

# Highways and Infrastructure Services Contract 2023-30

Report of the Procurement Stages 1 to 5

## Document History:

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## 1. Introduction

- 1.1. This report details the key processes and outcomes of Stage 3 - Delivery of procurement stage of the Highways Services Re-Procurement Project (HSRP). This stage includes preparation and issue of the tender documents and their evaluation to identify the Preferred Bidder for the Highways and Infrastructure Services Contract 2016 -23.
- 1.2. At the Cabinet meeting of 12 July 2021, the procurement strategy and future service delivery model (SDM) for highway services was agreed and a procurement exercise was commenced. The Director of Communities, Economy and Transport was authorised to progress the procurement stage up to contract award following formal Cabinet approval.
- 1.3. During 2020-21 the Project Board considered and approved the procurement strategy including the Contract Form, Terms and Conditions, Service Requirements, Evaluation Criteria including Quality / Price / Carbon / Social Value ratio (45% / 40% / 7.5% / 7.5%), Key Contract Outcomes, Performance Indicators, Commercial Arrangements and Contract Term. The key contract terms and service requirements are set out later in this report.

## 2. The Tender Documents

- 2.1. The tender is set out in 7 Volumes comprised as:

1. Volume 0 Instructions for Tendering
2. Volume 1 Contract Data Part 1
3. Volume 2 Scope
4. Volume 3 Site Information
5. Volume 4 Pricing Document (Including Contract Data Part 2)
6. Volume 5 Quality Submission
7. Volume 6 TUPE Information
8. Volume 7 Forms for Completion

### 2.2. Volume 0 Instructions for Tenderers

- Introduces scope and objectives of the Contract
- Sets out the tender process and its evaluation
- Does not form part of the signed Contract

### 2.3. Volume 1 Contract Data Part 1

- Standard NEC4 ECC Conditions of Contract modified using Z clauses:
  - To include Works, Professional & Term Services
  - Provide consistent terminology, approach and meaning across the 3 activities (Time, Quality & Cost)
  - New clauses specifically required to deliver the contract model we want
  - Standard public sector mandatory clauses
- Inflation mechanism (X1) included
- Seven years duration with an optional seven-year extension subject to performance and Cabinet approval
- No limit of liability
- Obligations and risk transfer
- Incentive Scheme to reward the Contractor in any Service Year for achieving levels of overall performance that meet or exceed the service requirements, whilst also putting the Contractor's declared profit at risk for overall poor performance.

## 2.4. Volume 2 Scope

2.4.1. The Scope is set out as 13 Core Activities with minimum levels of service to meet policy requirements, and outcome-based specifications to be delivered in accordance with industry best practice or latest guidance. It also sets out the Contractor's general obligations in providing the services and works for the contract.

2.4.2. It also sets out professional services requirements for the Contractor's design and delivery of Works Activities under target cost pricing mechanisms.

2.4.3. The 13 Core Activities are:

Service Management	Control of Vegetation
Stakeholder Management	Road Markings
Network Management	Winter Service
Third Party Claims	Structures Routine & General Maintenance
Highway Asset Inspections	Street Lighting
Drainage Maintenance	Traffic Signals
	Reactive and Emergency Response

2.4.4. The Core Activities and service level/outcomes are the minimum service levels required to maintain the network in a safe and usable condition. These are defined and set out in the Contract to be priced and managed by the Contractor to deliver maximum efficiency with acceptable levels of risk.

2.4.5. The Core Activities will provide the minimum level of service to ensure a safe and usable network but will not manage asset decline or deliver the asset management plan to support future DfT funding for highway maintenance. These will be delivered under the Contract through the design and construction of planned and targeted highway maintenance works (Works Activities).

## 2.5. Volume 3 Site Information

2.5.1. This sets out site information about the highway network and historical information about the service area to assist understanding and pricing of the Contract.

## 2.6. Volume 4 Pricing Document

2.6.1. The tenderers price submission was assessed against three price assessment models:

- **Model 1 – Core Activities**
  - a comparison of the 13 Core Activities prices
- **Model 2 – Contractors Total of the Prices**
  - a comparison of the 7-year total for the 13 Core Activities
- **Model 3 – Fee Assessment**
  - a comparison of the tenderers fee percentage

## 2.7. Volume 5 Quality Submission

2.7.1. This will incorporate the successful tenderers quality statements into the contract.

## 2.8. Volume 6 TUPE Information

2.8.1. Sets out information for staff transfer, pensions and TUPE requirements and the current terms and conditions of employment for 73 Jacobs employees and 118 of Costain staff that are eligible to be transferred to the new provider. In addition, there are some supply chain resources also included.

## 2.9. Volume 7 Forms for Completion

- 2.9.1 Details of forms to be returned with the tender (Form of Tender, Collusive Tendering Certificate, Construction Industry Scheme, Goods Vehicles Operator Licensing Certificate) and forms to be completed after award (Form of Agreement by Deed, Parent Company Guarantee).

## 3. Tender Process

### 3.1 Stage 1 - Selection Questionnaire (SQ) Procedure

- 3.1.1 On 12 November 2021 a notice was placed on the Find a Tender Service (FTS), the FTS is used by public buyers in compliance with Public Contracts Regulations 2015, calling for expressions of interest. The closing date for applications was 13 December 2021.

- 3.1.2 Expressions of interest (EOI) were received from 36 candidates, with 6 candidates completing the SQ and making a submission prior to the deadline.

- 3.1.3 The 6 candidates that submitted a SQ were:

- Text Removed
- Text Removed
- Text Removed
- Text Removed
- Text Removed
- Text Removed

- 3.1.4 The FTS notice was placed under a competitive procedure with negotiation (CPwN) which stated that the contracting authority intends to invite a minimum of three and a maximum of four candidates from the SQ Stage to tender for the contract at Stage 2.

- 3.1.5 Table 1 below sets out the SQ evaluation summary and identifies the three Candidates that were then invited to submit detailed tenders at Stage 2.

**Table 1: SQ Summary Evaluation**

Ranking	Candidate	Pass/Fail Questions passed	Economic & Financial Standing Assessment passed	Overall Score (%)	Invited to Detailed Tender Stage 2
1st	Text Removed	Yes	Yes	Text Removed	Yes
2 <sup>nd</sup>	Text Removed	Yes	Yes	Text Removed	Yes
3 <sup>rd</sup>	Text Removed	Yes	Yes	Text Removed	Yes
4 <sup>th</sup>	Text Removed	No*	N/A	Text Removed	No
5 <sup>th</sup>	Text Removed	Yes	N/A	Text Removed	No
6 <sup>th</sup>	Text Removed	Yes	N/A	Text Removed	No

## 3.5 Stage 2 – Detailed Tender

- 3.5.1 Invitations to Tender were issued to the three selected tenderers on 17 January 2022 with a tender return deadline of the 21 March 2022. This represents a 10-week tendering period. However, the complete tender document set was first published at the same time as the FTS notice on the 12 November 2021, therefore tenderers would have had 20 weeks to complete their tender returns.
- 3.5.2 The three tenderers were invited to send up to three representatives to attend a site visit of each of the ESCC Highway Depots. This was completed on the 7 February 2022.
- 3.5.3 The three tenderers were invited to send up to three representatives to attend a virtual HSRP Information Event hosted on MS Teams. This was completed on 14 February 2022.
- 3.5.4 The event was attended by members of the project team along with the following key stakeholders and subject matter experts who gave presentations on different aspects of the Contract Document and Service Outcomes:
- Leader of the Council – Councillor Keith Glazier
    - **Council Vision and Priorities**
  - Lead Member for Transport and Environment - Councillor Claire Dowling
    - **Members Perspective of Highways Services**
  - Director of CET - Rupert Club
    - **Corporate and CET Priorities and our Challenges**
  - Assistant Director of Operations and Contracts (HSRP sponsor) – Karl Taylor
    - **Operational Priorities and Challenges**
  - Dale Poore - Head of Highways Infrastructure Services
    - **Current Contract & Service Delivery Model**
  - Phil McCorry - Business Improvement Manager (Project Lead)
    - **Tender Documents & Timetable**
  - Laura Curme – Strategic Procurement Manager (Procurement Lead & Social Value representative) & Chloe Sharpe – Procurement Specialist
    - **Social Value**
  - Andy Arnold – Environmental Manager (Carbon Reduction Lead)
    - **Carbon Reduction Priorities**
- 3.5.5 The purpose of the information event was to highlight key parts of the tender documents and allow an opportunity for the tenderers to ask questions to ensure all had a clear understanding on the contract requirements and overall outcomes that the Council are seeking.
- 3.5.6 A second site visit was requested by Tenderer B, a new date was therefore offered to all three tenderers and was and was competed on 7 March 2021. Tenderer A and B were in attendance, but Tenderer C was not.

## 3.6 Tender Clarifications

- 3.6.1 Throughout the tendering period (stage 2) several tender clarifications were received from the tenderers. These can be categorised as follows:

Tender Document	Total	%
General Information	1	0%
Volume 0 - Instructions for Tendering	47	16%
Volume 1 - Contract Data Part 1	23	8%
Volume 2 - Scope	88	29%
Volume 3 - Site Information	42	14%
Volume 4 - Pricing Document	4	1%
Volume 6 - TUPE	94	31%
Volume 7 - Forms for Completion	3	1%
<b>TOTAL</b>	<b>302</b>	<b>100%</b>

3.6.2 A breakdown of the number of clarifications received per tenderer is set out below:

Tenderer	Total	%
Tenderer A	170	56%
Tenderer B	68	23%
Tenderer C	28	9%
ESCC (clarifications/amendments etc.)	36	12%
<b>TOTAL</b>	<b>302</b>	<b>100%</b>

3.6.3 The majority of these were not of a significant nature and were responded to within the scope of the original issued tender documents. The number of clarifications received is less than the previous highways tender from 2015, although that tendering exercise had six tenderers at this stage not three. The most popular topic was TUPE, as it was in the 2015 tendering exercise.

3.6.4 In addition to the general clarifications received, each of the tenderers submitted six commercially confidential clarification questions. The biggest area of concern was regarding Contract Data Part 1 (Volume 1), where there is no limit of liability. The tender documents were not amended as none of the tenderers adequately provided enough evidence to support their concerns.

## 4. Tender Return

4.1.1 The Detailed Tender return date was set for 21 March 2022. Tenderer A and Tenderer C both made a request for 2 week and 3-week extension respectively. A 2-week extension was granted until 4 of April 2022. Tenderer B made a late request for a 2-week extension citing COVID resource issues. A 1-week extension was granted to all three tenderers with a new tender return date of Monday 11 April 2022

4.1.2 Three tenders were received by the tender return deadline of 11 April 2022.

## 5. The Tender Evaluation Process

5.1.1 Once tenders were submitted, each was evaluated based on the evaluation criteria set out in annex 1, table 1.

5.1.2 The Competitive Procedure with Negotiation (CPwN) was undertaken in accordance with the Public Contract Regulations 2015 (PCR).

5.1.3 The evaluation methodology for the tender was Most Economically Advantageous Tender, with the award criteria split between:

- Quality 45%
- Carbon 7.5%
- Social Value 7.5%
- Price 40%
- Total 100%

5.1.4 Members of the appointed assessment team undertook independent evaluation of the tender submissions.

5.1.5 A moderation exercise was then completed on a question-by-question basis, chaired by a moderator (Laura Curme and Chloe Shape), where evaluators came to a consensus score for each tenderer for each scored question. No comparative evaluation between tenderers, and no average scores were calculated and assigned.

5.1.6 The Quality, Social Value, Carbon, and Price scores were then combined to form an overall assessment score which would determine the Most Economically Advantageous Tender.

5.1.7 The tender documents set out that if the highest scoring Detailed Tender was capable of fulfilling the contract requirements, the Council had the option to proceed to straight to Stage

5: Tender Validation to identify and confirm the preferred tenderer for the award of the contract.

5.1.8 If the responses and proposals would benefit from discussion with the tenderers, the tender documents set out that the Council had the option to move to Stage 3: Negotiation Sessions.

5.1.9 Throughout the project, beginning with the soft market engagement activities, Stage 1 SQ and within Volume 0 of Stage 2, tenderers were informed that they should take care to fully explain their offer and to submit their best offer in their Detailed Tender submission as the Council was seeking to award without negotiation sessions.

#### 5.1.10 **Detailed Tender Evaluation Stages**

Following the evaluation of the Stage 1 Selection Questionnaire, the Stage 2 Detailed Tender evaluation process comprised of 6 Parts (A-F) summarised below:

- **Compliance Check (A)**
  - Each submission was reviewed for completeness and to identify any areas of non-compliance by the Procurement Officer. Non-compliance could have led to disqualification or required further clarification to be sought from the relevant tenderer.
- **Quality Evaluation (B)**
  - An evaluation of tenderers written quality submissions consisting of 27 individual quality statements was undertaken. Tenderers were required to achieve the minimum quality threshold score of five out of ten in each quality statement submission in order to be considered further.
- **Carbon Evaluation (C)**
  - An evaluation of the tenderers written quality submission, Carbon Reduction Plan (question 25) and Environmental Plan (question 26).
- **Social Value Evaluation (D)**
  - An evaluation of the tenderers written quality submission, Social Value Charter (section 1) and Social Value Plan (Section 2 – Question 27).
- **Price Evaluation (E)**
  - An evaluation of tenderers price submissions was undertaken against three pre-determined price evaluation models, consisting of individual core activities, total of tender prices, and the fee percentage.
  - Core Activities were priced as lump sums with a price included for each year of the contract. These prices are the actual price (excluding annual inflation) ESCC will pay for these services for the duration of the contract (unless the service requirement changes).
  - The Fee includes overheads, profit and risk value as a % which the Contractor will apply to the services provided throughout the contract period.
- **Combining of the Quality, Carbon, Social Value scores and Price (MEAT) (F)**
  - Upon completion of the initial evaluations, the quality and price evaluation teams met to combine the overall tender assessment scores. This process included the moderation of the individual team member quality evaluation scores to ascertain a common determination of score which was then added to the price evaluation score to give an initial overall evaluation score for each of the three tenderers.



## 6. Detailed Tender Evaluation Results

### 6.1. Compliance Check (A)

6.1.1 An independent compliance check (completed by Orbis Procurement Team) was carried out to ensure completeness of each submission to ensure that Bidders had provided all the information required within the Instructions for Tendering (Volume 0) and to ensure bids were compliant.

6.1.2 Of the three tenders submitted, two were 100% compliant (Tenderer A and Tenderer B). Tenderer B had not submitted the required pricing synopsis document. They were notified of this omission and given 48 hours to submit the document, which they did in the required timescales. This document is for information purposes only and does not form part of the Price Evaluation.

### 6.2 Quality Evaluation (B)

6.2.1 The quality evaluation panel consisted of several staff from the highways project team and, where appropriate, was supplemented by subject matter experts in the areas of Environment, Employment & Skills, ICT, Social Value, Strategic Economic Infrastructure and Insurance. The Quality Panel Lead was Phil McCorry.

The evaluation panel scored each tender in accordance with the predetermined scoring matrix (set out in Annex 1, Table 1) against 27 individual quality statements (set out in Annex 1, Table 2). The 27 questions were categorised into four headings:

- **General;** this was a pass/fail assessment which all tenderers had to comply with. It dealt with the approach to TUPE, Pensions health and safety (CDM).
- **Strategic;** this captured the tenderers vision and overview to match the *Client's* objectives and requirements for the service.
- **Service Delivery;** this captured the general and more specific areas of the services to be delivered and described the tenderers approach to the service delivery specifics such as winter maintenance, mobilisation and emergency response.
- **Contract Management;** this described how the tenderers would organise themselves to deliver the service, provide the right people to prove their competencies and capability. This also captured the performance management and continuous improvements activities made by each tenderer and their approach to mobilisation, project management, cost and quality control and asset management.

6.2.2 Upon completion of the quality evaluation for each of the three compliant tenders by individual members of the quality evaluation team, the team came together to moderate and reach a consensus of the scores to be carried forward as the initial quality evaluation scores.

6.2.3 The following table shows the key heading scores and overall initial quality scores for each of the tenderers following moderation:

Section and sub weighting	Tenderer A	Tenderer B	Tenderer C
General	Pass	Pass	n/a – withdrawn bid
Strategic (20%)	17.6	14.6	n/a – withdrawn bid
Service Delivery (40%)	34.4	23.6	n/a – withdrawn bid
Contract Management (40%)	32.8	24.8	n/a – withdrawn bid
<b>Initial Quality Score (100%)</b>	<b>84.8%</b>	<b>63%</b>	n/a – withdrawn bid
<b>Initial Ranking</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	n/a – withdrawn bid

6.3 Carbon Evaluation (C)

- 6.3.1 The evaluation panel scored each tender in accordance with the predetermined scoring matrix set out in Annex 1, Table 1 against 2 individual quality statements set out in Annex 1, Table 3.
- 6.3.2 This section contained two questions:  
Question 25: Carbon Reduction Plan;  
Question 26: Environmental Plan.
- 6.3.3 Upon completion of the carbon value evaluation for each of the three compliant tenders by the individual members of the carbon evaluation team, the team came together to moderate and reach a consensus of the scores to be carried forward as the initial carbon evaluation scores.

6.3.4 The following table shows the key heading scores and overall initial carbon scores for each of

Section and sub weighting	Tenderer A	Tenderer B	Tenderer C
Q25 Carbon Plan (75%)	37.5	37.5	n/a – withdrawn bid
Q26 Environmental Plan (25%)	20.0	12.5	n/a – withdrawn bid
Initial Carbon Score (100%)	57.5%	50%	n/a – withdrawn bid
Initial Ranking	1st	2nd	n/a – withdrawn bid

rs following moderation:

6.4 Social Value Evaluation (D)

- 6.4.1 The evaluation panel scored each tender in accordance with the predetermined scoring matrix set out in Annex 1, Table 1 against individual quality statements set out in Annex 1, Table 2 and Model 1 in Table 4.
- 6.4.2 This evaluation consisted of two sections
- o Model 1: Social Value Commitments (tenderers completed Social Value Charter);
  - o Model 2: Social Value Plan (Question 27).
- 6.3.3 Upon completion of the social value evaluation for each of the three compliant tenders by the individual members of the social value evaluation team, the team came together to moderate and reach a consensus of the scores to be carried forward as the initial social value evaluation scores.

Section and sub weighting	Tenderer A	Tenderer B	Tenderer C
Model 1 – SV Commitments	25.5	50	n/a – withdrawn bid

The following

Model 2 – SV Plan (50%)	35.0	35	n/a – withdrawn bid
Initial SV Score (100%)	60.5%	85%	n/a – withdrawn bid
Initial Ranking	2 <sup>nd</sup>	1 <sup>st</sup>	n/a – withdrawn bid

ng table shows the key heading scores and overall initial social value scores for each of the tenderers following moderation:

## 6.5 Price Evaluation (E)

- 6.5.1 The price evaluation panel consisted of a number of staff from the Highways re-procurement team. The Price Evaluation Panel lead was Robin Hayler – Contract and Commercial Manager.
- 6.5.2 The price evaluation panel scored each bid in accordance with the predetermined methodology for each assessment model as set out in Annex 1, Table 5.
- Model 1 – Core Activities  
Model 2 – Contractors Total of the Prices  
Model 3 – Fee Assessment
- 6.5.3 Following the initial evaluation of Tenderer A's Model 1 submission, their commercial approach was checked with Procurement – Laura Curme – to ensure their approach was compliant. It was confirmed that it was compliant and in accordance with the instructions set out in the tender documents.
- 6.5.4 The model price scores and initial overall price scores for each of the tenderers is set out below:

Section and sub weighting	Tenderer A	Tenderer B	Tenderer C
Model 1 (70%)	64.6	21.5	N/A - Withdrawn bid
Model 2 (20%)	20.0	16.8	N/A – Withdrawn bid
Model 3 (10%)	10.0	5.8	N/A – Withdrawn bid
<b>Initial Price Score (100%)</b>	<b>94.6%</b>	<b>44.1%</b>	N/A – Withdrawn bid
<b>Initial Ranking</b>	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	N/A – Withdrawn bid

## 6.6 Combining Quality, Carbon, Social Value and Price Scores (F)

- 6.6.1 Following completion of the Quality, Carbon, Social Value and Price evaluation, the scores were combined and weighted against the pre-set criteria (40, 7.5, 7.5, 40). The overall weighted evaluation results for Stage 2 are set out below:

Overall Weighted Evaluation			
Evaluation	Tenderer A	Tenderer B	Tenderer C
<b>Quality (45%)</b>	38.2	28.4	n/a - withdrawn bid
<b>Carbon (7.5%)</b>	4.3	3.8	n/a - withdrawn bid
<b>Social Value (7.5%)</b>	4.5	6.4	n/a - withdrawn bid n/a - withdrawn bid
<b>Price (40%)</b>	37.8	17.6	n/a - withdrawn bid
<b>Overall Evaluation (100%)</b>	<b>84.8</b>	<b>56.2</b>	n/a - withdrawn bid
<b>Rank</b>	<b>1</b>	<b>2</b>	n/a - withdrawn bid

## 7. **Stage 2 Evaluation Summary**

7.1 Having completed the Stage 2 evaluation process (A-F), Tenderer A was the lead tenderer with the highest MEAT score of 84.8%.

### 7.2 **Tenderer A results:**

- **Quality Evaluation**
  - Scored the highest quality score. 9.8% higher than Tenderer B.
  - Only Tenderer to score the full 10 marks out of 10 marks on an individual question. They achieved this five times.
- **Carbon Evaluation**
  - Scored the highest carbon score.
- **Social Value Evaluation**
  - Scored second highest social value Score.
- **Price Evaluation**
  - Model 1 – Scored the highest
  - Model 2 – Scored the highest
  - Model 3 – Scored the highest

7.3 Tenderer A asked the most clarification questions (51%) through the tender process, they were also the highest scoring candidate at the SQ stage.

7.4 As Tenderer A had demonstrated that they could deliver the contract requirements and were the highest on both Quality and Price, the Council had to decide whether to take up the Stage 3 tender negotiations and Stage 4 Final Tender options, or to progress straight to Stage 5 – Tender Validation and not have the negotiation sessions.

## 8. **Stage 3 Negotiation Sessions (optional) and Stage 4 Final Tender (optional)**

8.1 Following completion of stage 2, the project board met twice on 27 May 2022 and 10 June 2022 to determine if the project should progress to the optional Stages 3 & 4 or Stage 5 as set out in the Instructions for Tendering (Volume 0).

8.2 In consultation with the Chief Officers Management Team (CMT), which met on 15 June 2022, a decision was made to progress to Stage 5 – Validation. The three tenderers were informed of the decision through the Intend tendering system on 17 June 2022.

8.3 The decision to not progress to Negotiation Stages 3 & 4 was based on members expectations around quality and any descope compromising the achievement of the agreed service outcomes. It was also considered that a complex negotiation stage could increase the potential for the process to be subject to challenge, and the Project Board were also mindful of the risk that tenderers may recalculate prices, given the increased inflationary pressures since tenders were submitted. Finally, time pressures on the project timeline were noted and the Project Board expressed a preference not to have to extend or negotiate with the incumbent should the project timeline slip at any point.

## 9. Stage 5 – Tender Validation Activities

9.1 Stage 5 – Tender Validation followed on from Stage 2, activity F. Stage 5 was comprised of 5 Parts (N - R), summarised below:

- **N. Quality Presentation of Tender**
  - Over two days, the tenderers were required to give a 45-minute presentation followed by a question-and-answer session.
  - New information could not be introduced by the tenderer during the presentation.
  - Following the tenderers' presentations, the evaluation panel reconsidered their marks considering their findings at the presentation. Scores could not be increased but were lowered if the Tenderer's presentation and answers did not substantiate their quality submission.
- **O. Interviews with key persons**
  - This consisted of Interviews with six of the nominated key persons who would be delivering key aspects of the Service.
- **P. Validating Stage of Tenders - Quality, Carbon, Social Value submissions**
  - Over a five-week period following notification of Stage 5 to the tenderers, the evaluation panel issued a series of clarification questions to the three tenderers to seek further clarity of key parts of their quality, carbon and social value submissions.
  - In addition, the validation days comprised of the 45-minute presentation and key persons interviews. This allowed the evaluation panel opportunity to validate key aspects of the quality, carbon and social value submissions to determine whether the tenderers could substantiate their proposals.
  - Scores could not be increased but were lowered if the tenderer was unable to substantiate their quality, carbon or social value submissions.
- **Q. Validating the price submission**
  - The evaluation panel validated the Tenderers' price submission to check that prices and costs submitted were a true and accurate representation of the likely costs to be incurred. This was achieved by asking each Tenderer to submit additional evidence of pricing information to provide a complete make up of their completed price submission.
- **R. Preferred Tenderer (Award)**
  - Following completion of the tender evaluation process, the Council is seeking to award the contract to the Preferred Bidder with the highest validated overall score (quality, carbon, social value, price).
  - The Tender documents set out that in the event that the Bidders' final scores at the completion of the evaluation were statistically equal, the contract would be awarded to the tenderer achieving the highest validated price score. This eventuality did not materialise.

## 9.2 Bidder Withdrawal

9.2.1 Following notification to proceed to Stage 5 – Tender Validation and not Stage 3 – Negotiation, all three Tenderers were asked the following clarification question:

*"The contracting authority has determined that this procurement will proceed to Stage 5: Tender Validation as defined in Volume 0 - Instructions for Tendering. Please confirm that should you be awarded this contract you are willing to enter into contract based upon.*

- *the terms and conditions, Volume 1, Contract Data Part 1,*
- *your quality offering submitted as, Volume 5 -Contractor's Quality Submission*
- *your Total of the Prices submitted as, Volume 4 - Pricing Document Schedule 2 - The Pricing Schedules and Volume 4, Pricing Document, Schedule 3 - Contact Data Part two"*

9.2.2 Both Tenderer A (text removed) and Tenderer B (text removed) confirmed their acceptance. Tenderer C (text removed) qualified their response which would require an amendment to the Contract, as follows:

- the introduction of clause 'X18' limit of liability. This involves the Council taking on more financial risk, underwriting the Contractors failure.

9.2.3 The Council wrote to Tenderer C (text removed) setting out that their qualification meant their tender was not compliant and therefore did not pass the Stage 5 – Tender Validation. This is because the qualification would have fundamentally altered the intention of the Contract. However, Tenderer C (text removed) was given the opportunity to remove their qualification unconditionally.

9.2.4 Tenderer C (text removed) notified the Council on 19 July 2022 that they were unable to remove their qualification and therefore confirmed they would be withdrawing from the tender process. Acknowledgement of their voluntary withdrawal was sent on 20 July 2022.

9.2.5 The withdrawal of Tenderer C (text removed), meant that the five activities (N-R) to be completed under Stage 5 Validation were only completed on the remaining two compliant Tenders from Tenderers A and B.

## 10. Stage 5 – Tender Validation Summary of Findings

### 10.1 N. Quality Presentations of Tenders

10.1.1 Each Tenderer gave a 45-minute presentation to the combined evaluation panels which enabled them to articulate their bids. This was followed by the evaluation panel seeking clarification on aspects of their tender through several predetermined questions. Each tenderer was given the same validation briefing pack and a format for the presentation to ensure transparency. An overview of the presentation format is set out below:

	Service Outcome	Description	Evidence
1	Quality Assurance	Deliver an efficient and effective right first-time service.	Based on your offer, your presentation must demonstrate how your organisation will achieve the service outcomes.
2	To have the best Area Network condition for the investment available	Deliver best value within the available resources through the implementation of the Asset Management Strategy.	
3	Effective Stakeholder Engagement	Engage effectively to understand and meet the needs of our stakeholders to deliver a right first-time service delivery.	
4	Sustainable Economic Growth	Enhance the local economy through network expansion and improvement to meet the growth agenda, whilst optimising and improving network performance. Delivery of economic, social, and environmental value.	Include evidence of how your management processes/procedures and governance will ensure your organisation meets and where possible exceed the relevant SPIs and KPIs.
5	Carbon Reduction	Develop and sustain operations that achieve carbon reduction over the contract duration, working towards the target of net zero by 2050.	
	Overarching	Tell us where you feel your offer: <ul style="list-style-type: none"><li>• Will provide the greatest added value and opportunities</li><li>• Gives you the greatest challenge over the contract duration</li><li>• Manages exposure to risk</li></ul>	

- 10.1.2 Following the quality presentations and question and answer sessions the evaluation panels met to determine whether any adjustment was required to the scores.
- 10.1.3 Adjustments to the initial individual scores were considered for each criterion. As no new information was allowed, scores could only be adjusted down if the Tenderers' presentation did not substantiate their bid and/or sufficient clarity was not provided in response to the questions. A formal written confidential clarification question was sent to them to seek a final response.
- 10.1.4 Following the presentations each of the Tenderers' scores were adjusted in the following ways:

**Tenderer A (Text Removed)**

No scores were adjusted. All responses to the questions asked did not raise any concerns, all responses were satisfactory.

**Tenderer B (text removed)**

No scores were adjusted. All responses to the questions asked did not raise any concerns, all responses were satisfactory.

- 10.1.5 The table below shows the final Stage 5 Validated combined scores

Stage 5 Validated Overall Weighted Evaluation			
Evaluation	Tenderer A	Tenderer B	Tenderer C
Quality (45%)	38.2	28.4	n/a withdrawn bid
Carbon (7.5%)	4.3	3.8	n/a withdrawn bid
Social Value (7.5%)	4.5	6.4	n/a withdrawn bid
Price (40%)	37.8	17.6	n/a withdrawn bid
Overall Evaluation (100%)	<b>84.8</b>	<b>56.2</b>	n/a withdrawn bid
Rank	<b>1</b>	<b>2</b>	n/a withdrawn bid

## 10.2 O. Interviews with key persons

- 10.2.1 Interviews were undertaken with each of the tenderers proposed 'key persons' identified within their submission. These included the proposed Contract Manager, Commercial Manager, Operations Manager, Performance Manager, Stakeholder Manager and Programme Manager.
- 10.2.2 Each of the proposed key persons were interviewed against a set of predetermined questions, prepared by the evaluation panel to explore the individual knowledge, understanding and commitment to deliver the service requirements as set out in the tender documents and their submission.
- 10.2.3 **Tenderer A (Text Removed)**

The interviews demonstrated that the key persons proposed by Tenderer A text removed were part of a committed and knowledgeable team, led by an enthusiastic and experienced Contract Manager who is currently undertaking an equivalent role for a neighboring local



authority. This individual would be able to introduce a progressive step change and deliver the long-term improvements and benefits required by the Council through a collaborative leadership style. There was a firm commitment that the interviewed key people will be supporting the mobilisation period and then remain on the contract in post for a number of years.

#### **Tenderer B (Text Removed)**

The nominated key persons proposed by Tenderer B text removed that were interviewed demonstrated that they are a vibrant, enthusiastic and knowledgeable team that will introduce a progressive step change and deliver the long-term improvements and benefits required by East Sussex.

#### **10.2.4 Key People Interview Summary**

10.2.5 The evaluation team concluded that both teams displayed good knowledge and understanding of the contract requirements, the challenges faced by the Council and potential opportunities to further help the Council deliver against its wider service and corporate objectives and consequently had no issues with the abilities or resourcing commitment from either of the bidders.

### **10.3 P. Validating Stage of Tenders - Quality, Carbon, Social Value submissions**

#### **10.3.1 Tenderer A (text removed)**

10.3.2 Following completion of Stage 2, 26 tender clarification questions were issued to Tenderer A (text removed) to seek further clarification of their quality, carbon, and social value submissions. A further 6 clarification questions were asked in the Question & Answer session following the 45-minute quality presentation.

10.3.3 Throughout their tender submission, presentation and responses to tender clarification questions, Tenderer A (text removed) have consistently demonstrated that they understand the contract requirements. This has enabled the evaluation panels to satisfy themselves that the proposals set out within the bid are a true reflection of their ability to deliver the objectives of the Contract.

#### **10.3.4 Tenderer B (text removed)**

10.3.5 Following completion of Stage 2, 5 tender clarification questions were issued to tenderer B (text removed) to seek further clarification of their quality, carbon, and social value submissions. A further 10 clarification questions were asked in the Question & Answer session following the 45-minute quality presentation.

10.3.6 Throughout their tender submission, presentation and responses to tender clarification questions, tenderer B (text removed) have consistently demonstrated that they understand the contract requirements. This has enabled the evaluation panels to satisfy themselves that the proposals set out within the bid are a true reflection of their ability to deliver the objectives of the Contract.

### **10.4 Q: Validating the Pricing Submission**

#### **10.4.1 Tenderer A (text removed)**

10.4.2 The evaluation team asked a number of tender clarification questions and requested additional detailed pricing information in order to validate the submitted rates and prices were a true and accurate representation of the likely costs to be incurred and to gain some surety of the financial sustainability of their bid.

- 10.4.3 An open and honest approach was demonstrated by Tenderer A (text removed) with substantial additional pricing information being provided to validate the prices in their bid. Prices were built up through a fully transparent process tracking costs from base labour, equipment, and materials costs through to the final price for delivery.
- 10.4.4 Base pricing has been developed within their standard estimating system however due to the nature and requirements of this tender the base pricing has then been exported to excel to enable the application of discount factors which have been generated from forecast income i.e. Network management. These costs have been offset by the forecast income and offered at a zero cost with the remainder of forecast income spread across the remaining core activities providing a discount to the lump sum prices.
- 10.4.5 Tenderer A (text removed) have adopted a pricing strategy whereby 100% of all generated income through levied fees and charges etc. are used to reduce the cost of the fixed price services in their bid.
- 10.4.6 text removed
- 10.4.7 text removed
- 10.4.8 Tenderer B (text removed)**
- 10.4.9 The evaluation team asked a number of tender clarification questions and requested additional detailed pricing information in order to validate the submitted rates and prices were a true and accurate representation of the likely costs to be incurred and to gain some surety of the financial sustainability of their bid.
- 10.4.10 An open and honest approach was demonstrated by Tenderer B (text removed) team with substantial additional pricing information being provided to validate the prices in their bid. Prices were built up through a fully transparent process tracking costs from base labour, equipment, and materials costs through to the final price for delivery.
- 10.4.11 Base pricing has been developed within their standard estimating system however due to the nature and requirements of this tender the base pricing has then been exported to excel to enable the application of discount factors which have been generated from forecast income i.e. Network management. These costs have been offset by the forecast income and offered at a zero cost with the remainder of forecast income spread across the remaining core activities providing a discount to the lump sum prices.
- 10.4.12 Tenderer B (text removed) have adopted a pricing strategy whereby 100% of all generated income through levied fees and charges etc. are used to reduce the cost of the fixed price services in their bid
- 10.4.14 Financial Validation Summary**
- 10.4.15 Both Tenderers gave confidence to the price evaluation panel that the prices provided within their offers could be substantiated including from price development to payment. This was evidenced from the information provided as part of the tender clarifications asked.
- 10.4.16 Both approaches complimented the approach taken by the Council in including the services it did in the contract and reflected in its price evaluation model i.e., seven-year fixed pricing for core activities, delegation of income generating functions (Network Management) and an annualised approach to capital works delivery to maximise efficiencies. The Bidders have in essence used the same approach in the development of their prices giving confidence that prices are a true reflection of the costs that will be incurred.
- 10.5.17 The evaluation team have no residual concerns relating to the submitted prices from the two preferred bidders
- 11. R. Preferred Tenderer (Award)**

- 11.1 During Stage 5, the evaluation panels satisfied themselves that the two tender submissions, for quality, carbon, social value and price have been substantiated and demonstrated by the tenderer and as such there has been no adjustment made to the overall evaluation score awarded at the end of stage two.

Evaluation	Tenderer A	Tenderer B
Quality (45%)	38.2	28.4
Carbon (7.5%)	4.3	3.8
Social Value (7.5%)	4.5	6.4
Price (40%)	37.8	17.6
Overall Evaluation (100%)	84.8	56.2
Rank	1st	2nd

- 11.2 Having completed the evaluation process (A to R), Tenderer A (text removed) had the highest overall combined score of **84.8%**.
- 11.3 Having completed the Stage 2 evaluation process (A-F), Tenderer A's score had a lead of **28.6%** compared with Tenderer B.
- 11.4 Tenderer A has the highest quality score, highest price score (lowest price and lowest fee percentage), highest carbon score and second highest social value score.
- 11.5 A synopsis of their submission and offer is set out in Appendix 2. A summary of how their offer meets the contract service outcomes is set out table 1 below:

Table 1: Summary of Tenderer A offer against the Five Service Outcomes

	Service Outcome	Description	Summary		
1	Quality Assurance	Deliver an efficient and effective right first-time service.	Text removed		
2	To have the best Area Network condition for the investment available	Deliver best value within the available resources through the implementation of the Asset Management Strategy.	Text removed		
3	Effective Stakeholder Engagement	Engage effectively to understand and meet the needs of our stakeholders to deliver a right first-time service delivery.	Text removed		
4	Sustainable Economic Growth	Enhance the local economy through network expansion and improvement to meet the growth agenda, whilst optimising and improving network performance. Delivery of economic, social, and environmental value.	Text removed		
5	Carbon Reduction	Develop and sustain operations that achieve carbon reduction over the contract duration, working towards the target of net zero by 2050.	Text removed		
	Overarching	Greatest Added Value		Greatest Challenge	Managing expose to Risk
		Text removed		Text removed	Text removed

## 12. Risks

12.1 The award of this contract to the recommended Contractor presents a limited number of risks that are summarised and set out in the table below

Strategic Risks	Mitigations
<ul style="list-style-type: none"> <li>Challenge from unsuccessful bidders or others to the process</li> <li>Annual inflationary increases impact ability to achieve service outcomes through affordability issues.</li> <li>Contract affordability, need to increase revenue budget.</li> </ul>	<ul style="list-style-type: none"> <li>Robust procurement process completed.</li> <li>Early completion of Standstill letters by procurement and approved by ESCC legal / 3<sup>rd</sup> party legal support</li> <li>Robust estimates for inflation increased aligned to RPPR process</li> <li>Continuous improvement approach between new Contractor and Council to ensure/drive operational efficiencies.</li> </ul>
Operational Risks	Mitigations
<p>Mobilisation</p> <ul style="list-style-type: none"> <li>Contract not signed leading to delay in securing Plant, Labour, suppliers etc.</li> <li>Outgoing contractor frustrates handover</li> <li>TUPE of staff from incumbent, recruitment, and retention issues.</li> </ul> <p>Service Delivery</p> <ul style="list-style-type: none"> <li>Perception of stakeholders (e.g., ESCC members), not satisfied with new Contractor performance</li> <li>Contract Service Outcomes are not achieved</li> <li>Contract becomes financially unsustainable</li> <li>Management of legacy works between contracts</li> </ul>	<ul style="list-style-type: none"> <li>Prepare contract for signature to be handed over at first meeting on 18<sup>th</sup> October.</li> <li>Communication of new Contract with stakeholders as soon as possible as part of project communications plan</li> <li>Maximise lessons learned from recent mobilisations completed by preferred contractor</li> </ul>

## Annex 1 - Tender Evaluation Scoring Matrix

Table 1 - Quality Scoring Matrix (Volume 0)

Score	Classification	Definition
10	<b>Excellent</b>	Response exceeds the <i>Client's</i> requirements with sufficient details provided to demonstrate the tenderer's ability and willingness to Provide the Works AND in addition, the tenderer clearly identifies, commits to, and quantifies (i) the excess added value within their response over and above the <i>Client's</i> requirements and/or (ii) provides a similar demonstration of the innovation in their approach, with its consequences, where appropriate, in order to maximise performance and deliver continuous improvement, taking into account both technical and management risks.
8	<b>Very good</b>	Response exceeds the <i>Client's</i> requirements, with sufficient details provided to demonstrate the tenderer's ability and willingness to Provide the Works with no reservations or omissions. The evidence provided to demonstrate the tenderer's ability is comprehensive and robust. Where applicable, it must be evidenced by some third-party assurance, and which includes at least one example of the execution of a scope comparable to the Works.
7	<b>Good</b>	Response meets the <i>Client's</i> requirements, with sufficient details provided to demonstrate the tenderer's ability and willingness to Provide the Works that, may be accompanied by some minor reservations or omissions. The evidence provided to demonstrate the tenderer's ability is robust but not comprehensive. Where applicable it may be evidenced by some third-party assurance, and it includes at least one example of the execution of a scope comparable to the Works.
5	<b>Acceptable</b>	Response meets the <i>Client's</i> requirements, with sufficient detail provided to demonstrate the tenderer's ability and willingness to Provide the Works, that may be accompanied by some reservations or omissions which are more than minor. The evidence provided to demonstrate the tenderer's ability is sufficient but may not be comprehensive and/or robust. There is no third-party assurance of the evidence and the examples provided of the execution of a scope are drawn from a limited number of instances which are not fully comparable.
3	<b>Below expectations</b>	Response which significantly fails in one area to meet the <i>Client's</i> requirements and/or with little or no detail provided to demonstrate the tenderer's ability and willingness to Provide the Works.
1	<b>Poor</b>	Response which significantly fails in more than one area to meet the <i>Client's</i> requirements and/or with little or no detail provided to demonstrate the tenderer's ability and willingness to Provide the Works.

0	<b>Unacceptable</b>	No response at all OR insufficient information provided in the response such that it is not able to be assessed and/or is not able to be understood in order to determine the tenderer's ability and willingness to Provide the Works OR the response is non-compliant with either the mandatory requirements, if any, or the required minimum standards.
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**Table 2 - Quality Statement Scoring Template**

Quality Statement Heading		Section Weighting	Question Weighting	Question Score	Weighted Question Score	Weighted Section Score
	<b>General</b>	N/A				
1	TUPE		Passed (Yes / No)			
2	Pension		Passed (Yes / No)			
3	Code of Practice on Workforce		Passed (Yes / No)			
4	CDM Functions		Passed (Yes / No)			
	<b>Strategic</b>	<b>0.2</b>				
5	Vision & Overview		30			
6	Culture		30			
7	Strategic Organisation – Structure, Contract Governance and key persons		40			
	<i>Section Score</i>					
	<i>Weighted Section Score</i>					
	<b>Service Delivery</b>	<b>0.4</b>				
8	Operational Delivery of Risk Based Approach		20			
9	Winter Maintenance		10			
10	Network Management		10			
11	Stakeholder Management		20			
12	Third Party Claims		10			
13	Professional Services for Infrastructure replacement and enhancement		5			
14	Professional Services: technical advice and expertise		5			
15	Operational Delivery including resilience and business continuity.		20			

Quality Statement Heading		Section Weighting	Question Weighting	Question Score	Weighted Question Score	Weighted Section Score
	Section Score					
	Weighted Section Score					
	Contract Management	0.4				
16	Mobilisation Programme		10			
17	Delivery of the Client's Requirements Process		15			
18	Project Management of the works		10			
19	Procurement, Supply Chain Management		15			
20	Quality Management System & Quality Plan		10			
21	Asset Data – ESCC Asset Management team support		10			
22	Value for Money		10			
23	Innovation through design		10			
24	Systems Solution and Processes		10			
	Section Score					
	Weighted Section Score					
	Sum of Weighted Section Scores					
	Total Quality Score					(A)
	Carry forward to overall evaluation score					

**Table 3 Carbon Evaluation Scoring Template**

Carbon Statement Heading		Section Weighting	Question Weighting	Question Score	Weighted Question Score	Weighted Section Score
	General	1.0				
25	Carbon Reduction Plan		75			
26	Environmental Plan		25			
	Section Score					
	Weighted Section Score					
	Total Carbon Score					(B)
	Carry forward to overall evaluation score					



**Table 4 Social Value Scoring Template**

Assessment	Section Weighting	Assessment Weighting	Assessment Score	Weighted Assessment Score	Weighted Model Score
Model 1 - Social Value Commitments	0.5				
Social Value Commitments – Service Year 1		50			
Social Value Commitments – Service Years 2-7		50			
Model Score					
Weighted Model Score					
Model 2 – Social Value Plan	0.5				
Social Value Plan		100			
Model Score					
Weighted Model Score					
Sum of Model Score					
Total Social Value Score					(C)
Carry forward to overall evaluation score					

**Table 5 - Price Assessment Scoring Template**

Assessment	Model Weighting	Assessment Weighting	Assessment Score	Weighted Assessment Score	Weighted Model Score
Price Assessment Model 1 Core activity	0.7				
Service Management		7.69			
Stakeholder Management		7.69			
Network Management		7.69			
Third Party Claims		7.69			
Highway Asset Inspections		7.69			
Drainage Maintenance		7.69			
Control of Vegetation		7.69			
Road Markings		7.69			
Winter Service		7.69			
Structures Routine & General Maintenance		7.69			
Street Lighting		7.69			
Traffic Signals		7.69			
Reactive and Emergency Response		7.69			
<b>Model Score</b>					
<b>Weighted Model Score</b>					
Model 2 – Contractors Total of Prices	0.2				
CD Part 2 Total		100			
<b>Model Score</b>					
<b>Weighted Model Score</b>					

Model 3 – Fee Only	0.1				
Fee		100			
Model Score					
Weighted Model Score					
Sum of Model Score					
Total Price Score					(D)
Carry forward to overall evaluation score					

**Annex 2 – Summary of Tenderer A (text removed) Quality, Carbon & Social Value submissions**

Annex Removed

### 6.3 Tenderer A Social Value Plan Charter Summary Service Year 1

Outcomes	Measure	Unit	Qty/£'s Per Service Year
Thriving local economy	Business support/advice offered to local micro businesses/SME's/social enterprises	no/hrs	text removed
	Training/development opportunities offered to other locally based micro businesses/SME's/social enterprises	£	text removed
People have the skills for work & Businesses have access to a local skilled workforce	Local people supported to achieve NVQ (Level 2) qualification	no/ppl.	text removed
	Local people supported to achieve NVQ (Level 3) qualification	no/ppl.	text removed
	Professional development opportunities offered to local people i.e., BTEC, City & Guilds (Level 3) or equivalent	no/ppl.	text removed
	Apprenticeships (Level 2) offered to local people - <i>This is a priority level 1 for this project and therefore is evaluated at 3x the proxy value.</i>	no/ppl.	text removed
	Apprenticeships (Level 3) offered to local people - <i>This is a priority level 1 for this project and therefore is evaluated at 3x the proxy value.</i>	no/ppl.	text removed
	Professional development opportunities (Level 4+) offered to local people	no/ppl.	text removed
	Work experience opportunities offered to local people	no/ppl.	text removed
	Employability support offered to local priority groups	no/ppl.	text removed

	Career awareness programmes offered to local schools and colleges	no/hrs	text removed
More local people in work	Job opportunities offered to local long term unemployed	no/ppl.	text removed
	Full time job opportunities offered to local people currently working less than 16hrs p. wk	no/ppl.	text removed
	Job opportunities offered to local 18-24 yr olds not in employment, education, or training (NEET)	no/ppl.	text removed
	Job opportunities offered to local people with disabilities	no/ppl.	text removed
	Job opportunities offered to local Ex-offenders	no/ppl.	text removed
Empowered, effective and resilient voluntary and community groups	Commercial support offered to local voluntary and community groups	no/hrs	text removed
	Facilities offered for use to local voluntary and community sector groups	no/hrs	text removed
	Time allowed for staff to volunteer locally i.e.; employer supported volunteering scheme	no/hrs	text removed
	Fundraising activity and donations offered to locally based voluntary and community groups	£	text removed
Healthier, Safer and More Resilient Communities	Initiatives aimed at reducing crime (e.g., support for local youth groups, lighting for public spaces, private security)	£	text removed
	Initiatives to be taken to tackle homelessness (supporting temporary housing schemes etc.)	£	text removed

	Initiatives to support rough sleepers - including training for security and night staff opening up facilities (e.g., showers or additional beds when temperature drops) after hours	£	text removed
	Support provided to help local community draw up their own Community Charter or Stakeholder Plan	£	text removed
People are healthier and are supported to live independently	Support offered to local priority groups to help them live independently	no/hrs	text removed
	Support Initiatives taken or supported to engage people in physical and mental health interventions	£	text removed
	Initiatives to improve social connectedness and reduce isolation for local priority groups	no/hrs	text removed
	Promote digital inclusion and increase digital awareness for priority groups	no/hrs	text removed
Businesses are socially responsible and engaged with local communities	Value of this contract that will be spent with locally based voluntary and community groups	£	text removed
	Resources targeting areas of local need to deliver community benefits and develop community resilience	£	text removed
	Sponsor initiatives to increase awareness and promote the delivery of social value locally	£	text removed
Businesses operate sustainably and accept responsibility for their environmental impact on local communities	Take action to reduce operational carbon emissions (for example through investment in energy efficiency, local renewable generation, switching to Low Emission Vehicles or the use of accredited carbon off-setting schemes).	per/ton	text removed
Voluntary time dedicated to the sustainability of local	Environmental programmes with local groups, schools and colleges	no/hrs	text removed

green areas to increase biodiversity and keep green spaces clean			
People live environmentally sustainable lives	Environmental programmes with local groups, schools and colleges	no/hrs	text removed



### **Annex 3 - HSRP Price Evaluation & Affordability Assessment**

Annex Removed