

## **GB-Shrewsbury: DOCH 011 - Provision of Bikeability Cycle Training**

### Competitive Contract Notice

1. Title: GB-Shrewsbury: DOCH 011 - Provision of Bikeability Cycle Training

2. Awarding Authority:

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

URL:

[www.shropshire.gov.uk](http://www.shropshire.gov.uk)

Contact: Procurement, Attn: Procurement

3. Contract Type: Services

Sub Type: Education and vocational education services.

4. Description: Education and training services. Shropshire Council are seeking to appoint a suitable contractor to provide Bikeability cycle training, from 1 April 2021 to 31 March 2022. Bikeability funding allocation from the Department for Transport (DfT) for this period have still not been confirmed but Shropshire Council is expecting a similar allocation to recent years. The focus of the service will be the delivery of Bikeability Level 1, 1/2, 2 and 3 in primary schools and Level 3 in secondary schools during term time but provision can also be made for the delivery of Bikeability training during school holidays if the contractor is able to promote / facilitate this. Provision will also include the delivery of up to five Bikeability Plus modules and bespoke training.

5. CPV Codes:

80000000 - Education and training services.

6. NUTS Codes :

UKG22 - Shropshire CC

7. Main Site or Location of Works, Main Place of Delivery or Main Place of Performance: Shropshire CC,

8. Reference Attributed by the Awarding Authority: DOCH 011

9. Estimated Value of Requirement: Category I: 50K to 100K

Currency: GBP

10. Deadline for Expression of Interest: 09/03/2021 12:00:00

11. Address to which they must be sent:

Not Provided

12. Other Information:

Other Information: For more information about this opportunity, please visit the Delta eSourcing portal at:

<https://www.delta-esourcing.com/tenders/UK-GB-Shrewsbury:-DOCH-011---Provision-of-Bikeability-Cycle-Training/47HFJM7F7X>

To respond to this opportunity, please click here:

<https://www.delta-esourcing.com/respond/47HFJM7F7X>

Suitable for VCO: Yes

Procedure Type: OPEN

Period of Work Start date: 01/04/2021

Period of Work End date: 31/03/2022

Is this a Framework Agreement?: no

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Date: 16<sup>th</sup> February 2021  
My Ref: DOCH 011  
Your Ref: DOCH 011

Dear Bidder

## **DOCH 011 - PROVISION OF BIKEABILITY CYCLE TRAINING SHROPSHIRE COUNCIL**

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:

- Instructions to Tenderer (for completion and return)
- Tender Response Document (for completion and return)
- Draft Contract & Bikeability Grant Agreement 2021 (redacted)

Tenders should be made on the enclosed Tender Response Document. Your Tender must be completed, signed and returned along with a signed copy of the instructions for tendering through our Delta Tenderbox. Please pay particular attention to the points below concerning the returning of tenders.

### Returning of Tenders

- The deadline for returning tenders is **noon on 9th March 2021** any tenders received after this time will not be accepted
- Tenders are to be submitted through Delta, our electronic tender portal
  - **Please ensure that you allow yourself at least two hours when responding prior to the closing date and time**, especially if you have been asked to upload documents. If you are uploading multiple documents you will have to individually load one document at a time or you can opt to zip all documents in an application like WinZip. Failure to submit by the time and date or by the method requested will not be accepted.
  - **Once you upload documentation ensure you follow through to stage three and click the 'response submit' button. Failure to do so, will mean the documents won't be viewable by the Council.**

Tenders **cannot** be accepted if:

- Tenders are received by post, facsimile or email
- Tenders are received after **12 noon on the given deadline**

### Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

### Other Details

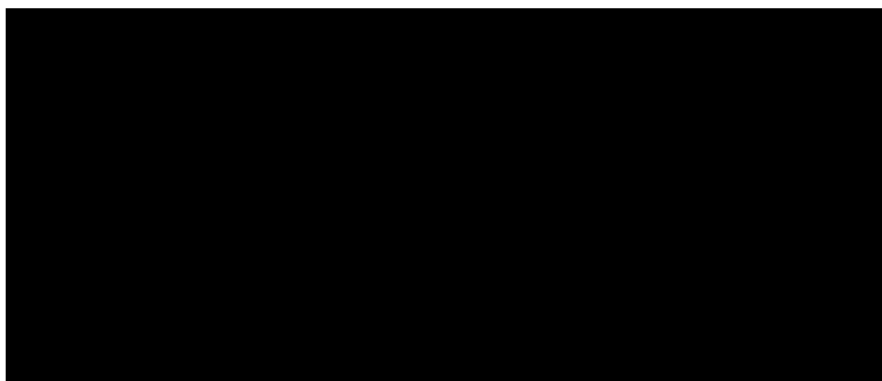
Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender. Please raise all clarification questions before the deadline of **2<sup>nd</sup> March 2021**.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

Please also note that Shropshire Council is committed to achieving Social Value outcomes through maximising the social, economic and/or environmental impact of all its procurement activity. Specific requirements for this contract are set out within the Tender Response Document and in addition for your further information the council's Social Value Framework guidance can be found at [www.shropshire.gov.uk/doing-business-with-shropshire-council](http://www.shropshire.gov.uk/doing-business-with-shropshire-council).

If you have any queries relating to this invitation to tender, please contact us through the Delta e-tendering portal.

Yours faithfully





# **INSTRUCTIONS FOR TENDERING**

## **DOCH 011 PROVISION OF BIKEABILITY CYCLE TRAINING**

## Shropshire Council Instructions for tendering

### **Contract Description:**

Shropshire Council are seeking to appoint a suitable contractor to provide Bikeability cycle training, from 1 April 2021 to 31 March 2022. Bikeability funding allocation from the Department for Transport (DfT) for this period have still not been confirmed but Shropshire Council is expecting a similar allocation to recent years. The focus of the service will be the delivery of Bikeability Level 1, 1/2, 2 and 3 in primary schools and Level 3 in secondary schools during term time but provision can also be made for the delivery of Bikeability training during school holidays if the contractor is able to promote / facilitate this. Provision will also include the delivery of up to five Bikeability Plus modules and bespoke training.

The Bikeability training service is being commissioned with the following objectives to:

- improve cycle skills and road sense
- increase confidence to cycle
- create a positive perception of cycling
- encourage, enable and facilitate more people to cycle, more safely and more often
- increase cycling trips
- increase the number of children and adults receiving cycle training

Staff delivering training should be fully accredited Bikeability trainers offering the DfT's Bikeability programme and the contractors training scheme must be Bikeability Registered. Full details of Bikeability are available here: <http://bikeability.org.uk/>

#### **Background**

Since 2014 Bikeability has been delivered through successive major contracts covering several years with central government funding in the form of Bikeability grant. The current contract comes to an end in March 2021. Due to limited information on future funding levels Shropshire Council has decided to offer a single year contract for the financial year 2021/22.

An announcement on 2021/22 Bikeability funding is expected shortly so it has been necessary to base this tender process on an assumed level of funding in line with recent years. The delivery of this service going ahead is dependent upon Bikeability grant being forthcoming from government.

Therefore, the tender includes a number of options which have been included to address the training demand and financial pressures. To this end Shropshire Council is keen to work with an innovative service provider who can deliver the best possible service within the funding constraints.

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## **1.0 Invitation to Tender**

- 1.1 You are invited to tender for the provision of Bikeability Cycle Training as detailed in the Tender Response Document. The contract will commence on 1 April 2021 to 31 March 2022.
- 1.2 Tenders are to be submitted in accordance with the Draft Form of Agreement and the instructions outlined within this document.
- 1.3 Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4 The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an “in confidence” basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5 Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6 The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer's financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.
- 1.7 The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.
- 1.8 Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement.
- 1.9 Tendering is required by Shropshire Council's procurement processes that ensure that the Council is adhering to Managing Public Money guidelines. The Council anticipates that one company will be the lead consultant of a consortium of partners who provide the range of expertise needed for the project.

## **2.0 Terms and Conditions**

- 2.1 Every Tender received by the Council shall be deemed to have been made subject

to the Draft Form of Agreement and these Instructions for Tendering unless the Council shall previously have expressly agreed in writing to the contrary.

- 2.2** The Tenderer is advised that in the event of their Tender being accepted by the Council, they will be required to undertake the required services.

### **3.0 Preparation of Tenders**

#### **3.1 Completing the Tender Response Document**

- 3.1.1** Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

- 3.1.2** All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

- 3.1.3** The Invitation to Tender Documents are and shall remain the property and copyright of the Council

#### **3.2 Tender Preparation and Costs**

- 3.2.1** It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

- 3.2.2** Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.

- 3.2.3** Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.

- 3.2.4** The Council will not be liable for any costs incurred by Tenderers in the preparation or presentation of their tenders.

- 3.2.5** Tenderers are required to complete all pricing schedules in the Invitation to tender documents. The terms "Nil" and "included" are not to be used but a zero or figures must be inserted against each item. Unit rates and prices must be quoted in



pounds sterling and whole new pence.

**3.2.6** It shall be the Tenderer's responsibility to ensure that all calculations and prices in the Tender documentation are correct at the time of submission.

**3.2.7** The Tenderer is deemed to have made him/herself acquainted with the Council's requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising from his/her failure to comply with this requirement.

**3.2.8** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.

**3.2.9** The Tender Documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Tender document other than on an In Confidence basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender.

### **3.3 Parent Company Guarantee**

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company if requested to do so by the Council. Where the direct parent company cannot provide an adequate guarantee in the opinion of the Council, the Council will look to another group or associate company, with adequate assets, to be the guarantor. In cases where the contract is with a Joint Venture Company (JVC) or a Special Purpose Vehicle (SPV) company, which may have two or more parent companies and which may not be adequately capitalised or have sufficient financial strength on its own to support the risk and obligations it has under the contract, 'joint and several' guarantees / indemnities from the parent companies of the JVC or SPV may be sought.

### **3.4 Warranty**

The Tenderer warrants that all the information given in their Tender and if applicable their Request to Participate Questionnaire is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions

### **4.0 Tender Submission**

**4.1** Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender. Tenders must be submitted by the deadline of **noon, 9<sup>th</sup> March 2021**.

**4.2** No unauthorised alteration or addition should be made to the Specification and

Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.

- 4.3 Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.
- 4.4 Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5 Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.

## **5.0 Variant Bids**

- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender"). Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.
- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

## **6.0 Tender Evaluation**

- 6.1 The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.
- 6.2 If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from

the Tenderer in question.

## **7.0 Clarifications**

- 7.1** Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
- 7.2** If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.
- 7.3** Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.
- 7.4** All queries should be raised as soon as possible (in writing), in any event not later than **2<sup>nd</sup> March 2021**.
- 7.5** All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.
- 7.6** Shropshire Council reserves the right to issue amendments or modifications to this tender during the tender stage. These will be amended on the procurement portal where the tender was originally advertised and bids will be assumed to take account of any such modifications and amendments.
- 7.7** Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

## **8.0 Continuation of the Procurement Process**

- 8.1** The Council shall not be committed to any course of action as a result of:
- i) issuing this Invitation to Tender;
  - ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
  - iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.
- 8.2** The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.

- 8.3** At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

**9.0 Confidentiality**

- 9.1** All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.
- 9.2** The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.
- 9.3** Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this ITT.
- 9.4** The contents of this Invitation to Tender are being made available by the Council on condition that:
- 9.4.1** Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;
- 9.4.2** Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and
- 9.4.3** Tenderers shall not undertake any publicity activity within any section of the media.
- 9.5** Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
- 9.5.1** this is done for the sole purpose of enabling an Invitation to tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or
- 9.5.2** the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
- 9.5.3** the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or

**9.5.4** the Tenderer is legally required to make such a disclosure.

**9.6** The Council may disclose detailed information relating to the Invitation to Tender to its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

**9.7** As a responder to this tender, the tenderer is reminded of the need for confidentiality and the need not to divulge its actual or intended tender price or an approximation of that price to any other person or body until the Council notifies the tenderer that the contract has been awarded.

## **9.8 Transparency of Expenditure**

Further to its obligations regarding transparency of expenditure, the Council may be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

## **10.0 Freedom of Information**

**10.1** Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

**10.2** In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.

**10.3** If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

**10.4** Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.

**10.5** In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any

other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

## **11.0 Disqualification**

**11.1** The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:

**11.1.1** The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 15 of the Council's General Terms and Conditions relating to Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or

**11.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.

**11.1.3** The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.

**11.1.4** The Tenderer :

- a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or
- b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or
- c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or
- d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

**11.2** Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

**11.3** The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the

Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

- 11.4** This tender is not a purchase order or an offer to contract and does not constitute an offer capable of acceptance. This tender does not commit Shropshire Council or any official of it to any specific course of action. The issue of this tender does not bind the Council or any official of it to accept any proposal, in whole, or in part, whether it includes the lowest priced proposal, nor does it bind any officials of the Council to provide any explanation or reason for its decision to accept or reject any proposal. Moreover, while it is the intention of Shropshire Council to enter contract negotiations with the selected tenderer, the fact that the Council has given acceptance to a specific tenderer does not bind it or any official of it in any manner to the tenderer. Acceptance of a proposal neither commits Shropshire Council to award a contract to any tenderer, even if all requirements stated in this tender are satisfied, nor does it limit Shropshire Council's right to negotiate in their best interest. Shropshire Council reserves the right to contract with a bidder for reasons other than the lowest price. Contract award will be post the tender process and may be awarded without discussions or negotiations.

**12.0 E-Procurement**

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage small and medium suppliers.

**13.0 Award of Contract**

**13.1 Award Criteria**

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept the lowest or any Tender.

**13.2 Award Notice**

The Council will publish the name and addresses of the successful Tenderers in the Official Journal of the European Union (OJEU) where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

**13.3 Transparency of Expenditure**

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined

at the absolute discretion of the Council.

**14.0 Value of Contract**

Shropshire Council cannot give any guarantee in relation to the value of this contract.

**15.0 Acceptance**

**15.1** Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.

**15.2** The Tender documentation including, the General and Special Terms and Conditions of Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council.

**15.6** The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract being **1<sup>st</sup> April 2021**.

**16.0 Payment Terms**

**Tenderers should particularly note** that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made after the provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

**17.0 Liability of Council**

**17.1** The Council does not bind himself to accept the lowest or any tender.

**17.2** The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.

**17.3** The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.

**17.4** The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.

**17.5** Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the

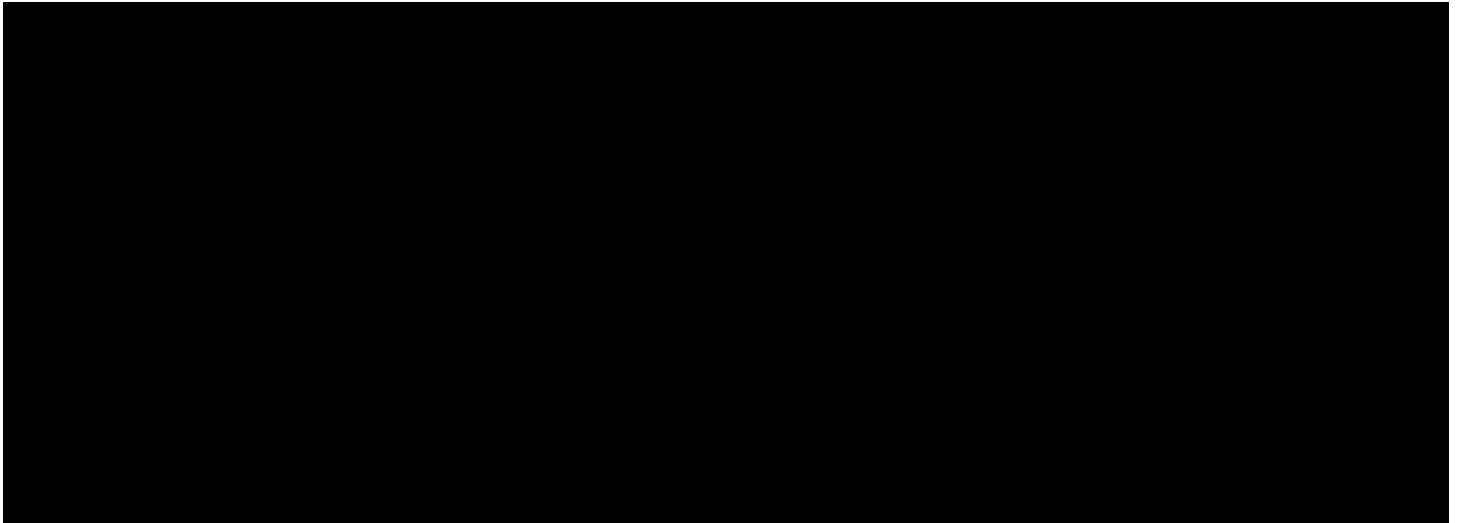


Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.

- 18.0** The Contractor agrees that where requested in writing during the term of any Agreement for the supply Goods Works or Services it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council

**19.0** **Declaration**

We, as acknowledged by the signature of our authorised representative, accept these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to



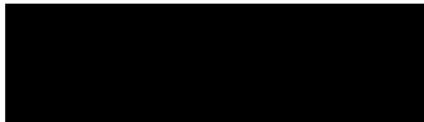


Shropshire  
Council

## Tender Response Document

### DOCH 011 PROVISION OF BIKEABILITY CYCLE TRAINING

Name of TENDERING  
ORGANISATION  
(please insert)



--

Please also add your company name to the footer of each page of the returned document

## Shropshire Council Tender Response Document

### Contract Description/Specification:

Shropshire Council are seeking to appoint a suitable contractor to provide Bikeability cycle training, from 1 April 2021 to 31 March 2022 together with the potential to extend for a further 12 months period up to the 31 March 2023. Bikeability funding allocation from the Department for Transport (DfT) for this period have still not been confirmed but Shropshire Council is expecting a similar allocation to recent years. The focus of the service will be the delivery of Bikeability Level 1, 1/2, 2 and 3 in primary schools and Level 3 in secondary schools during term time but provision can also be made for the delivery of Bikeability training during school holidays if the contractor is able to promote / facilitate this. Provision will also include the delivery of up to five Bikeability Plus modules and bespoke training.

The Bikeability training service is being commissioned with the following objectives to:

- improve cycle skills and road sense
- increase confidence to cycle
- create a positive perception of cycling

- encourage, enable and facilitate more people to cycle, more safely and more often
- increase cycling trips
- increase the number of children and adults receiving cycle training

Staff delivering training should be fully accredited Bikeability trainers offering the DfT's Bikeability programme and the contractors training scheme must be Bikeability Registered. Full details of Bikeability are available here: <http://bikeability.org.uk/>

### ***Background***

Since 2014 Bikeability has been delivered through successive major contracts covering several years with central government funding in the form of Bikeability grant. The current contract comes to an end in March 2021. Due to limited information on future funding levels Shropshire Council has decided to offer a single year contract for the financial year 2021/22 with the potential to extend for a further 12 months period.

An announcement on 2021/22 Bikeability funding is expected shortly so it has been necessary to base this tender process on an assumed level of funding in line with recent years. The delivery of this service going ahead is dependent upon Bikeability grant being forthcoming from government.

Therefore, the tender includes a number of options which have been included to address the training demand and financial pressures. To this end Shropshire Council is keen to work with an innovative service provider who can deliver the best possible service within the funding constraints.

### **Instructions for the completion of this document**

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section/question and require further clarification, please contact us via our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
  - a) Where the tenderer is an individual, by that individual;
  - b) Where the tenderer is a partnership, by two duly authorised partners;
  - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Part 1 Question 1.1 (a). All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany your tender response.

## **Contents**

<b>Section</b>	<b>Description</b>	<b>Page</b>
A1	Form of Tender	7
A2	Non-Canvassing Certificate	8
A3	Non-Collusive Tendering Certificate	9
A4	Declaration of Connection with Officers or Elected Members of the Council	10
<b>You must sign all 4 certificates in sections A1 to A4</b>		
B Part 1	Supplier Information– For information only	11
B Part 2	Grounds for Mandatory Exclusion	12
B Part 3	Grounds for Discretionary Exclusion	12
C	Tender and Pricing Schedule	16

## **Evaluation Criteria**

Tenders will be evaluated on the answers provided in this 'Tender Response Document'. The following criteria is made up of 'pass/fail' (selection criteria) questions and 'weighted marked' (award criteria) questions and shows how each section is to be marked.

### **Selection Criteria Pass/Fail Questions (Section B)**

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Applicants must comply with these issues to demonstrate their proven competency, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

Section / Question No.	Selection Criteria
Section B Part 1	Supplier Information– For information only
Section B Part 2	Grounds for Mandatory Exclusion
Section B Part 3	Grounds for Discretionary Exclusion
	<p>In relation to discretionary exclusion grounds :</p> <p>Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).</p> <p>If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.</p> <p>If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.</p> <p>Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.</p>

	For other Discretionary exclusion grounds: If in the opinion of the Contracting Authority the responses provided casts serious doubt on the Tenderer's ability to perform this contract, they may be excluded.
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### **Award Criteria – Weighted Marked Questions**

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up to respond primarily to 'Quality' with the response to 'Price' answered within Q2 'response to the brief' and shows how each criteria is to be weighted against each other.

Section / Question No.	Award Criteria	Weighting / Max Marks Available
<b>Price 60% (6000 marks)</b>		
Section C / Q 1.1	Price	6000 max marks
<b>Total for price</b>		<b>6000 max marks</b>
<b>Quality 40% (4000 marks)</b>		
<b>Management (Capacity and Promotion)</b>		
Section C / Q 2.1	Resources to deliver the indicative numbers of training places	10 / 100 max marks
Section C / Q 2.2	Promotion and booking process	10 / 100 max marks
Section C / Q 2.3	Evidence of training provided	10 / 100 max marks
Section C / Q 2.4	Social Value	20 / 200 max marks
Section C / Q 2.5	Employment practices	10 / 100 max marks
<b>Delivery</b>		
Section C / Q 3.1	Methodology of delivery of service	200 / 2000 max marks
<b>Compliance (Reporting, Complaints and Data Handling)</b>		
Section C / Q 4.1	Reporting process	10 / 100 max marks
Section C / Q 4.2	Complaints procedure	5 / 50 max marks
Section C Q 4.3	Data Protection policy	5 / 50 max marks
Section C Q 4.4	Safeguarding policy and procedures	10 / 100max marks
Section C / Q 4.5	Health and Safety procedures and risk management	10 / 100 max marks
<b>Public Image and use of PPE</b>		
Section C / Q 5.1	Outline how you will ensure all instructors will wear suitable cycling helmet and uniform	20 / 200 max marks
Section C / Q 5.2	Promotion of the wearing of helmets	20 / 200 max marks
Section C / Q 5.3	Details of the jackets provided for instructors and students	20 / 200 max marks
Section C / Q 5.4	Details of the signs you intended to be used	10 / 100 max marks
Section C / Q 5.5	Procedures for maintaining and insuring bikes	10 / 100 max marks
Section C / Q 5.6	Minimising the carbon footprint of the cycle training activities	20 / 200 max marks
<b>Total for quality</b>		<b>400 / 4000 max marks</b>

### **Quality Questions/ Scoring Scheme**

Questions within the section shown above will be scored using the following scoring scheme:

Assessment	Mark	Interpretation
<b>Excellent</b>	<b>10</b>	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>9</b>	
<b>Good</b>	<b>8</b>	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>7</b>	
<b>Acceptable</b>	<b>6</b>	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	<b>5</b>	
<b>Minor Reservations</b>	<b>4</b>	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	<b>3</b>	
<b>Serious Reservations</b>	<b>2</b>	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	<b>1</b>	
<b>Unacceptable</b>	<b>0</b>	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

**The tender receiving the highest initial mark for Quality Criteria overall will receive the full 4000 marks available for Quality. Other tenders will receive a final mark that reflects the final % difference in the initial marks between those tenders and the tender receiving the highest initial mark for Quality overall.**

#### **Price Evaluation and scoring**

The most competitively priced tender will receive the maximum mark for price being **6000**. Less competitive tenders will receive a % of the maximum mark that represents the

difference in cost between that tender and the most competitively priced tender. This is demonstrated in the following worked example:

The evaluation "tender price" will be deemed to be the sum of the following:

- Price per head given for 1. multiplied by 850 plus
- Price per head given for 2. multiplied by 875 plus
- Price per head given for 3. multiplied by 500 plus
- Price per head given for 4. multiplied by 450 plus
- Price per head given for 5. multiplied by 75 plus
- Price per head given for 6. multiplied by 10 plus
- Price per head given for 7. multiplied by 100 plus
- Price per head given for 8. multiplied by 150 plus
- Price per head given for 9. multiplied by 70 plus
- Price per head given for 10. multiplied by 200

Worked Example:

Tender	Evaluation Tender Price	Points awarded
A	£80,000	$\text{£60,000} / \text{£80,000} \times 6000 = 4500$ points awarded
B	£60,000	Lowest realistic bid = 6000 points awarded.
C	£70,000	$\text{£60,000} / \text{£70,000} \times 6000 = 5143$ points awarded

## **Section A:**

### **1. Form of Tender**

#### Form of Tender

#### **Shropshire Council**

Tender for the provision of Bikeability training, from 1 April 2021 to 31 March 2022, together with the potential to extend for a further 12 months period up to the 31 March 2023. This will be subject to the allocation of Bikeability funding by the Department for Transport. The focus of the service will be the delivery of Bikeability Level 1, 1/2, 2 and 3 in primary schools and Level 3 in secondary schools and to adults in the community.

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the Provision of Bikeability Cycle Training at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the Terms and Conditions, copies of which we have received.



**Section A:**  
**2. Non – Canvassing Certificate**

Non-Canvassing Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

I/We hereby certify that I/We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender of any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

I/We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf will do any such act.

**Section A:**  
**3. Non – Collusive Tendering Certificate**

Non-collusive Tendering Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

## Members of the Council

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

**No**

If yes, please give details:

Name	Relationship

**Please note:**

*This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.*

## Part 1: Potential supplier Information

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 1	Potential supplier information	
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	
1.1(b) – (i)	Registered office address (if applicable)	
1.1(b) – (ii)	Registered website address (if applicable)	
1.1(c)	Trading status a) public limited company b) limited company c) limited liability partnership d) other partnership e) sole trader f) third sector g) other (please specify your trading status)	
1.1(d)	Date of registration in country of origin	
1.1(e)	Company registration number (if applicable)	
1.1(f)	Charity registration number (if applicable)	
1.1(g)	Head office DUNS number (if applicable)	
1.1(h)	Registered VAT number	
1.1(i)	Are you a Small, Medium or Micro Enterprise (SME)?	

### Contact details and declaration

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation's suitability to be invited to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

Section 1	Contact details and declaration	
Question Number	Question	Response
1.3(a)	Contact name	
1.3(b)	Name of organisation	
1.3(c)	Role in organisation	
1.3(d)	Phone number	
1.3(e)	E-mail address	
1.3(f)	Postal address	
1.3(g)	Signature (electronic is acceptable)	
1.3(h)	Date	

## Part 2: Exclusion Grounds

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 2	Grounds for mandatory exclusion	
Question number	Question	Response
2.1	Please confirm you have Bikeability Scheme Registration	
	<b>This is a mandatory requirement</b>	

Section 3	Grounds for discretionary exclusion	
Question number	Question	Response
3.1	Do you have any conflicts of interest which should be considered in relation to other current or future work being undertaken by the tenderer or their team.	
3.2	If you have answered yes to question 2.1 please provide an explanation	

	Economic and Financial Standing	
Question number	Question	Response

4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested? If no, can you provide <b>one</b> of the following: answer with Y/N in the relevant box.	
	(a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.	
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	
	(c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).	
4.2	Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	

Question number	Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015	
5.1	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	
5.2	If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	

### Additional Questions

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

Question number	Additional Questions	
6.1	Insurance	
	Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below:	
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	Employer's (Compulsory) Liability Insurance = £5 Million	

	Public Liability Insurance = £5 Million
	*It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.

## 6.2 – Compliance with equality legislation

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.	
1.	In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?
2.	<p>In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?</p> <p>If you have answered "yes" to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.</p> <p>You may be excluded if you are unable to demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.</p>
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?

## 6.3 – Environmental Management

1.	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</p> <p>If your answer to the this question is "Yes", please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</p> <p>The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>
2.	If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?

## 6.4 – Health & Safety

1.	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.
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2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was "Yes", please provide details in a separate Appendix of any enforcement/remedial orders served regarding training in schools and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	

## 6.5 Safeguarding

(for services where staff come into regular contact with children)

*	<p><i>Why do we need to know this?</i></p> <p><i>The safeguarding duties placed on public authorities require the Council and its partners to work to the following guidance:</i></p> <p>"Working together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (March 2015)"  <a href="http://www.safeguardingshropshireschildren.org.uk/scb/">http://www.safeguardingshropshireschildren.org.uk/scb/</a></p> <p>"West Midlands Adult Safeguarding Policy &amp; Procedures"  <a href="https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf">https://www.shropshire.gov.uk/media/1462593/wm-adult-safeguarding-policy-and-procedures-working-draft.pdf</a></p> <p><i>We need to ensure all companies that work with Shropshire Council are clear about our safeguarding expectations and are committed to meet our expectations. The Council also needs to ensure that your organisation has a good record for safeguarding children and adults</i></p>	
1.	Do you have a Safeguarding Policy or statement for safeguarding children?	
2.	For information: our requests for references will include a question relating to your organisation's record for safeguarding.	
3.	<p>As a contractor providing a public service on behalf of a Shropshire Council, we expect that you will be familiar and committed to the local safeguarding procedures as prescribed by Shropshire's Safeguarding Children Board (SSCB) and  <a href="http://www.safeguardingshropshireschildren.org.uk">http://www.safeguardingshropshireschildren.org.uk</a></p> <p>I certify that I am familiar with and committed to deliver our service in compliance with local safeguarding processes.</p>	



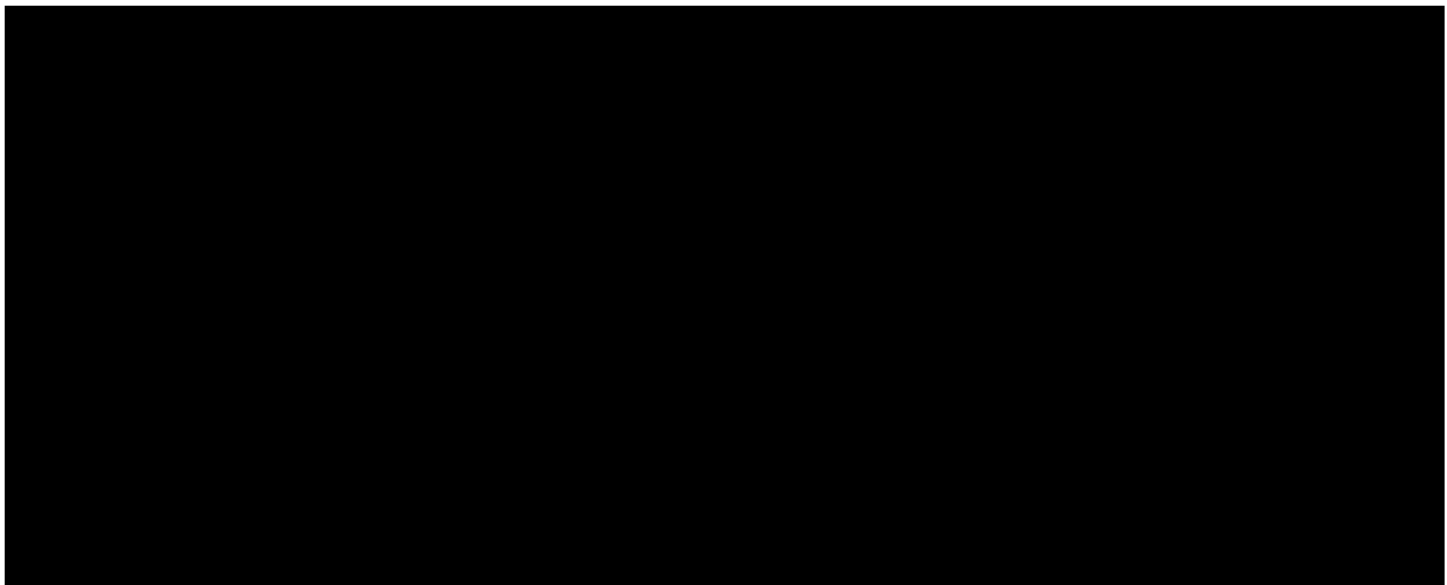
## SECTION C – TENDER SCHEDULE

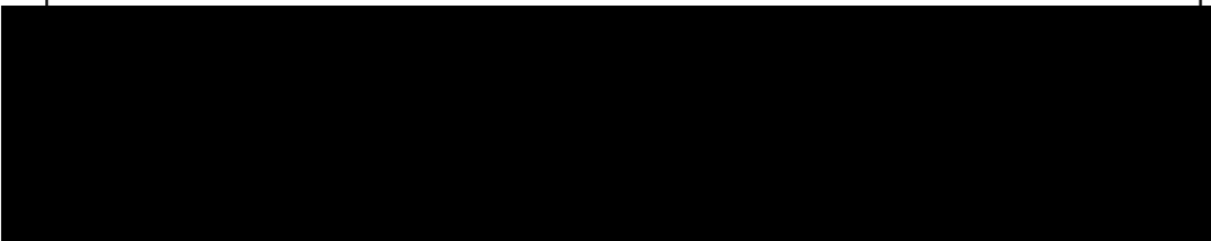
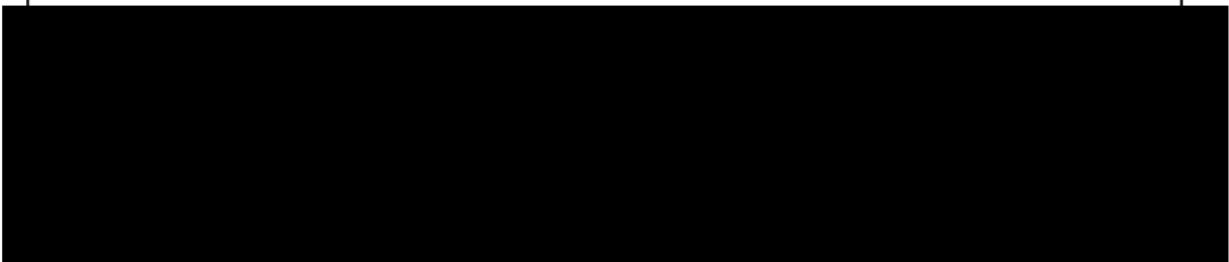
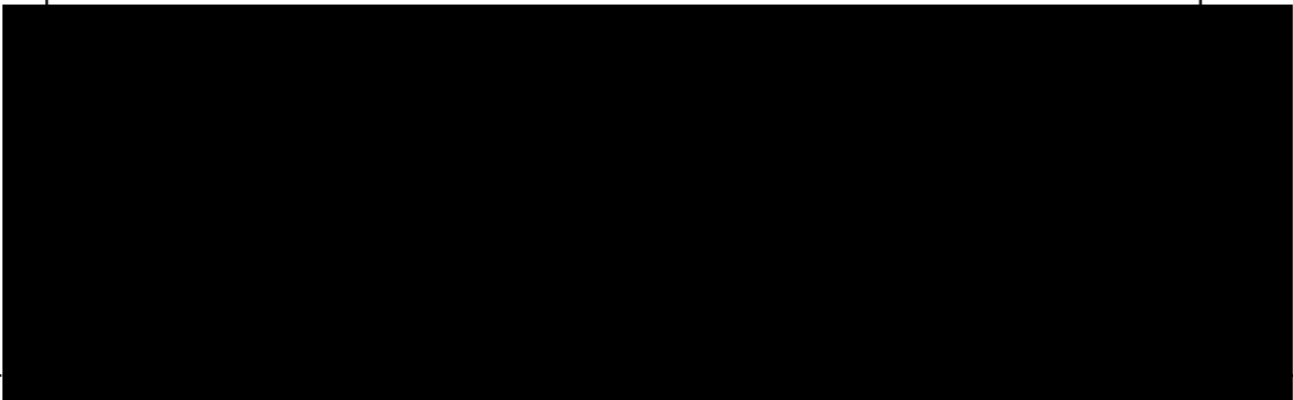
1.	Pricing Schedule	Weighting / Max marks
1.1	<p>The Council is expecting to be awarded Bikeability grant funding by DfT for the financial year 2021/22 . Please note:</p> <ol style="list-style-type: none"> <li>1. All prices will be fixed for the full term of the contract. The contractor should build any inflation costs into the single price and/or address them through planned efficiency savings.</li> <li>2. Prices quoted should reflect the indicative number of training places set out in Table C.1.</li> <li>3. Prices should not exceed the maximum payment shown in brackets for each activity. If the activity cannot be delivered within the maximum then details of additional charges to the trainee / attendee should be set out in the response to Section 3.1.</li> <li>4. The column A price for each activity is expected to be the same whether based in school or out of school. Details of additional charges that the service provider might need to make for activities delivered out of school should be clearly set out in the response to Section 3.1.</li> <li>5. Due to budget pressures and demand for training exceeding the current allocated grant levels, Shropshire Council may introduce a charge per course / trainee during the life of the contract. This may apply to some or all of the training levels and/or modules. If such a charge is introduced the Council will undertake any necessary administration. The contractor will need to include details of the charges in any publicity information that it sends to service users.</li> </ol>	600/ 6000 max marks

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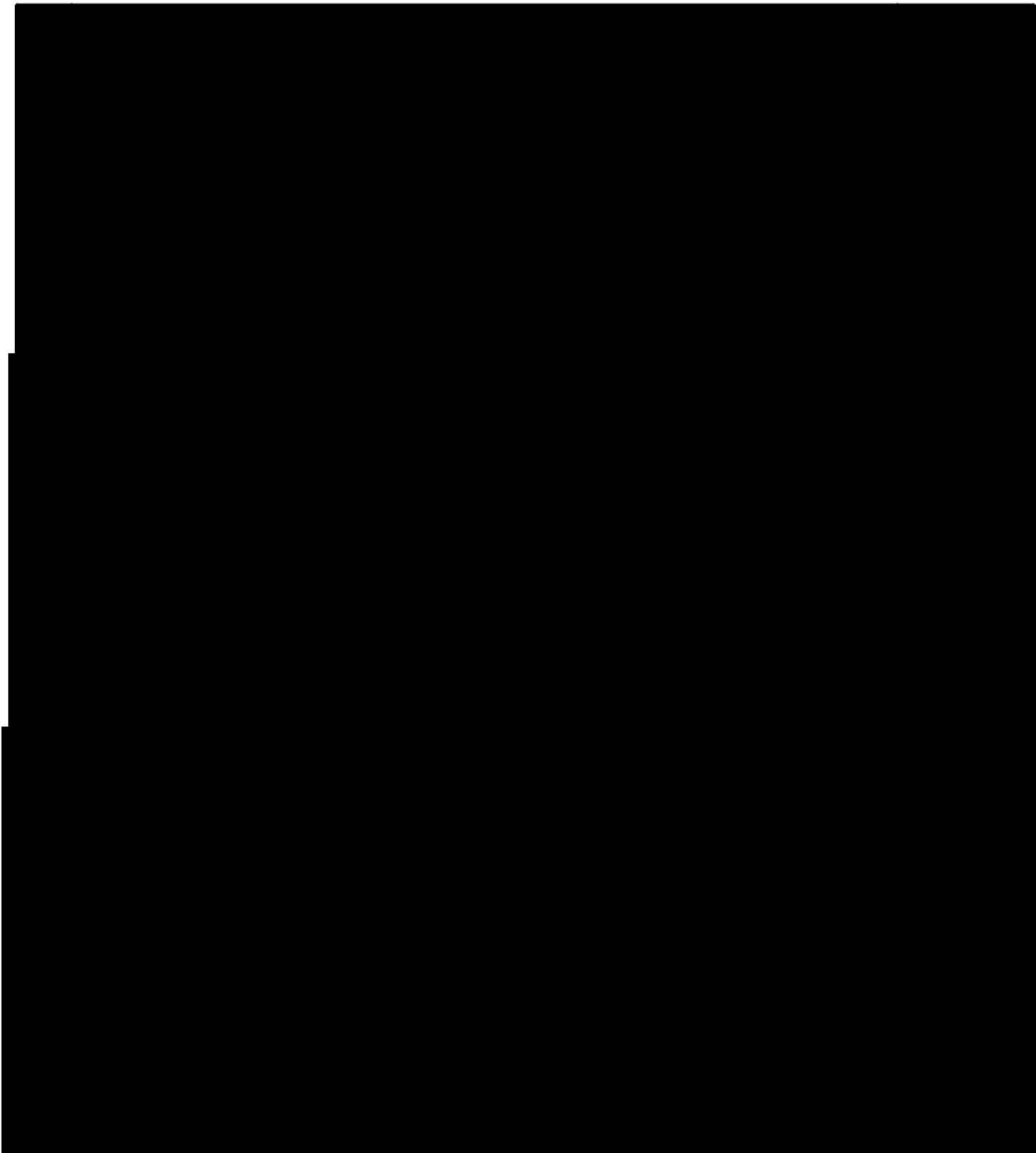
	<b>Tender Specification Response</b>  To enable the Council to assess your suitability as a Service Provider, it is vital that as much information as possible is given regarding your service delivery. Please highlight any areas where your delivery will exceed Bikeability standards and explain why you have chosen to do this. Shropshire Council is keen to hear about your ideas and innovations and how these will add value to the Bikeability service. Please note that the majority of the training in this contract will focus	<b>Weighting / Max marks</b>
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	<p><b>on pupils receiving Level 1 and 2 training as a combined course at a minimum age of 9 years.</b></p> <p><b>Please respond to all the following questions and create sufficient space for your responses by expanding the table.</b></p>	
2.1	<p>How will you ensure you have the resources to deliver the indicative numbers of training places set out in Pricing Schedule Table C.1 and how you will manage any changes in numbers, particularly reductions, without adversely affecting the quality of the service?</p>	10 / 100 max marks
2.2	<p>The Council will introduce the Service Provider to all schools through an initial email and provide a provisional Bikeability Level 1, 1/2, 2 and Level 3 training programme for April to August 2021 (based on the programme set up by the current contractor). Once the contract is awarded the Service Provider will be responsible for confirming this provisional programme to schools and for further promotion of all Levels to those schools that have not yet agreed to host training in the current academic year. The Service provider will also be responsible for the promotion and programming of all other Bikeability Plus Modules. The Council will confirm any limits on total number of training places at the beginning of the contract and then annually.</p> <p>Describe the promotion and booking process (including appropriate references to data protection and retention policies) you would employ.</p>	10 / 100 max marks



2.3	When invoicing the Council please describe how you propose to evidence the training you have delivered.	10 / 100 max marks
		
2.4	Can you describe how, through the operation of this contract, you would be supporting the environmental, social, and economic objectives of Shropshire Council to meet its key priority of economic growth and prosperity for Shropshire? How will you manage this contract and also your supply chains in providing the service to Shropshire Council to ensure that every effort is made to minimise adverse environmental impacts and maximise positive social and economic impacts?	20 / 200 max marks
		
2.5	Please describe your employment practices, covering the following sub questions:	10 / 100 max marks
		





3.1	<p>Please provide an outline of how Level 1, Level 1/2, Level 2 and Level 3 training and Bikeability Fix, Parents, Ride, Transition &amp; Adult modules will be delivered.</p> <p>Please make specific reference to any differences or restriction that might apply to out of school sessions / courses as opposed to the more regular term time sessions / courses. Your outline should include (where appropriate);</p>	200 / 2000 max marks
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	<p>a. Details of your risk assessment procedures. Please note that risk assessments have been undertaken for a number of suitable on-road training sites at a number of schools across Shropshire. This information will be made available to the Service Provider for information only. The Service Provider will be responsible for undertaking its own risk assessments and maintaining a risk assessment file and a copy of this will need to be provided to the Council on request.</p>	
<div></div>		
	<p>b. How many trainees per course / session, what are the teaching ratios you employ and how much tuition time does each trainee receive?</p>	
<div></div>		
	<p>c. How will you manage situations where a child has or hasn't achieved the preceding Bikeability Level and what procedures would be put in place, if any, for training children with physical disabilities, learning difficulties, behavioural problems or special needs within a course?</p>	
<div></div>		
	<p>d. Communication arrangement with the school or individuals – before, after and during the course / session delivery.</p>	
<div></div>		
	<p>e. If the Service Provider is not able to provide the course / session within the maximum payments set out in Section C 1.1 then details of additional charges, who will be required to pay and how these will be applied / administered should be clearly stated. If no additional charges are made then it would be helpful for this to be clearly stated.</p>	

	<p>f. Based on the price per trainee you have submitted is there a minimum number trainees / attendees per course / session? If so what options will you provide to ensure training is available to the smaller rural schools where numbers may be low? Also address the situation where higher numbers do not exactly match any particular trainer to trainee ratio.</p>	
	<p>g. All pupils will be expected to have a suitable roadworthy bike, provided by their parents or carers or the school. (Any adults involved in Bikeability Plus modules will be expected to do the same.) Trainers will check that bikes are suitable at the beginning of the course / session, but it is not the trainer's responsibility to make bikes roadworthy. Please outline the process you will put into place to minimise any adverse impact that this requirement might result in.</p>	
	<p>h. On completion of a Bikeability Level course trainers will supply the school with appropriate certificates for all the children who participated and where appropriate a pin badge. The certificates give feedback for each pupil and say what standard the child achieved. How you will deal with a situation where a child does not reach the require standard by the end of the training course.</p>	
	<p>i. From time to time the Council may provide additional materials / resources for distribution to the trainees. Please set out how you will manage the handling of these resources and whether you would want to restrict them in anyway.</p>	
	<p>As set out in section 1.1 Shropshire Council may consider introducing a charge per trainee for some or all of the levels / modules and any appropriate reference should be made to this in your response</p>	

	<p>The Pricing Schedule includes an hourly rate per trainer hour that is intended to be used to deliver <b>bespoke cycle training / activities</b>. The Council accepts that any provision under this element of the contract will need to be mutually agreed. Please set out any particular restrictions you would expect to apply to this service. Please include consideration of the following;</p> <p>j. Undertaking risk assessments.</p> <p>k. Availability and minimum / maximum number of trainers or hours.</p> <p>l. Trainer ratios</p> <p>m. Communication arrangements.</p> <p>n. Types of training / activities.</p> <div style="background-color: black; height: 60px; width: 100%;"></div>	
4.1	<p>Please provide details of your reporting process and include an example of a report. This will need to cover a general review of the training programme delivered, numbers trained, schools involved, levels of customer satisfaction, lessons learnt, improvements made etc.</p> <div style="background-color: black; height: 130px; width: 100%;"></div>	10 / 100 max marks
4.2	<p>Please provide details of your complaints (from a service user) procedure.</p> <div style="background-color: black; height: 25px; width: 100%;"></div>	5 / 50 max marks
4.3	<p>Please provide details of your Data Protection Policy and procedures. Please note that for out of school training generally and for Bikeability Plus Parents, Ride &amp; Adult contractors will need to handle full contact details of those attending in order to deliver the course / session.</p> <div style="background-color: black; height: 25px; width: 100%;"></div>	5 / 50 max marks
4.4	<p>Please provide details of your Safeguarding Policy and procedures, including child protection. (Please note that Shropshire Council regards all the services set out in the contract as Regulated Activities in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and/or in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.)</p>	10 / 100 max marks



4.5	<p>Please provide details of your Health and Safety at Work procedures, including risk management. Please include details of how you will manage the selection and maintenance of suitable locations / routes for on-road training.</p> <p></p>	10 / 100 max marks
5.1	<p>The Council expects the successful bidder to comply with its safety equipment policy. All instructors must wear a suitable cycling helmet when using a bicycle to deliver training. A good example must be set at all times.</p> <p>Please set out how you propose to ensure all instructors follow this example. Will your instructors wear a uniform?</p> <p></p>	20 / 200 max marks
5.2	<p>The wearing of cycling helmets by child trainees / attendees is compulsory. The Service Provider will ensure that it is fitted correctly and worn during each training session.</p> <p>Please provide details of how you will promote the wearing of helmets and how you will manage situations where a parent/guardian has not provided a helmet.</p> <p></p>	20 / 200 max marks
5.3	<p>HiViz jackets / vests are to be worn by all instructors and students during training. The Service Provider is expected to provide these items to trainees / attendees.</p> <p>Please provide details of the jackets you propose to use including any branding.</p> <p></p>	20 / 200 max marks
5.4	<p>Portable road signs are to be used when the risk assessment demands their use and these will be provided by the Service Provider.</p> <p>Please provide details of the signs you intend to use and how these will be managed?</p> <p></p>	10 / 100 max marks

5.5	<p>The Council has a number of children's bikes that it is prepared to make available to the Service Provider if they wish to offer Bikeability training to children who do not have a bike of their own. If the Service Provider would like to make use of these bikes they would have to take on the responsibility for maintaining and insuring them and they would remain in the ownership of the Council. All costs associated with making these bikes available during training sessions would have to be incorporated into the charge made to the Council.</p> <p>Please confirm if you would like to make use of these bikes and outline your procedures for maintaining and insuring them.</p> <p data-bbox="132 712 1302 831"></p>	10 / 100 max marks
5.6	<p>Please indicate how you intend to minimise the carbon footprint of the cycle training activities you will provide and how you would ensure that the cycle training service maintains strong links with the delivery of other sustainable transport activities and initiatives in Shropshire.</p> <p data-bbox="137 1003 1315 1279"></p>	20 / 200 max marks



## Department for Transport

### **AGREEMENT FOR FUNDING TO DELIVER BIKEABILITY CYCLE TRAINING APRIL 2020– March 2021**

#### **1. Definitions**

In this funding agreement:

"DfT" means the Department for Transport, acting on behalf of the Secretary of State for Transport.

"the National Standard" is the National Standard for cycle training, published by the Department for Transport on 18<sup>th</sup> October 2018.

"Bikeability" is the name under which the National Standard is promoted and delivered in England.

"the Programme" means funding for children and young people attending full time education or training to receive Bikeability cycle training, which aims to increase the number of children and young people receiving cycle training.

"Bid" means an application made by Shropshire Council for a grant for Bikeability cycle training in 2016.

"the Grant Recipient" means Shropshire Council.

"the Grant" means the amount of funding specified in clause 3 of this agreement, made under section 40(1) of the Road Traffic Act 1988, being payments to any local authority or any authority or body for meeting the whole or part of the capital or running costs of any measures for promoting road safety.

"Eligible Expenditure" means the payments to Shropshire Council which has been identified as being able to deliver Bikeability cycle training for the purposes of the Programme.

"Funding Period" means the period starting from the date of this agreement and ending on 31 March 2021.

#### **2. Purpose of the Grant**

The purpose of the Grant is to deliver, by 31 March 2021, a programme to provide Bikeability cycle training for children and young people attending full time education and training in England exclusively based on the National Standard for cycle training and to train additional Bikeability Instructors as required.

#### **3. Amount of Grant**

The Grant Recipient's grant allocation for 2020/21 at each Bikeability Level and Bikeability Plus module is detailed in the attached spreadsheet.

Funding allocated per Bikeability Level or Bikeability Plus module is intended for delivery of that Level or Module alone; **funding is not transferable between Levels or modules.** If



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Grant Recipients wish to amend their allocation across the Bikeability Levels or Bikeability Plus modules, they must agree with DfT a grant amendment in advance.

Note that repeat training of a child or young person should not take place unless there are reasonable grounds to do so and where this does not exclude other children or young people who have not taken part in any training the opportunity to do so. The types of grounds where re-training may be considered acceptable practice include a child or young person failing to demonstrate all the National Standard assessment criteria at a particular Bikeability Level or a child or young person wishing to undertake more than one Bikeability Level of training or module of Bikeability Plus.

### **4. Grant Recipient conditions**

The Grant Recipient must comply with the following conditions:

- a) Make satisfactory progress with the Programme to achieve the purpose of the Grant by the end of March 2021;
- b) Agree in advance with the DfT any significant changes to the Programme, or to any of the objectives, activities and milestones;
- c) Maintain and operate effective monitoring and financial management systems for the Programme in order to control expenditure and to ensure that the costs of achieving the objectives, activities and milestones can be clearly identified;
- d) Keep a record of expenditure funded partly or wholly by the Grant and all income generated by the Programme and retain all accounting records relating to that expenditure and income for a period of at least six years after the end of the Grant funding. [Note: accounting records include original invoices, receipts, accounts and deeds, whether in writing or electronic form]. Such records must also be kept for any income generated with the help of the Grant. The Grant Recipient must make these available at any reasonable time for inspection by officials from the DfT or their representatives or by the Comptroller and Auditor General or his/her representatives for the financial review of the Programme which is undertaken at the end of the financial year and at any other reasonable time for inspection;
- e) Ensure that all recipients under the Programme meet the criteria for Grant and have all the necessary permissions and authority (whether required by legislation or otherwise) to undertake the works and activities detailed in the 2016 Bid;
- f) Take all reasonable steps to ensure that they and anyone acting on their behalf under the Programme comply with the law for the time being in force in the United Kingdom, including, in particular (so far as binding on the Grant Recipient), the requirements of the Health and Safety at Work Act 1974, Data Protection Act 2018, Equality Act 2010 and the Bribery Act 2010. Note: The Equality and Human Rights Commission have issued Codes of Practice giving guidance on the law relating to equal opportunities and on good practices in employment;
- g) Keep a record of the number of children and young people who participate in Bikeability training broken down by course i.e. Bikeability Levels 1-3 and Bikeability Plus modules. The records must also be able to identify the location the training took place, and the school year group, gender, SEND, ethnicity, eligibility for pupil premium funding, for the participants in each training event.



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i) Claim no more than the agreed contribution per head towards the cost of each Bikeability Level or Bikeability Plus module training place.

j) Every child or young person participating in a Level 1, 2 or 3 Bikeability course must receive a Bikeability badge, Bikeability certificate and Bikeability booklet produced by Department for Transport approved suppliers and purchased via the mechanisms specified by Department for Transport Bikeability support providers. The same applies for:

- certificates and stickers for Bikeability Balance;
- certificates for Bikeability Fix; and
- certificates for Bikeability Learn to Ride.

Any costs over and above the amount claimed from the DfT should be met by the Grant Recipient.

k) Provide one training place at the agreed amount for each Bikeability Level or Bikeability Plus module. Provided this is the case funding may be used to fund in part or in full the cost/s of the following:

- Training for Bikeability instructors to complete the 1<sup>st</sup>4Sport Level 2 award in Instructing Cycle Training or the Level 3 award in Developing Cycle Training Instructors. Note that trainees do not have to be directly employed by the Grant Recipient.
- Bikeability award materials used in connection with the Bikeability delivery Programme funded in part or in full by the DfT.
- Administrative resource for the promotion and co-ordination of the Bikeability delivery programme funded in part or in full by the DfT.

l) Ensure that training is delivered by a registered Bikeability provider using Bikeability instructors who are registered with the DfT and have been trained and assessed to deliver Bikeability based on the National Standard. Only providers and instructors with current registration can deliver Bikeability. All Bikeability training delivered must

- accord with the approved details of that Bikeability provider's current registration
- conform with the *Bikeability delivery guide* and *Bikeability Plus delivery guide*
- comply with the Bikeability quality assurance system
- be reported to the DfT in quarterly programme monitoring data.

### **5. The Grant must not be claimed for any of the following:**

a) Funding for any other programme of cycle or pedestrian training, whether or not based on the National Standard;

b) Activities of a political or exclusively religious nature;

c) Works or activities that any person has a statutory duty to undertake;

d) Depreciation, amortisation or impairment of fixed assets;



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- e) Input VAT reclaimable by the Grant Recipient from H. M. Revenue & Customs;
- f) Interest payments or service charge payments for finance leases;
- g) Gifts;
- h) Entertaining;
- i) Payments by the Grant Recipient in advance of need;
- j) Statutory fines, criminal fines or penalties;
- k) Payments that support activity intended to influence or attempt to influence Parliament, Government or political parties, or attempting to influence the awarding or renewal of contracts and grants or attempting to influence legislative or regulatory action.

### **6. Payment arrangements**

The Grant will only be paid upon application by the Grant Recipient giving prescribed details of Eligible Expenditure.

Grant claims must be made on the standard form provided by the DfT and submitted together with quarterly Bikeability training monitoring data. Quarterly payments will be made on the basis of confirmed Bikeability claims. If a payment window is missed the Grant Recipient will need to wait for the next quarterly payment window. Grant payments will be made by DfT's support provider via BACS payment. A payment schedule will be issued at the start of the financial year. No funding will be released without the supply of supporting monitoring data. Grant claims must also be certified by the Grant Recipient's chief financial officer (or equivalent) or by such other person as has been appointed for this purpose by the Grant Recipient with the approval of the DfT.

### **7. Monitoring progress under the Grant Recipient**

The Grant is subject to review and progress reports may be requested from the Grant Recipient by the DfT; these must outline the Programme's progress to-date against the programme objectives, activities, milestones and baselines set out in the 2016 grant application and bidding process as well as any other information reasonably requested.

The Grant Recipient is also required to supply monitoring information to school level concerning the delivery of the Programme when requested. As a minimum, Grant Recipients are required to submit monitoring data in a format to be advised by the DfT with each grant claim form as Grant will not be paid until monitoring data has been submitted. Formal review will also take place at the end of the financial year for which the Grant Recipient is required to submit monitoring data in a format to be advised by the DfT. Grant Recipients are required to submit complete monitoring data for the complete financial year no later than 30<sup>th</sup> April 2021.

The Grant Recipient is required to report back as a minimum on all Bikeability training places delivered through the online monitoring tool by the following dates:

- 30 June 2020
- 30 September 2020



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- 31 December 2020
- 31 March 2021
- 30 April 2021 (final figures/reporting closes).

In addition to the formal monitoring required, the Grant Recipient must notify the DfT at the earliest opportunity if the full allocation of Bikeability training places is not going to be delivered. If this occurs, the Grant Recipient is required to submit a completed grant amendment request form to confirm the training places being surrendered. **Late notice of under-delivery may be subject to allocations for future financial years being reduced.** Alternatively, if the Grant Recipient identifies that additional Bikeability training places can be delivered before the end of that financial year, they should submit a completed grant amendment form to request the additional training places required. Grant Recipients must check if the required extra funding is available before committing to any further delivery plans. If additional funds are available, the DfT will allocate these by applying the principles of quality, performance and fairness.

### 8. Value for money and procurement requirements

The Grant Recipient must use its reasonable endeavours to ensure that its partners secure the best value for money in the purchase of Bikeability cycle training for the purposes of the Programme. The Grant Recipient must adhere to the Bikeability quality assurance guidance when procuring and delivering the Programme through partners and sub-contractors.

If applicable, the Grant Recipient must take all reasonable steps to ensure that no member of the partnership incurs Eligible Expenditure without having complied with the requirements of the Public Contracts Regulations 2015 (SI 2015/102). Although the Regulations apply primarily to public sector bodies, they may also apply to the procurement of goods and services by a private person where more than 50 per cent of the consideration is contributed by a public sector body.

### 9. Conflicts of interest and financial or other irregularities

Officers, members and employees of the Grant Recipient must be careful to avoid conflicts of interest. The Grant Recipient must set up formal procedures to require all such persons to declare any personal or financial interest in any matter concerning the Programme and to be excluded from any discussion or decision-making relating to the matter concerned.

If the Grant Recipient has any grounds for suspecting financial irregularity in the use of any Grant paid under this funding agreement, it must notify the DfT immediately, explain what steps are being taken to investigate the suspicion, and keep the DfT informed about the progress of the investigation. For these purposes "financial irregularity" includes deception, fraud or other impropriety, mismanagement, and the use of the Grant for purposes other than the purposes of the Programme.

### 10. Confidentiality

Any information you submit may be disclosed under an information request made under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 (Acts) and the General Data Protection Regulation / Data Protection Act 2018. If the Grant Recipient considers that any information submitted to the Department for Transport is commercially confidential, the Grant Recipient may notify by identifying the relevant information as such. Such notification is without prejudice to and does not restrict the



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Department for Transport's use of the information, discretions, rights and obligations including under the Acts. The Secretary of State will seek to consult the Grant Recipient before making any such disclosures, but that may not always be possible.

### **11. Publicity**

The Grant Recipient must:

- a) Ensure the Programme is promoted and delivered as a national programme bearing prominently the Bikeability and DfT logos and making it clear to enquirers that the Grant Recipient is delivering Bikeability training based on the National Standard on behalf of DfT. Bikeability training must be advertised and promoted as such in accordance with the relevant guidelines covering logo use.
- b) Give appropriate publicity to the Programme by drawing attention to the benefits and opportunities it affords. In acknowledging the Government's contribution, the Grant Recipient must comply with any guidance on publicity provided by the DfT, and must in particular, acknowledge that the Programme has received the Grant from the DfT.

### **12. Copyright and sharing good practice**

The Grant Recipient grants a licence to the Secretary of State for Transport under section 91(3) of the Copyright Designs and Patent Act 1988 in relation to the future copyright in works funded in whole or in part by Grant paid under this agreement. This licence is non-exclusive and is granted without provision for the payment of royalties for the full period protected by copyright in the works in order to allow the Secretary of State for Transport to copy, issue or adapt any such works for his own purposes.

Any information, know-how, system or process learned from or created in operating the Programme (including examples of good practice) may be disseminated by the DfT among all persons or bodies who have responsibility for similar programmes under the scheme. The Grant Recipient agrees that such persons may share and use freely all such information, know-how, system or process for their own purposes.

### **13. Reviewing the funding agreement**

The DfT may at any time, with the agreement or at the request of the Grant Recipient, revise, revoke or add to the terms and conditions of this funding agreement.

### **14. Breach of conditions, termination and refunding of the Grant**

If the Grant Recipient breaches any of the conditions in the funding agreement (which for the avoidance of doubt are not limited to those set out in paragraph 4), then the DfT reserves the right to terminate the funding agreement. That right to terminate will be exercised reasonably and any remedial action will be proportionate to the breach.

If there is any Grant money still to be claimed by the Grant Recipient they will cease to be paid by the DfT. In addition, the DfT may reduce, suspend, or withhold Grant payments, or require all or any part of the Grant to be repaid.





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Without prejudice to the generality of the foregoing, the Grant Recipient must repay any amount required to be repaid under this condition within 30 days of receiving the demand for repayment if:

- a) the Grant Recipient owes any sum to the DfT under an offer of Grant for any other programme or activities under any provider or programme administered by the DfT for regeneration or development;
- b) the Grant Recipient purports to transfer or assign any rights, interests or obligations arising under this funding agreement without the agreement in advance of the DfT;
- c) any information provided in the application for funding or in a claim for payment or in subsequent or supporting correspondence is found to be incorrect or incomplete to an extent which the DfT considers to be material;
- d) the Grant Recipient takes inadequate measures to investigate and report any reported irregularity;
- e) it appears to the DfT that the Grant Recipient no longer requires any Grant assistance in order to carry out the Programme;
- f) it appears to the DfT that other circumstances have arisen or events have occurred which are likely to significantly affect the Grant Recipient's ability to complete or continue the Programme in a satisfactory manner;
- g) a report on Grant utilisation is unsatisfactory because it contains an adverse opinion, a qualified opinion or a disclaimer of opinion.

Where the DfT has required the Grant Recipient to repay any amount, the DfT may recover that amount by withholding, or deducting the amount from, any sum due to the Grant Recipient from the DfT under an offer of Grant for any other programme or activities under any scheme or programme administered by the DfT.

It is hoped that most difficulties encountered by the Grant Recipient can be overcome with the advice and support of the DfT. In the event that it becomes necessary to take steps to enforce the terms and conditions of this funding agreement, the DfT will write to the chief executive (or equivalent) of the Grant Recipient giving particulars of its concern about the Programme or of any breach of a term or condition of the Grant.

The Grant Recipient must act within 30 days (or earlier, depending on the severity of the problem) to address the DfT's concern or rectify the breach, and may consult the DfT or agree with it an action plan for resolving the problem. If the DfT is not satisfied with steps taken by the Grant Recipient to address its concern or rectify the breach, it may take steps to withhold or suspend the further payment of the Grant, or to recover the Grant already paid.

### **15. Termination of the funding agreement**

DfT reserves the right to terminate this funding agreement by giving three months' written notice to the Grant Recipient.

### **16. Liability**



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DfT accepts no liability for any consequences, whether direct or indirect, that may come about from the grant recipient running the Programme, the use of the grant or from withdrawal of the grant. The grant recipient shall indemnify and hold harmless DfT, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the grant recipient in relation to the Programme, the non-fulfilment of obligations of the grant recipient under this Agreement or its obligations to third parties. Subject to the above, DfT's liability under this Agreement is limited to the payment of the grant.



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## 17. Acceptance

If the Grant Recipient wishes to accept this offer of funding would its authorised signatory return **a signed copy of these terms and a signed copy of the attached funding offer no later than 4 November 2019**. Please sign in the spaces provided (no electronic signatures please) and send a scanned copy of the signed documents by email to

[Redacted]

If this is not possible please send the signed copies to the following address:

[Redacted]

[Redacted]

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**Richard Mace**

Head of Engagement & Bikeability, Active & Accessible Travel, DfT

(An officer in the Department for Transport authorised by the Secretary of State for Transport to sign on his behalf)

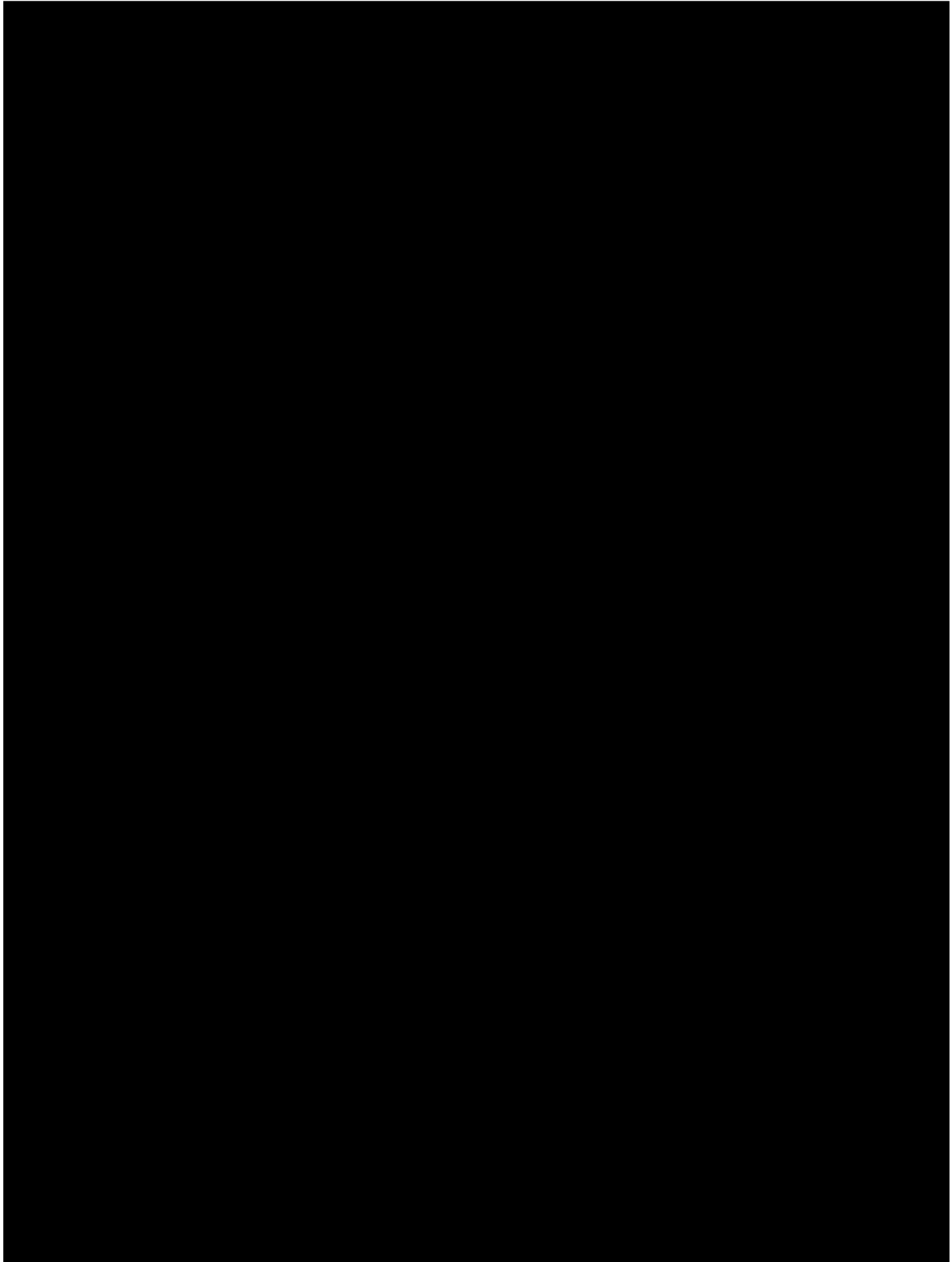
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Department  
for Transport



DATED:

day of

2021

BETWEEN

(1) SHROPSHIRE COUNCIL

AND

(2)

Re: DOCH 011 – Bikeability Cycle Training



LEGAL AND DEMOCRATIC SERVICES  
The Shirehall Abbey Foregate Shrewsbury SY2 6ND  
DX 702024 Shrewsbury 2

THIS AGREEMENT is dated \_\_\_\_\_ day of \_\_\_\_\_ 2021

BETWEEN:

- (1) **SHROPSHIRE COUNCIL** whose office is at Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND ('the Council'); and
- (2) **[Insert name of Contractor]** a company incorporated in England and Wales under company number **[co. number]** and whose registered office is at **[company address]** ] or [whose address is at [insert the home address of the Contractor] ('the Contractor')

WHEREAS:

- (A) The Council has been awarded Funding from the Department for Transport for the purposes of Bikeability training delivery.
- (B) The Council requires the provision of Bikeability training.
- (C) The Contractor has the skills, background and experience in providing the Services required by the Council
- (D) The Contractor is willing to provide the Services as defined below and the Council is willing to appoint the Contractor to provide the Services in accordance with the provisions of this Agreement

NOW IT IS AGREED as follows:

## 1. Definitions

1.1 In this Agreement, the following words shall have the following meanings:

'Agreement' means this Agreement

‘Associated Person’ means in respect of the Council, a person, partnership, limited liability partnership or company (and company

	shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest; OR any other body that substantially performs any of the functions of the Council that previously had been performed by the Council. .
'Best Practice'	means in accordance with the best practice within the industry of the Contractor
'Charges'	the charges which shall become due and payable by the Council to the Contractor in respect of the Services in accordance with the provisions of this agreement, as such charges are set out in the Pricing Schedule in Section H of the Tender Response Document
'Commencement Date'	1st April, 2021
'Commercially Sensitive Information'	comprises the information of a commercially sensitive nature relating to the Contractor, its Intellectual Property Rights or its business which the Contractor has indicated to the Council in writing that, if disclosed by the Council, would cause the Contractor significant commercial disadvantage or material financial loss;
'Confidential Information'	any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Contractor, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including all Personal Data and the Commercially Sensitive Information;
'Contract Documents'	means all of the documents annexed to, contained and referred to within this Agreement

'Contractor'	means jointly and severally the parties named at paragraphs (2) and (3) above who trade as a partnership and includes the partnership's employees, servants and agents paid or unpaid acting on its behalf
'Contractor Personnel'	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor paid or unpaid;
'Council'	means the party named above and includes its employees, officers, servants and agents acting on its behalf
'Council Data'	<p>the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(a) supplied to the Contractor by or on behalf of the Council; or</p> <p>which the Contractor is required to generate, process, store or transmit pursuant to this Agreement; or</p> <p>(b) any Personal Data for which the Council is the Data Controller;</p>
'Data Protection Legislation'	all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party
'Domestic Law'	means the Law of the United Kingdom or a part of the



## United Kingdom

'DPA'	Data Protection Act 2018
'EIR'	means the Environmental Information Regulations 2004 (as may be amended from time to time.)
'Employment Checks'	means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks, disclosure and barring checks and occupational health checks.
'Exempt Information'	means any information or class of information (including but not limited to any document, report, Agreement or other material containing information) relating to this Agreement or otherwise relating to the parties to this Agreement which potentially falls within an exemption to FOIA (as set out therein)
'Expiry Date'	Shall be the later of either:  (i) the Initial Expiry Date; or  (ii) the last day of any agreed extension period further to clause 2 below; or  (iii) such other date as this Agreement is terminated in accordance with its terms
'FOIA'	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause
'FOIA notice'	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.
'Force Majeure Event'	means any circumstance not within a party's

reasonable control including, without *limitation*:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic;
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;
- e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- f) collapse of buildings, fire, explosion or accident; and
- (g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on clause 28, or companies in the same group as that party);
- (h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause....; and
- (i) interruption or failure of utility service.

'Funding Agreement'

means the Funding Agreement dated

.....between the Council and Department of Transport (a copy of which is attached to this Agreement

at Appendix 2) providing grant funding to the Council by for the purposes of 'Bikeability' training and which contains obligations upon the Council as to the use of the grant funding.

'Initial Expiry Date'	Means 31 <sup>st</sup> March 2022
'Intellectual Property Rights'	means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable
'Law'	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply;
'Option to Extend'	Means the Council's option to extend the Initial Term by a period of up to 12 months commencing on 1 <sup>st</sup> April 2022
'Parties'	the Contractor and the Council and 'Party' shall mean either one of them
'Personal Data'	shall have the same meaning as set out in the Data Protection Legislation;
'Personal Data Breach'	Means anything which constitutes a "personal data breach" as defined in the Data Protection Legislation
'Processor Personnel'	means all directors, officers, employees, agents, consultants and contractors of the Data Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement

'Prohibited Act'	<p>the following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:</p> <p>(i) induce that person to perform improperly a relevant function or activity; or</p> <p>(ii) reward that person for improper performance of a relevant function or activity;</p> <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;</p> <p>(c) committing any offence:</p> <p>(i) under the Bribery Act;</p> <p>(ii) under legislation creating offences concerning fraudulent acts;</p> <p>(iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or</p> <p>(d) defrauding, attempting to defraud or conspiring to defraud the Council.</p>
'Public body'	as defined in the FOIA 2000
'Receiving Party'	means a party to this Agreement to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response
'Regulated Activity'	in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
'Regulatory Bodies'	those government departments and regulatory, statutory

	and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
'Regulated Provider'	as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006
'Relevant Transfer'	means a relevant transfer for the purposes of TUPE
'Request for Information'	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
'Review'	Means a formal review of the progress of the Services
'Services '	means the provision of 'bikeability' training in accordance with the Specification
'Specification'	The specific description of the Services to be provided by the Contractor as set out in the Tender Response Document
'Sub-Contract'	any contract or agreement, or proposed contract or agreement between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Services or any part thereof, or facilities or services necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of thereof.
'Sub-Contractor'	the third parties that enter into a Sub-Contract with the Contractor.
'Tender Response Document'	means the Contractor's response dated ..... to the Council's invitation to tender document annexed to this Agreement in Appendix 1
'Term'	means the period commencing on the Commencement Date and expiring on the Expiry Date
'Valid Invoice'	means an invoice submitted by the

Contractor which must contain the following detail required by the Council to enable payment as specified in clause 6 of this Agreement:

- 1) invoices to be addressed to Kevin Aitken, Shropshire Council at the address referred to above; and
- 2) submitted on the Contractor's business letterhead including the Contractor's name and address, and VAT registration number (where applicable); and
- 3) marked as Bikeability Cycle training invoice; and

'Working Day'                      any day other than a Saturday, Sunday or public holiday in England and Wales.

## **1.2    Interpretation**

In this Agreement unless the context otherwise requires:

- 1.2.1 words importing any gender include every gender
- 1.2.2 words importing the singular number include the plural number and vice versa
- 1.2.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person. references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- 1.2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.5 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006.

In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:

- (i) references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
- (ii) the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

- 1.2.6 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement
- 1.2.7 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule
- 1.2.8 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done
- 1.2.9 the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation
- 1.2.10 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.2.11 where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation'
- 1.2.12 Where any statement is qualified by the expression so far as the Contractor is aware or to the Contractor's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 1.2.13 A reference to writing or written includes faxes but not e-mail, unless otherwise specifically agreed.

## **2. Term:**

- 2.1** It is agreed between the Parties that this Agreement will be for the Initial Term commencing on the Commencement Date and ending on the Initial Expiry Date.
- 2.2** It is further agreed between the Parties that the Council may exercise its Option to Extend this Agreement at the expiry of the Initial Term

for a further period of up to twelve months commencing on 1<sup>st</sup> April 2022

- 2.3** If the Council decides to exercise its Option to Extend the Initial Term it shall notify the Contractor in writing at least 1 months in advance of the expiry date of the Initial Term. Where the Parties agree an extension of the Initial Term the provisions of this Agreement between the Council and the Contractor shall be the terms to be applied to the extended Agreement period, save for any agreed variations in writing by the Parties to the terms of this Agreement or the Fees to be paid which are to apply during the extension period.
- 2.4** If the Council decides that it does not wish to exercise its Option to Extend then this Agreement shall terminate on the Initial Expiry Date and the provisions of clause .... (Consequences of Termination) shall apply

### **3. Services**

- 3.1** The Contractor shall (and shall procure that any Sub-Contractor shall) provide the Services to the Council in consideration for the Council paying the Charges to the Contractor, subject to the provisions of this Agreement
- 3.2** The Contractor shall (and shall procure that any Sub-Contractor shall) provide the Services in such places and locations as set out in the Specification or as agreed by the Parties from time to time
- 3.3** The Contractor shall (and shall procure that any Sub-Contractor shall) use its best endeavours to complete/deliver the Services by the dates specified in the Specification or agreed by the Parties
- 3.4** Not Used
- 3.5** The Contractor shall (and shall procure that any Sub-Contractor shall) provide the Services in accordance with:
- 3.5.1** the agreed Specification;
  - 3.5.2** any conditions imposed under the Funding Agreement which are relevant to the provision of the Services;
  - 3.5.3** all due skill, care and diligence to be expected from a competent and experienced provider of the Services; and
  - 3.5.4** good industry practice.
- 3.6** The Contractor shall (and shall procure that any Sub-Contractor shall) provide the Services in accordance with all current and relevant statutory provisions, regulations or other legislation from time to time in force relating to the provision



of the Services

- 3.7** The Contractor shall (and shall procure that any Sub-Contractor shall) during the Term ensure that every person employed by the Contractor (or any Sub-Contractor) in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services
- 3.8** The Contractor shall (and shall procure that any Sub-Contractor shall) carry out its own risk assessments relevant to the Services.
- 3.9** The Contractor shall (and shall procure that any Sub-Contractor shall) have a written procedure for dealing with complaints about the Services in accordance with clause 26 hereof
- 3.10** before the Contractor (or any Sub-Contractor) engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Contractor must without limitation, complete the Employment Checks and any other checks required by the Disclosure and Barring Service
- 3.11** Prior to the engagement by the Contractor of any staff or Sub-Contractor engaged to provide any part of the Services, where such individuals will have contact with children up to the age of eighteen years old or where the performance of the Services may involve contact with vulnerable adults (as defined in the Safeguarding Vulnerable Groups Act 2006) the Contractor shall procure in respect of all staff or potential staff or Sub-Contractor or other persons intended to perform any part of the Services:
- 3.11.1** that each person being considered for engagement be questioned as to whether he/she has any convictions; and
- 3.11.2** that the results of a Disclosure and Barring Service (DBS) check of the most extensive available kind is obtained in accordance with Part V of the Police Act 1997 (as amended) and that each DBS check should include a search of the list held pursuant to the Protection of Children Act 1999 where the performance of the Service may involve contact with children and/or Safeguarding Vulnerable Groups Act 2006 where the performance of the Service may involve contact with vulnerable adults.
- 3.12** The Contractor shall (and shall procure that any Sub-Contractor shall) comply with the terms and conditions of the Funding Agreement in the provision of the Service as if it were the 'Grant Recipient' referred to in the Funding Agreement.
- 3.13** The Parties agree that there shall be, on dates to be agreed, regular informal reviews of the progress of the development of the Services between the

Contractor and the Council to ensure that the required number of training courses have been delivered, they have been delivered to the correct standards and the Contractor has received an appropriate level of positive feed back from course recipients.

**3.15** In the event that an informal review reveals that the Services are not being delivered to the standard set out in this Agreement, a formal Review meeting shall take place between the Parties upon 14 days written notice being given to the Contractor by the Council

**3.16** Where following a Review, the Council acting reasonably determines that the Contractor has not delivered the Services as required the Council may:

**3.16.1** serve the Contractor with a written notice ("Notice") within one month of the Review meeting specifying which areas of the Services have not been delivered as required and giving the Contractor one calendar month from the date of the Notice to remedy the failure

**3.16.2** if after one calendar month from the date of the Notice the Contractor has failed to remedy the failure specified in the Notice then this will be considered to be a breach of the terms of this Agreement and the Agreement may be terminated in accordance with the provisions contained in clause 31 (Termination) herein

**3.16.3.**The Council shall take into account any verbal or written representations made by the Contractor before proceeding to take any action to terminate this Agreement pursuant to this clause.

#### **4     Insurance**

**4.1** The Contractor shall (and shall procure that any Sub-Contractor shall) effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all risks which may be incurred by the Contractor (or any Sub-Contractor), arising out of the Contractor's (or any Sub-Contractor's) performance of this Agreement, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed

- with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum of £5,000,000 (FIVE MILLION POUNDS) cover. In respect of death or personal injury due to negligence will be unlimited.
- 4.2** The Contractor warrants that it (and any Sub-Contractor) has complied with this clause 4 and shall provide the Council with certified copies of the relevant policies upon request together with receipts or other evidence of payment of the latest premiums due under those policies.
- 4.3** The Contractor (and shall procure that any Sub-Contractor) shall:
- (a) do nothing to invalidate any insurance policy
  - (b) notify the Council if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change
- 4.4** If, for whatever reason, the Contractor (or any Sub-Contractor) fails to give effect to and maintain the insurances required by the agreement the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

## **5 Indemnity**

- 5.1** The Contractor shall (and shall procure that any Sub-Contractor shall) indemnify the Council against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:
- (a) The performance, defective performance or otherwise of this Agreement by the Contractor, and Sub-Contractor or the Contractor Personnel
  - (b) Any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the supply or use of the Goods
  - (c) Any claim made against the Council by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Contractor, any Sub-Contractor or the Contractor Personnel; and
  - (d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with the delivery of the Services and performance of this Agreement to the extent that the defective performance is attributable to the acts or omissions of the Contractor, and Sub-

Contractor or the Contractor Personnel

- 5.2 The Council shall (and shall procure that any Sub-Contractor shall) indemnify the Contractor against all reasonable claims, costs and expenses which the Contractor may incur and which arise, directly from the Council's breach of any of its obligations under this Agreement.
- 5.3 Nothing in this Agreement shall limit or exclude the liability of either Party (or any Sub-Contractor) for:
- (a) death or personal injury resulting from negligence; or
  - (b) fraud or fraudulent misrepresentation; or
  - (c) the indemnities given in this clause 6

## **6. Payment**

- 6.1 Payment of the Charges shall be made by the Council to the Contractor monthly in arrears and within 30 days of receipt of an undisputed Valid Invoice In the event of late payment, interest thereon shall be charged at the statutory interest rate further to the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after Judgement
- 6.2 The Contractor shall not be entitled to vary the Charges during the existence of this Agreement unless with the prior written consent of the Council.
- 6.3 The Contractor shall not charge, and the Council shall not be liable, for any expenses, charges, costs, fees except the Charges as set out in this Agreement
- 6.4 All amounts stated are exclusive of VAT which will be charged in addition at the rate in force at the time the Council is required to make payment
- 6.5 Unless otherwise agreed in writing by the Council, the Contractor will pay any of its appointed Sub-Contractors within the time period specified in the sub-contract but in any event no later than 30 days from receipt of an undisputed invoice.

## **7. The Council's Obligations**

- 7.1 To enable the Contractor to perform its obligations under this Agreement the Council shall:
- 7.1.1 Co-operate with the Contractor and ensure that the Council's staff and agents co-operate with and assist the Contractor as is reasonable and appropriate
  - 7.1.2 Provide the Contractor with any information reasonably required by the Contractor;

- 7.1.3 Comply with such other requirements as may be otherwise agreed between the parties.
- 7.2 Save as provided in this Agreement, no representations, warranties or conditions are given or assumed by the Council in respect of any information which is provided to the Contractor by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.
- 8. Intellectual Property**
- 8.1 In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Contractor or any employee, agent or Sub-Contractor of the Contractor:
- 8.1.1 in the course of performing the Services; or
- 8.1.2 exclusively for the purpose of performing the Services,
- shall vest in the Council on creation.
- 8.2 Unless stated expressly in writing in this Agreement, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Agreement
- 8.3 The Contractor shall (and shall procure that any Sub-Contractor shall) indemnify the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Council's acts or omissions.
- 8.4 This provision shall survive the expiration or termination of the Agreement.
- 9. Confidentiality**
- 9.1 Subject to clause 9.2, the Parties shall keep confidential all matters relating to this Agreement and each Party shall use all reasonable endeavours to prevent their respective staff, any Sub-Contractor and Contractor Personnel from making any disclosure to any person of any matters relating hereto.
- 9.2 Clause 9.1 shall not apply to any disclosure of information:
- 9.2.1 required by any applicable law, provided that clause 19.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;

- 9.2.2 that is reasonably required by persons engaged by a Party in the performance of such Party's obligations under this agreement;
  - 9.2.3 where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 9.1;
  - 9.2.4 by the Council of any document to which it is a Party and which the Parties to this agreement have agreed contains no commercially sensitive information;
  - 9.2.5 to enable a determination to be made under clause 27;
  - 9.2.6 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
  - 9.2.7 by the Council to any other department, office or agency of the Government; and
  - 9.2.8 by the Council relating to this Agreement and in respect of which the Contractor has given its prior written consent to disclosure.
- 9.3 On or before the Completion Date the Contractor shall (and shall procure that any Sub-Contractor shall) ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Council's employees, rate-payers or service users, are delivered up to the Council or securely destroyed.
- 9.4 The provisions of this Clause shall survive the expiration or termination of this Agreement.

## **10. Agreement and Transparency**

- 10.1** The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement and any associated tender documentation provided by the Contractor (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Agreement or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.
- 10.2** Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for the Council to publish this Agreement and the Tender Submission in its entirety, including from time to time agreed changes to the Agreement, to the general public.
- 10.3** The Council may consult with the Contractor to inform its decision regarding any

exemptions but the Council shall have the final decision in its absolute discretion.

- 10.4** The Contractor shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

**11. Data Protection**

- 11.1** Both parties will comply with all applicable requirements of the Data Protection Legislation and agree to take account of any guidance issued by the Information Commissioner's Office. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

**12. NOT USED**

**13. Council Data and Personal Information Audits**

- 13.1** Except where an audit is imposed on the Council by a Regulatory Body, the Council may, acting reasonably, conduct an audit for the following purposes:
- 13.1.1** to review the integrity, confidentiality and security of the Council Data;
  - 13.1.2** to review the Contractor's (or any Sub-Contractor's) compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with the Protection of Personal Data and Freedom of Information clauses and any other legislation applicable to the Services;
- 13.2** The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.
- 13.3** Subject to the Council's obligations of confidentiality, the Contractor shall (and shall procure that any Sub-Contractor shall) on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 13.3.1** all information requested by the Council within the permitted scope of the audit;
  - 13.3.2** reasonable access to any Sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
  - 13.3.3** access to Contractor Personnel

- 13.4** The Contractor shall (and shall procure that any Sub-Contractor shall) implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services.
- 13.5** The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days notice of its intention to conduct an audit.
- 13.6** The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.
- 13.7** This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Specification or elsewhere in this Agreement which may be conducted as specified in this Agreement.

**14. Assignment, Transfer and Sub-contracting**

- 14.1** Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other Party PROVIDED that the Council may,
- (a) assign any of its rights under this Agreement; or
  - (b) transfer all of its rights or obligations by novation,
- to another person.
- without the Contractor's consent where such assignment, transfer or novation is to an Associated Person of the Council;
- 14.2** Any consent required under Clause 14.1 must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.
- 14.3** The Contractor will not, without the written consent of the Council, sub-contract its right or obligations under this Agreement nor allow Services to be provided other than through the Contractor Personnel and using its own equipment.
- 14.4** In the event that consent is given by either Party to the other Party to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the sub-contracting Party to the consenting Party immediately it is issued
- 14.5** Subject to clause 14.1, in the event that either Party wishes to assign its rights and obligations under this Agreement, the assignor must obtain a written undertaking from the assignee to the consenting Party that it will be bound by the obligations of the assignor under this Agreement.
- 14.6** Notwithstanding the Contractor's right to sub-contract pursuant to this clause 14, the Contractor shall remain responsible for all acts and omissions of its Sub-



Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own and shall be responsible for the work of the Sub-Contractor whose work shall be undertaken to the same standard as stated in the Specification.

**15. Public Interest Disclosure ('Whistleblowing')**

The Contractor will (and shall procure that any Sub-Contractor will) ensure that his employees and agents are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request.

**16. Publicity**

The Contractor will (and shall procure that any Sub-Contractor will) not make any press or other release or public announcement in relation to this Agreement without the prior approval of the Council

**17. Prevention of Bribery**

**17.1** The Contractor:

- a) shall not, and shall procure that all Contractor Personnel and any Sub-Contractor shall not, in connection with this Agreement commit a Prohibited Act;
- b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.

**17.2** The Contractor shall (and shall procure that any Sub-Contractor shall) :

- a) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- b) the Contractor shall (and shall procure that any Sub-Contractor shall) within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Contractor) the Contractor's (or Sub-Contractor's) compliance with this clause 17 and provide such supporting evidence of compliance with this clause 17 by the Contractor (or Sub-Contractor) as the Council may reasonably request.

- 17.3** If any breach of clause 17.1 is suspected or known, the Contractor must notify the Council immediately.
- 17.4** If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause 17.1, the Contractor must respond promptly to the Council's enquiries, and shall (and shall procure that any Sub-Contractor shall) co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Agreement.
- 17.5** The Council may terminate this Agreement by written notice with immediate effect, and recover from the Contractor the amount of any loss directly resulting from the cancellation, if the Contractor, any Sub-Contractor or Contractor Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches clause 17.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 17.5, the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:
- a) with the authority; or,
  - b) with the actual knowledge;  
of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or
  - c) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge.
- 17.6** Any notice of termination under clause 17.5 must specify:
- a) the nature of the Prohibited Act;
  - b) the identity of the party whom the Council believes has committed the Prohibited Act; and
  - c) the date on which this Agreement will terminate.
- 17.7** Despite clause 27 (Disputes), any dispute relating to:
- a) the interpretation of clause 17; or
  - b) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.
- 17.8** Any termination under clause 17.5 will be without prejudice to any right or remedy

which has already accrued or subsequently accrues to the Council.

**18. Warranties, liability and indemnities**

The Contractor warrants, represents and undertakes on behalf of itself and any Sub-Contractors that:

- 18.1** it will carry out the work by the Expiry Date
- 18.2** it will perform the Services with all due skill and diligence and in a good and workmanlike manner, and in accordance with good industry practice within the industry of the Contractor and will have adequate numbers of Contractor Personnel to provide the Service
- 18.3** its Sub-Contractors and Contractor Personnel will have the necessary skill, professional qualifications and experience to deliver the Services in accordance with the Specification and good industry practice
- 18.4** it has full capacity and authority to enter into this Agreement
- 18.5** it has obtained all necessary and required licences, consents and permits to provide the Services
- 18.6** it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Contractor Personnel to perform the Services
- 18.7** The Contractor shall (and shall procure that any Sub-Contractor shall) where appropriate take account of the Human Rights Act 1998 and shall not do anything in breach of it.
- 18.8** The Contractor will (and shall procure that any Sub-Contractor will) at all times in providing the Services to the Council comply with the provisions of the Health and Safety at work Act 1974 and provide evidence of doing so to the Council at any time upon request and:
  - 18.8.1** The Contractor shall (and shall procure that any Sub-Contractor shall) promptly notify the Council of any health and safety hazards which may arise in connection with the performance of this Agreement.
  - 18.8.2** The Contractor shall (and shall procure that any Sub-Contractor shall) report all accidents and/or injuries relating to the provision of the Services to the Council immediately.
  - 18.8.3** The Contractor shall (and shall procure that any Sub-Contractor shall) ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Council upon request.
- 18.9** The Contractor warrants that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions.

**18.10** The Contractor warrants that the signing of this Agreement on its behalf has been validly authorised and the obligations expressed as being assumed by the Contractor under this Agreement constitute valid legal and binding obligations of the Contractor enforceable against the Contractor in accordance with their terms.

**18.11** The Contractor acknowledges and confirms that:

- 18.11.1** it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Agreement;
- 18.11.2** it has received all information requested by it from the Council pursuant to sub-clause 18.11.1 to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;
- 18.11.3** it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Council pursuant to sub-clause 18.11.2;
- 18.11.4** it has raised all relevant due diligence questions with the Council before the Commencement Date; and
- 18.11.5** it has entered into this Agreement in reliance on its own diligence
- 18.11.6** as at the Commencement Date, the Contractor warrants and represents that all information contained in the Tender Response Document remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Agreement AND shall promptly notify the Council in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services
- 18.11.7** The Contractor shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the Contractor in accordance with sub-clause 18.11.6 save where such additional costs or adverse effect on performance have been caused by the Contractor having been provided with fundamentally misleading information by or on

behalf of the Council and the Contractor could not reasonably have known that the information incorrect or misleading at the time such information was provided.

**19. Freedom of Information Act 2000 & Environmental Information Regulations 2004**

**19.1** The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

**19.2** The Contractor shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Contractor acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.

**19.3** The Contractor shall and shall procure that its Sub-contractors shall:

**19.3.1** transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

**19.3.2** provide the Council, at the Contractor's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and

**19.3.3** provide, at the Contractor's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

**19.4** The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations and in considering any response to a Request for Information the Council may consult with the Contractor prior to making any decision or considering any exemption.

**19.5** In no event shall the Contractor or any Sub-Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.

**19.6** The Contractor acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services:

**19.6.1** in certain circumstances without consulting the Contractor; or

**19.6.2** following consultation with the Contractor and having taken their views into account;

provided always that where sub-clause 19.6.1 above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

**19.7** The Contractor shall (and shall procure that any Sub-Contractor shall) ensure that all Information required to be produced or maintained under the terms of this Agreement, or by law or professional practice or in relation to the Agreement is retained for disclosure for at least the duration of the Agreement plus one year together with such other time period as required by the Agreement, law or practice and shall permit the Council to inspect such records as requested from time to time.

**19.8** The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other law, of any information (including Exempt Information) whether relating to this Agreement or otherwise relating to any other party.

## **20. Equalities**

**20.1** The Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age

- a) in the supply and provision of Services under this Agreement, and
- b) in its employment practices.

**20.2** Without prejudice to the generality of the foregoing, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or other relevant legislation, or any statutory modification or re-enactment thereof).

- 20.3** In addition, the Contractor and any Sub-Contractor or person(s) employed by or under the control of the Contractor in providing Services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it
- 20.4** The Contractor and any Sub-Contractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by Equality and Human Rights Commission, which give practical guidance to Councils on the elimination of discrimination.
- 20.5** In the event of any finding of unlawful discrimination being made against the Contractor and any Sub-Contractor during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equality and Human Rights Commission over the same period, the Contractor and any Sub-Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 20.6** The Contractor and any Sub-Contractor employed by the Contractor will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Contractor's compliance with the above conditions.

**21. Non-compliance**

- 21.1.** If the Council identifies areas of the Services which do not comply with the requirements of this Agreement (including any Schedules to this Agreement) it may send the Contractor a non-compliance notice detailing
- (i) the areas of non-compliance;
  - (ii) the action to be taken; and
  - (iii) the date by which the action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).
- 21.2** If the Contractor fails to take any or all of the necessary action by the date given in the non-compliance notice, the Council may send the Contractor a final non-compliance notice detailing
- (i) the areas of non-compliance;
  - (ii) the action to be taken; and
  - (iii) the date by which action must be taken (which for the avoidance of doubt

must not be a date less than 14 days from the date of the notice).

**21.3** If, in the reasonable opinion of the Council, the Contractor fails to undertake all of the remedial actions in the final non-compliance notice by the due date this may be considered a material breach of this Agreement and the Council shall be entitled to take either of the following steps depending on the seriousness of the non-compliance (which in the event of dispute shall be determined in accordance with clause 27:

(a) to make arrangements to take its own corrective action either itself or through the appointment of another Contractor and to either:

(i) deduct all costs in connection therewith from any sums due or to become due to the Contractor under the terms of this Agreement; or

(ii) to recover such sums from the Contractor as a debt;

And/or

(b) to terminate the Agreement in accordance with clause 31

## **22. Waiver**

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

## **23. Sustainability**

The Contractor will (and shall procure that any Sub-Contractor will) at all times use its best endeavours to assist the Council and operate themselves in a manner which meets the aims and objectives set out in the sustainable policies of the Council, copies of which are available on the Council's website

## **24. Audit And Monitoring**

The Contractor will (and shall procure that any Sub-Contractor will) allow access for the Council and its officers to all relevant information for the purposes of audit and the monitoring of this Agreement.

## **25. Safeguarding**

**25.1** Where the Service or activity being undertaken in this Agreement is a Regulated Activity the Contractor shall (and shall procure that any Sub-Contractor shall) :



- (a) ensure that all individuals engaged in the provision of the Service or activity, and prior to commencing the provision of the Service or activity, are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and
  - (b) monitor the level and validity of the checks under this clause 25.1 for each member of the Contractor's Personnel and any Sub-Contractor or employee or agent of the Sub-Contractor.
- 25.2** The Contractor warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Contractor in the provision of a Service or activity that is a Regulated Activity is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 25.3** The Contractor shall (and shall procure that any Sub-Contractor shall) immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 25 have been met.
- 25.4** The Contractor shall (and shall procure that any Sub-Contractor shall) refer information about any person carrying out the Services or the activity to the Disclosure and Barring Service where it removes permission for such person to carry out the Services or activity (or would have, if such person had not otherwise ceased to carry out the Services or the activity) because, in its opinion, such person has harmed or poses a risk of harm to the Service users, children or vulnerable adults.
- 25.5** The Contractor shall (and shall procure that any Sub-Contractor shall) not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service users.
- 25.6** Where the service requirement or Specification specifies that the Service or activity to be provided under this Agreement involves a Regulated Activity, or the Council otherwise notifies the Contractor, acting reasonably, that the Contractor's Personnel are required to be subject to a Disclosure and Barring Service check, the Contractor shall comply with clause 25.1 above.

## **26. Complaints Procedure**

**26.1** The Contractor shall (and shall procure that any Sub-Contractor shall) operate a complaints procedure in respect of any Services provided under this Agreement to the entire satisfaction of the Council, and comply with the requirements of any Regulatory Body to which the Contractor is subject (including any change in such requirements) and ensure that its complaints procedure meets the following minimum standards:

**26.1.1** is easy to access and understand

**26.1.2** clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;

**26.1.3** provides confidential record keeping to protect employees under this Agreement and the complainant

**26.1.4** provides information to management so that services can be improved

**26.1.5** provides effective and suitable remedies

**26.1.6** is regularly monitored and audited and which takes account of complainant and Council feedback

**26.2** The Contractor shall (and shall procure that any Sub-Contractor shall) ensure that:

**26.2.1** under no circumstances is a complaint investigated by a member of its staff employed under this Agreement who may be part of the complaint.

**26.2.2** someone who is independent of the matter complained of carries out the investigation

**26.2.3** the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Contractor's investigations

**26.2.3** the Contractor will ensure that it responds to the complainant within a max of 10 days of receiving the complaint

**26.3** The Contractor (and any Sub-Contractor) will make its complaints procedure available on request

**26.4** The Contractor shall (and shall procure that any Sub-Contractor shall) ensure that all its employees and persons employed under this agreement are made aware of its complaints procedure and shall designate one employee (who shall be identified to the Council) to whom a complaint may be referred should the complainant not be satisfied with the initial response to their complaint

- 26.5** The Contractor shall (and shall procure that any Sub-Contractor shall) keep accurate and complete written records of all complaints received and the responses to them and shall make these records available to the Council on request or at 12 monthly intervals in any event.
- 26.6** Where the Council is investigating a complaint the Contractor is required to participate fully in all investigations within the timescales requested by the Council and shall procure that any Sub-Contractor complies with this clause.
- 26.7** The Contractor should note that if a complaint is made to the Council by a third party relating to the goods, services or works provided, the Local Government Ombudsman has the power to investigate such a complaint and the Council requires the Contractor to fully to co-operate in such investigation. If the Council is found guilty of maladministration or injustice by the Local Government Ombudsman because of the act or default of the Contractor the Contractor shall indemnify the Council in respect of the costs arising from such maladministration or injustice.

**27. Disputes**

- 27.1** If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-
- 27.1.1** In the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute
- 27.1.2** If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive and the Contractor or other authorised officer whose details have been notified to the Council, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice
- 27.1.3** If the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to a single arbitrator to be agreed between the Parties and failing such agreement within 14 days of the request of one Party to the other in writing that the matter be referred to arbitration such reference shall be to a single arbitrator appointed for that purpose

on the written request of either Party by the President for the time being of the Law Society of England and Wales and any reference to arbitration under this clause shall be deemed to be a reference to arbitration within the meaning of the relevant Arbitration Acts and it is further agreed that if any matter is referred to arbitration then each Party will bear its own costs of such referral

**28. Force Majeure**

**28.1** Neither the Council nor the Contractor shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from a Force Majeure Event, provided that:-

**28.1.1** any delay by a Sub-Contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the Sub-Contractor or supplier concerned; and

**28.1.2** staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.

**28.2** If a Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-

**28.2.1** it promptly notified the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and

**28.2.2** it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible

in which case the performance of that Party's obligations will be suspended during the period that those circumstances persist and that Party will be granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.

**28.3** Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-

**28.3.1** any costs arising from that delay will be borne by the Party incurring the same; and

**28.3.2** either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

## **29. Rights of Third Parties**

The Parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999 (or any amendment or re-enactment thereof).

## **30. Notices**

**30.1** Unless otherwise communicated to the Party in writing any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party that is the registered office or main place of business of the Contractor or if the Council, the Shirehall, Abbey Foregate, Shrewsbury SY2 6ND

**30.2** A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, Notice sent by fax shall be deemed to be served on receipt of an error free transmission report, Notice given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by second class post shall be deemed to have been delivered in the ordinary course of post and if by first class post shall be deemed to have been delivered 48 hours after posting and acknowledged

## **31. Termination**

**31.1** Either Party may terminate this Agreement by giving to the other Party at least three months' notice in writing.

**31.2** Either Party may terminate this Agreement by notice in writing to the other if:

**31.2.1** the other Party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement.

**31.2.2** the other Party commits a series of minor breaches which, when

taken together, amount to a material breach;

- 31.2.3** the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;
  - 31.2.4** the other Party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
  - 31.2.5** the other Party ceases to carry on its business or substantially the whole of its business; or
  - 31.2.6** the other Party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- 31.3** Where notice to terminate is given pursuant to this clause 31, this Agreement shall terminate with effect on the date specified in the notice

**32. Consequences of Termination**

- 32.1** Other than as set out in this Agreement, neither Party shall have any further obligations to the other under this Agreement after its termination
- 32.2** Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect
- 32.3** Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination
- 32.4** Notwithstanding its obligations in this clause 32, if a Party is required by law, regulation, or government or regulatory body to retain any documents or materials containing the other Party's Confidential Information, it shall notify the other Party in writing of such retention, giving details of the documents and/or materials it must retain.
- 32.5** upon termination of this Agreement for any reason, the Contractor shall, at its own cost, deliver, and require that its employees, agents and sub-contractors deliver, to the Council all information and any other property of the Council which are in the possession or control of the Contractor or the Contractor's employees, agents or Sub-Contractors at the date of termination.

### **33. Governing Law And Jurisdiction**

It is the responsibility of the Contractor to comply with all relevant European and English legislation. This Agreement shall be governed by and construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English Courts.

### **33A Joint and several liability NOT USED**

**33A.1** Unless expressly provided otherwise, Party 2 and Party 3 (**Co-obligors**) shall be jointly and severally liable for their obligations this Agreement.

**33A.2** Party 1 may take action against, or release or compromise the liability of, a Co-obligor, without affecting the liability of any other Co-obligor.

### **34. Severance**

If any provision of this Agreement prohibited by law or judged by any court of competent jurisdiction to be unlawful, void, invalid or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

### **35. Amendments**

This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.

### **36. Agency, Partnership etc**

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

### **37. Conflict of Terms**

If there is any ambiguity or inconsistency in or between the Contract Documents the Council shall determine, at its sole discretion, the priority of the documents.

### **38. Entire Agreement**

This Agreement contains the entire agreement between the Parties relating to the

subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

**IN WITNESS** of this Agreement

Signed by and on behalf of  
**Shropshire Council**

..... Director of Legal & Democratic Services

..... Legal Services Manager

Signed by and on behalf of  
**(Contractor)**<sup>1</sup>

.....  
Signature of authorised signatory  
Position in Company

Or

.....  
.....

Director  
Director/Company Secretary

Print Name (s).....

---

<sup>1</sup> Insert the contractors name



## Appendix 1

### **Tender Response Document**

## Appendix 2

### **Funding Agreement**

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Dear Bidder

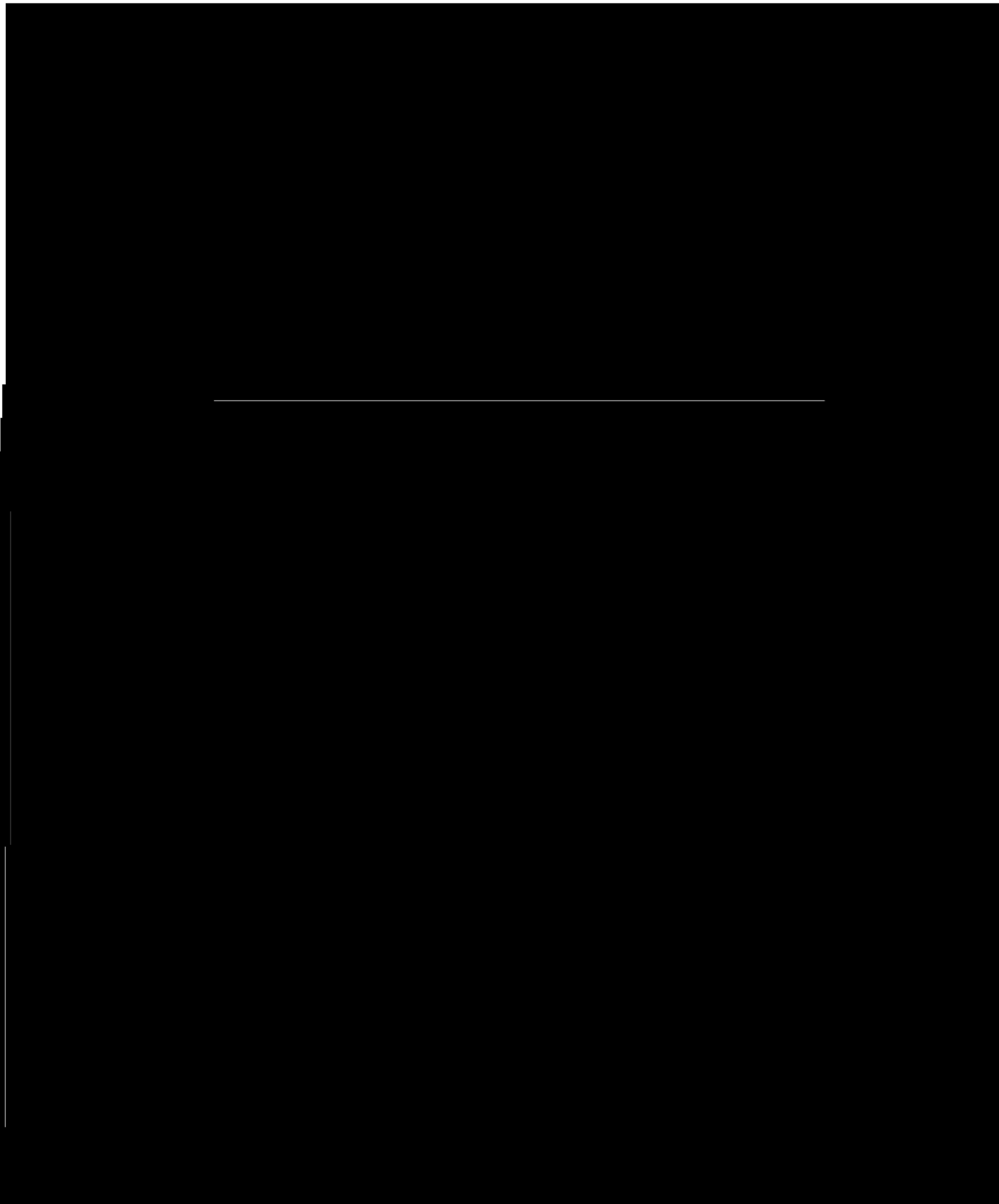
**DOCH 011 - PROVISION OF BIKEABILITY CYCLE TRAINING**

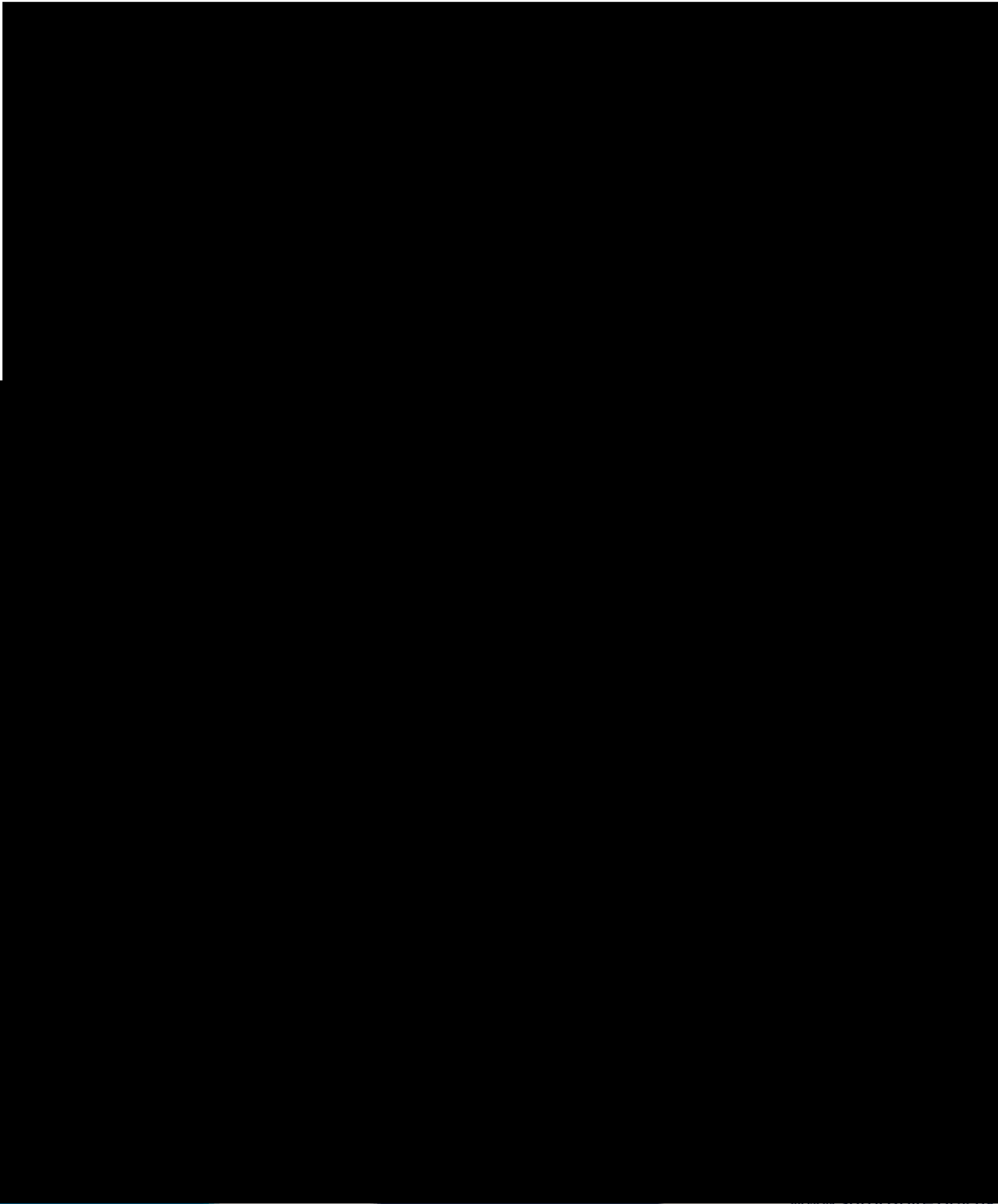
**SHROPSHIRE COUNCIL**

**SUBJECT TO CONTRACT**

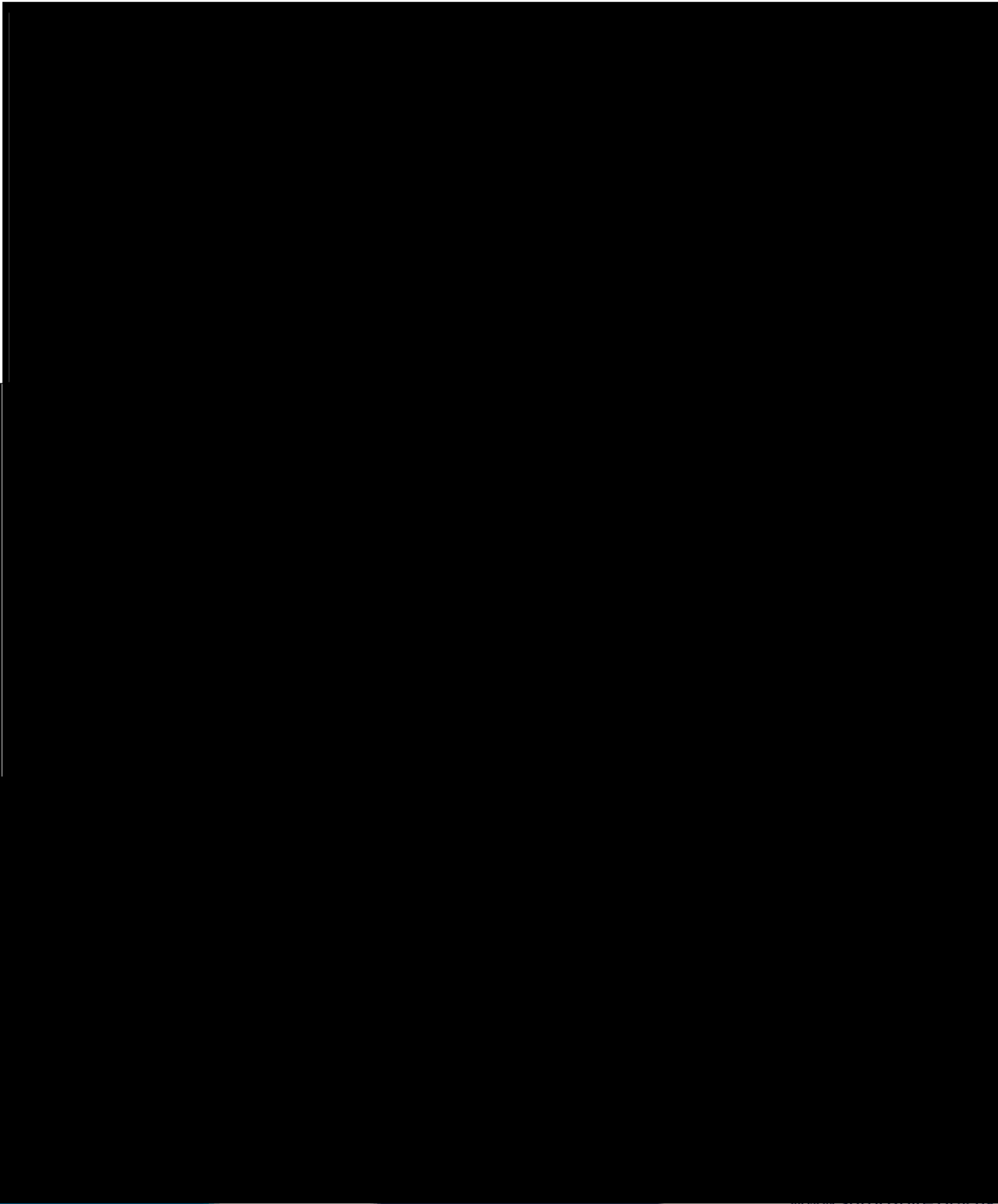
This is an Award Decision Notice.

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contract.





[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]