected timeframe for undertaking and completing the Project prepared by the Client showing the deadlines for completion of the various stages and which may be varied at the sole discretion the Client* |

1. **The Services**
   1. The Consultant will carry out the Consultancy Services in accordance with the terms of this Agreement which shall include the provisions of the Schedule [*and the terms and conditions set out in the Schedule. In the event of any conflict between the terms and conditions in the Schedule and the terms of this Agreement, this Agreement shall take precedence][[3]](#footnote-4)*.
   2. The Consultant shall, in the performance of the Consultancy Services, exercise the skill, care and diligence reasonably to be expected of a Consultant holding himself out as being competent to perform such services and within the normal standards of the Consultant’s profession.
   3. The Consultant shall make no material alteration or addition to or omission from the Consultancy Services without the knowledge and consent of the Client except in case of emergency when the Consultant shall inform the Client without delay.
   4. The Consultant shall inform the Client as soon as possible upon its becoming apparent that there is any incompatibility between any aspects of the Project or between any aspect of the Project, the Project Cost [*and the Timetable*] or any need to vary any part of them.
   5. The Consultant shall inform the Client as soon as possible on its becoming apparent that the Consultancy Services and/or the fees and/or any other part of the Consultant’s appointment and/or any other information or approvals need to be varied and the Consultant shall confirm in writing any subsequent agreement reached.
   6. The Consultant shall give notice in writing to the Client of any circumstances which make it impracticable for the Consultant to carry out any of the Consultancy Services [in accordance with the Timetable].
   7. The Consultant shall where appropriate, ensure that the Consultancy Services will be provided in accordance with the Royal Institution of Surveyors (RICS) Valuation Professional Standards effective as from January 2014 (or amendments thereto) and further that the Consultant (including all personnel engaged in the delivery of the Consultancy Services) only acts in accordance with the Royal Institution of Surveyors (RICS) Rules of Conduct.
2. **Suspension of Services**
   1. The Client may suspend the performance of any or all of the Consultancy Services by giving reasonable notice in writing to the Consultant.
   2. If the Consultant has not been given instructions to resume any suspended Service within six months from the date of suspension, the Consultant shall request in writing such instructions. If such instructions are not received within 28 days of the written request, the Consultant shall have the right to treat this Agreement as terminated.
3. **Consultant’s Authority**

The Consultant is hereby granted full authority to act on behalf of the Client for all purposes in relation to the Project provided that the Consultant shall not, without the approval of the Client:

* 1. appoint or determine the appointment of any contractor or other consultant;
  2. waive the Client’s rights against any contractor or other consultant;
  3. execute a document on behalf of the Client;
  4. knowingly do anything which would delay the Project;
  5. except in an emergency, knowingly do anything which would increase the cost of the Project [*beyond that previously agreed[[4]](#footnote-5)*]

1. **Liability of Consultant**

In its performance of the Consultancy Services, the Consultant shall accept full responsibility for and shall indemnify the Client, from and against the following claims subject always to the obligation to mitigate loss:

* 1. All claims whatsoever and howsoever arising which may at any time during the Project and for 12 months following termination of the Agreement be made which arise out of accidents to the Consultant’s staff or the staff of any agent or sub-Consultant and/or loss or damage to the Consultant’s property and the property of any agent or sub Consultant and its staff;
  2. all third party claims and all liabilities of whatever nature arising from the performance of the Services and all liabilities of whatever nature caused by the negligence of the Consultant;
  3. all loss or damage caused to any land, building or chattel in the ownership, occupation or possession of or partial occupation or possession of the Client by an employee or agent of the Consultant

1. **Consultant’s Charges**
   1. The Consultant’s Fees shall be paid by the Client within 28 days of receipt of an invoice prepared by the Consultant and such fee may, if agreed between the parties, be split into two or more interim payments to be paid during the Project.
   2. The Consultant’s Fees shall include all expenses and disbursements incurred by the Consultant in the performance of the Consultancy Services unless otherwise agreed between the parties[[5]](#footnote-6)
   3. Where Additional Services are requested by the Client the Consultant shall be at liberty to charge the Additional Fees for carrying out the Additional Services and the Client shall pay the Additional Fees within 28 days of receipt of an invoice for the same.
   4. Where the Client disputes any invoice which has been presented in accordance with this clause 6, they shall notify the Consultant in writing within 14 days of receipt of that invoice and the Consultant and the Client’s Representative shall meet as soon as practicable following that notice to resolve the dispute. In the event that this meeting fails to resolve the dispute, the dispute resolution provisions of clause 13 shall apply.
   5. Any invoice which remains unpaid for a period of 12 weeks, and which has not been disputed by the Client in accordance with clause 6.4 above, shall attract interest at 4% above the rate equivalent to the base rate of the Bank of England as shall apply at the time when the sums first became due.
   6. On suspension or termination of this Agreement the Consultant shall be entitled to payment of any invoice previously submitted and not disputed PROVIDED THAT this entitlement shall not apply where, in the opinion of the Client, the suspension or termination has been caused by a Material Breach on the part of the Consultant and the Client has notified the Consultant of this opinion.
   7. All fees, expenses and disbursements under this Agreement are [inclusive/exclusive] of valued added tax and any value added tax on the Consultancy Services shall be paid by the Client.
2. **Warranties and Representations**

The Consultant warrants and represents that:-

* 1. it has the full capacity and authority and all necessary consents (including, but not limited to, where its procedures so require, the consent of its parent company) to enter into and perform this Agreement and that this Agreement is executed by a duly authorised representative of the Consultant;
  2. it shall discharge its obligations hereunder with all due skill, care and diligence including but not limited to good industry practice and (without limiting the generality of this Clause) in accordance with its own established internal procedures;
  3. all obligations of the Consultant pursuant to the Agreement shall be performed and rendered by appropriately experienced, qualified and trained staff with all reasonable skill, care and diligence;
  4. unless otherwise stated, when accepting instructions, the Consultant hereby confirms that it is not aware of any current, previous or possible future material involvement with the subject premises, which could result in a conflict of interest;
  5. the Consultant is not in default in the payment of any due and payable taxes or in the filing, registration or recording of any document or under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under this Agreement.

1. **Compliance with Council Policies**
   1. The Consultant represents that they are familiar with the Client’s policies on [*Whistle-blowing, Anti-Fraud and Corruption and Safeguarding Children and Vulnerable Adults[[6]](#footnote-7)*] (copies of which have been provided) and in particular the Client’s obligations under the Prevent duty (being the Client’s duty to have due regard to the need to prevent people from being drawn into terrorism under the Counter-Terrorism and Security Act 2015 (“the 2015 Act”)). The Consultant acknowledges receipt of the details of the Client’s Prevent Lead (as defined under the 2015 Act).
   2. The Consultant undertakes that they will comply, and they shall require the Consultant’s personnel/staff/servants/agents[[7]](#footnote-8) to comply, at all times with such policies or such replacement policies as shall be adopted by the Client and made available to the Consultant.
   3. The Consultant shall (at no additional cost to the Client) comply with all relevant Council Policies as notified to the Consultant where “Council Policies” means all policies adopted by the Client which the Client is under no legal obligation to impose upon the Consultant.
   4. The Consultant shall make all reasonable efforts to ensure that all personnel/staff/servants/agents involved in the provision of the Services have adequate knowledge of and training in respect of all relevant Council Policies accepted and/or binding upon the Consultant in accordance with the provisions of this clause.
2. **The Client’s Obligations**
   1. The Client will provide the Consultant with copies of all [documents] relating to the Project including and any other information reasonably and necessarily requested by the Consultant in the course of carrying out the Consultancy Services and all at such times as shall allow the Consultant to comply with the Timetable.
   2. The Client accepts that the Consultant will rely on the accuracy, sufficiency and consistency of the information supplied by the Client.
   3. The Client will pay the professional fees of the Consultant in accordance with clause 6 above.
   4. The Client will provide the Consultant with the name and contact details of the Client’s Representative and shall ensure that, as far as is reasonably practicable, all instructions to the Consultant go through the Client’s Representative.
3. **Insurance**
   1. The Consultant shall procure and maintain at a [minimum of £1 million] during the Project professional indemnity insurance with a reputable insurer and shall produce evidence of such policies, including premiums paid upon request by the Client.
   2. The Consultant shall procure and maintain at a [minimum of £5 million] during the Project public liability insurance with a reputable insurer and shall produce evidence of such policies, including premiums paid, upon request by the Client.
4. **Confidentiality**
   1. Each party shall at all times use its best endeavours to keep confidential (and to procure that its employees and agents shall keep confidential) any Confidential Information which it or they may acquire in relation to the business and affairs of the other party to this Agreement and shall not use or disclose such information except with the consent of the other party or in accordance with the order of a court of competent jurisdiction.
   2. Without prejudice to the generality of Clause 11.1 neither the Consultant nor any person engaged by it whether as an employee, servant, agent or sub-contractor shall use the confidential information for the solicitation of business from the Client.
   3. The obligations contained in this Clause 11 shall continue in force notwithstanding termination of this Agreement howsoever occasioned.
5. **Copyright**

Copyright in all documents and drawings prepared by the Consultant as part of the Consultancy Services shall be governed by clause 6 of the Standard Conditions.

1. **Data Protection and Freedom of Information**
   1. The Consultant acknowledges the duties and obligations of the Client under the provisions of the Data Protection Act 2018 (as amended) and shall comply in all respects with it and all regulations made under that Act[[8]](#footnote-9).
   2. The parties shall co-operate with each other so as to ensure compliance with the Freedom of Information Act 2000 (“FOIA”). In the event that the Client is required to provide information to any person as a result of a request made to it under FOIA and the Consultant holds information which, within the meaning of FOIA, is under the control of the Client;
      1. the Consultant shall respond in a timely manner (time being of the essence) to a request from the Client for such information; and
      2. subject to the operation of the exemptions specified in FOIA the Client shall have the right to disclose information relating to this Agreement and the Consultant.
2. **Dispute Resolution**
   1. All disputes or differences which shall at any time arise between the parties touching or concerning this Agreement or its construction or effect or the rights duties or liabilities of the parties under or by virtue of it or otherwise or any other matter in any way connected with or arising out of the subject matter of this Agreement (“the Dispute”) shall first be referred to a meeting of the Client’s Representative and the Consultant for resolution PROVIDED THAT if that meeting fails to reach agreement the Dispute may be referred to the more senior officers or members of the Client for further discussion and resolution.
   2. In the event that the parties fail to resolve the Dispute amicably it shall be referred to a process of mediation to be agreed upon by the parties (which may include the procedure set out in clause 14.3 below)[[9]](#footnote-10).
   3. In default of any such agreement between the parties the Dispute shall be referred to a mediation process in accordance with the Centre for Effective Dispute Resolution’s Model Mediation Procedure.
3. **Termination**
   1. Unless terminated earlier in accordance with this clause 15 this Agreement shall terminate by process of law upon completion of the Project.
   2. *Termination by Notice[[10]](#footnote-11)*

Without prejudice to any other rights or remedy they may have, either party may terminate this Agreement by giving [xx weeks/months] written notice to the other party.

* 1. *Termination in Default*

Without prejudice to any other right or remedy it may have either party may terminate this Agreement at any time by notice in writing to the other party (“Other Party”), in the following circumstances:

* + 1. if the Other Party is in breach of this Agreement where the breach is a Material Breach and, in the case of a Material Breach capable of remedy within 30 days the breach is not remedied within 30 days of the Other Party receiving notice specifying the breach and requiring it to be remedied; and/or
    2. if the Other Party becomes insolvent, or if an order is made or a resolution is passed for the winding up of the (other than voluntarily for the purpose of solvent amalgamation or reconstruction) or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Other Party’s’ assets or business, or if the Other Party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.
  1. In addition to their rights under this clause the Client has the absolutely right to terminate this Agreement if the Consultant commits any breach under clause 16.
  2. Either Party reserves the right to claim damages against the Other Party for any loss suffered as a result of such an action as described in clause 15.3 above being carried out by the Other Party or any person acting on the Other Party’s behalf.

1. **Anti-Bribery [[11]](#footnote-12)**

The Consultant shall:

* 1. comply with all applicable laws statutes regulations and policies of the Client relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (‘Relevant Requirements’);
  2. not engage in any activity practise or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity practise or conduct had been carried out in the UK;
  3. not offer, or give or agree to give, to any person employed by, or in the service of the Client any gift, consideration or reward of any kind as an inducement for doing, or promising to do or for having done or promising to do, any action in relation to the obtaining or the execution of this agreement or for showing or promising to show favour or disfavour to any person, in relation to this agreement or if the like acts shall have been done by it, or person employed by it or acting on its behalf (whether with or without the Consultant’s knowledge);
  4. comply with any policies on anti-bribery as the Client may update the Consultant with from time to time (‘Relevant Policies’);
  5. have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 16.2 and will enforce them where appropriate;
  6. promptly report to the Client any request or demand for any undue financial or other advantage of any kind received by the Consultant in connection with the performance of this agreement;
  7. immediately notify the Client if a foreign public official becomes an officer or employee of the Consultant or acquires a direct or indirect interest in the Consultant and the Consultant warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of this agreement; and
  8. ensure that any person associated with the Consultant who is performing services in connection with this agreement does so only on the basis of a written agreement which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause (‘the Relevant Terms’). The Consultant shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Client for any breach by such persons of any of the Relevant Terms.

1. **Notices**

Any notice to be served on either of the parties by the other shall be sent by first class registered post to the address of the relevant party shown at the head of this Agreement or by facsimile transmission and shall be deemed to have been received by the addressee within 72 hours of posting or 24 hours if sent by facsimile transmission to the correct facsimile number or electronic mail number of the addressee (with correct answerback).

1. **Severance**

If any provision of this Agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or indications to that effect are received by either of the parties from any competent authority the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality or at the discretion of the Consultant it may be severed from this Agreement

1. **Waiver**

The failure by either party to enforce at any time or for any period any one or more of theterms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

1. **Force Majeure**

Neither party shall be liable for any default due to any act of God, war, strike, lockout, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of either party.

1. **Variation**

This Agreement may not varied except by an instrument in writing agreed in full and signed by the parties.

1. **Assignment**

This Agreement and all rights under it may be assigned or transferred by the Client to any other organisation or body at the discretion of the Client who shall give the Consultant 21 days’ notice in writing of any such assignment

1. **Law Applicable**

This Agreement is made under and shall be governed by English Law.

1. **Third Parties**

The provisions of the Contracts (Rights of Third Parties) Act 1999 (as amended) shall not apply to this Agreement.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first before written

**SCHEDULE 1[[12]](#footnote-13)**

**Part 1 - The Consultancy Services**

RFQ/ BRIEF & Specification

Response / Proposal from Consultant

**Part II - Additional Services**

1. The Consultant shall notify the Client if at any time the Consultant considers that Additional Services are required, specifying what he considers are required and why and the Client may authorise the Consultant to carry out such Additional Services PROVIDED THAT the Consultant shall not carry out, and the Client shall not be responsible for any fees arising out of, any Additional Services which have not been so authorised.
2. Notwithstanding paragraph 1 above, the Client may at any time request that the Consultant perform Additional Services which the Consultant is competent to perform
3. The Client may at any time before issuing an instruction under paragraphs 1 or 2 above provide the Consultant with a description of Additional Services which the Client may require the Consultant to perform. In that event, the Consultant shall provide his assessment to the Client as to whether and to what extent the performance of such Additional Services would have an impact on the Project and provide an estimate of the Additional Fees which he would require for performing the Additional Services.
4. If the Client accepts the Consultant’s estimate under paragraph 3 or the parties agree a revised estimate and the Client issues an instruction in respect of such Additional Services, the amount of such estimate or revised estimate shall for all purposes be the Additional Fees to which the Consultant shall be entitled in respect of such Additional Services.
5. In the event that no agreement on an estimate is reached under paragraph 4, the Additional Fees in respect of Additional Services instructed by the Client shall be a fair and reasonable sum agreed between the Client and the Consultant.

**SCHEDULE 2**

**Part 1 – The Consultant’s Fee**

£[[13]](#footnote-14)

**Part II – the Additional Fees[[14]](#footnote-15)**

Any Additional Services agreed in accordance with Schedule 1 above shall be charged by the Consultant in accordance with the arrangements set out in Schedule 2 above PROVIDED THAT the Consultant shall not charge for any Additional Services where such fees to be charged have not been previously confirmed in writing by the Client.

**Signed for and on behalf )**

**of MENDIP DISTRICT COUNCIL ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**by an authorised signatory )**

Title: Deputy/Assistant Chief Executive

**Signed for and on behalf ) ……………………………………………………..**

**Of [the Consultant] by an/ )**

**two authorised signatory )**

Designation of signatory

# APPENDIX B – Pricing Schedule

**Not used**

# APPENDIX C – Form of Quote

To: Mendip District Council

Cannards Grave Road

Shepton Mallet

Somerset

BA4 5BT

Having examined the specifications for the supply of Works/Services/Goods detailed in this RFQ, we offer to supply the said Works/Services/Goods in conformity therewith for the sums as may be ascertained in accordance with the RFQ documents.

I/We ...............................................................................................................................

**(Insert the full name of the Bidder including 'Ltd.' 'PLC' or as the case may be.**

**N.B. if the legal name is a business name not followed by 'Ltd.' or 'PLC' or a similar expression, please state the legal nature of the bidder e.g. partnership or incorporated unlimited company.)**

Of .................................................................................................................................

…………………………………………………………… **(Insert address)**

or being a company registered in England/Scotland (delete as applicable)

.......................................................... **(Insert other country of incorporation)**

whose registered number is ……………………... **(Insert company registration number)**

and whose registered office is at **(Insert registered address of company)**

...................................................................................

...................................................................................

I/We acknowledge that unless, and until, this RFQ is incorporated in a Form of Contract prepared by the Council's Solicitor and executed by the Council, there shall not be a binding contract between me/us and the Council.

We understand that you are not bound to accept the lowest or any Quote you may receive, and that more than one Quote may be accepted or part of one Quote may be accepted, all at the discretion of the council.

Dated: ......................................

Signed: ......................................

Full name of signatory: .......................................

Capacity of signatory: ........................................

On behalf of: (full name of Bidder) ........................................

1. If a statutory power exists; or resolution to commit to the Project. If the project has been commissioned under a wider scheme (i.e. partnership / joint committee etc) mention it here [↑](#footnote-ref-2)
2. If there is no timetable, delete all references [↑](#footnote-ref-3)
3. If there are ts and cs that the estate agent would want to have included. [↑](#footnote-ref-4)
4. If a wider authority has been set [↑](#footnote-ref-5)
5. Expenses and disbursements can be handled separately if required [↑](#footnote-ref-6)
6. Any Council policies required to be complied with should be mentioned, if not already set out in the RFQ/ITT. The Prevent Duty is a legal requirement [↑](#footnote-ref-7)
7. Choose whichever is appropriate [↑](#footnote-ref-8)
8. If Consultant will be handling personal data, more extensive clauses will be needed [↑](#footnote-ref-9)
9. Generally mediation is the favoured dispute resolution method. There are alternatives including simply referring the matter to people more senior within the organisation. [↑](#footnote-ref-10)
10. Whether a break on notice clause – and the length of notice – is needed will dependent on individual circumstances. If any appointment is going to last more than a few weeks or months, some form of break clause should be considered. [↑](#footnote-ref-11)
11. Legal requirement for all procurement [↑](#footnote-ref-12)
12. Schedules can be organised whichever way is the most suitable for the contract [↑](#footnote-ref-13)
13. If a fixed fee insert here. If set out in the proposal refer to the proposal. If hourly rates and/or a pricing schedule is included it can be inserted here [↑](#footnote-ref-14)
14. If anything additional is contemplated, ensure that the RFQ/ITT asks for day/hourly rates for extras [↑](#footnote-ref-15)