

DATE: October 2014

**CARD ACQUIRING SERVICES
INVITATION TO TENDER**



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INVITATION TO TENDER (ITT)

for

The Provision of Card Acquiring Services

October 2014



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1 INSTRUCTIONS TO TENDERERS

1.1 Background

- 1.1.1 **Bracknell Forest Borough Council (BFBC or the Council)** is located in central Berkshire, and was designated a New Town in 1949 but became a Unitary authority in April 1998. The Council's services are divided between four directorates, Corporate Services, Adult Social Care, Health & Housing, Environment, Culture & Communities and Children, Young People & Learning.
- 1.1.2 The Council supports a local independent arts trust (registered as a charitable company limited by guarantee, charity number 265656) called South Hill Park Trust through annual grant funding.
- 1.1.3 The Council intends that the Trust should benefit from the rates and terms agreed through this procurement process. It is intended that the Trust will enter into a contract with the successful tenderer on the same terms and contract period as the Council following completion of the evaluation of the tenders.
- 1.1.4 In the Invitation to Tender, the term Council shall where appropriate include the Trust.

1.2 The Council and Trust

- 1.2.1 The Council will nominate the Borough Treasurer who will act on behalf of the Council, in all areas relating to this contract. The Borough Treasurer will also nominate a further officer who will be responsible for day to day operational issues concerning the contract.
- 1.2.2 The South Hill Park Trust Board of Trustees will nominate the Director of Finance who will act on behalf of the Trust, in all areas relating to this Contract.

1.3 Outline Requirement

- 1.3.1 The Council requires a credit/debit card acquiring service for the collection of card payments at the following locations.

Council Location	Type of card payments accepted
Downshire Golf Course	Face to Face, Telephone & Internet
Coral Reef Water World	Face to Face & Telephone
Bracknell Leisure Centre	Face to Face, Telephone & Internet
The Look Out Discovery Centre	Face to Face & Telephone
Easthampstead Park Conference Centre	Face to Face & Telephone
Edgbarrow Sports Centre	Face to Face, Telephone & Internet
Sandhurst Sports Centre	Face to Face, Telephone & Internet

- 1.3.2 The arrangements are to also include the requirements of South Hill Park Trust. This is a separate arts trust which is part funded by the Council. Payments are accepted face to face, via the telephone and via the internet.
- 1.3.3 An acquiring service only is required. Appropriate contracts are already in place with approved Payment Service Providers (PSP's).
- 1.3.4 The Council also collects telephone and internet payment by card for funds such as Council Tax, Business Rates, parking fines etc. It should be noted that these arrangements are subject to a separate contract provided via a fully managed service and do not form part of this Contract.

1.4 Project Schedule

- 1.4.1 The following is the proposed timetable for the procurement of Card Acquiring Services:

Publish advert on OJEU/ South East Business Portal	
Last Questions from Tenderers	
Issue Final Question & Answer Summary	
Receive Response from Tenderers	
Tender Evaluation	
Contract Award	
Contract Start Date	1st April 2015

1.5 Instructions to Tenderers

- 1.5.1 If you intend to tender for the service, please read the following instructions carefully and prepare your tender accordingly.
- 1.5.2 The Council will not be responsible for any costs or expenses you incur in preparing or delivering or in the evaluation of the tender, nor with any costs or expenses incurred with the formation of a contract should you be successful.
- 1.5.3 You are deemed to have obtained at your own expense, all information necessary for the preparation of your tender.
- 1.5.4 Prior to the date for return of tenders, the Council may clarify, amend or add to the documentation. A copy of each such instruction will be issued by the Council to every contractor and shall form part of the tender documentation. No amendment shall be made to the tender documentation unless it is the subject of such an instruction. You should promptly acknowledge receipt of such instructions.

- 1.5.5 Clarifications of the invitation to tender documents must be made by email to the following:
- 1.5.6 As soon as practical after receipt of any request for clarification, the Council will respond in writing to all tenderers except where the clarification has been identified by the tenderer, and subsequently agreed by the Council, as being commercially sensitive. The Council will not be bound to respond to any request for clarification of the Invitation to Tender which is received later than .
- 1.5.7 Only clarifications made in writing by the Council will form part of the Invitation to Tender documents.
- 1.5.8 All questions submitted to the Council in writing and answers, will be logged, summarised and issued to all tenderers.
- 1.5.9 All information contained in the invitation to tender shall be treated as confidential except insofar as is necessary to be disclosed for the purposes of obtaining quotations essential for the preparation of your tender.

1.6 **Tender Response**

- 1.6.1 Your tender must be returned in hard copy by no later than **12 noon** on
- 1.6.2 Three hard copies of the technical and commercial sections are required plus one electronic copy on CD. We are unable to accept tenders on USB stick.
- 1.6.3 The envelope must not indicate the name of the sender; envelopes that do may be rejected unopened. Similarly, tenders received after the tender submission deadline may be rejected.
- 1.6.4 The ITT is divided into two sections and your submission should contain the information called for in each section below:

The technical section should include:

- Organisation Information (Schedule 1)
- Method Statement (Schedule 2) – questions detailing the means of meeting the requirements of the Specification covering Relationship Management, Innovation, Implementation, Performance and Online Management Tool.
- References (Schedule 3)
- Specification Compliance Statement (Schedule 4)

No pricing should be included in the technical section.

The **commercial** section should include:-

- Firm prices in sterling for the Services must be entered on the Pricing Schedule (Schedule 5)
- Conditions of Contract Compliance Statement (Schedule 6)
- The completed Schedule of Reserved Information - see guidance attached at Section 4 (Schedule 7)
- The Form of Tender statement (Schedule 8) completed, signed and dated.
- The completed Tender Checklist – (Schedule 9)

1.6.5 Please respond to all questions in the Method Statement, Schedule 2. You should complete your responses in the boxes provided beneath each question in blue ink into this document. Alternatively, you may submit a separate document providing the tender cross referenced to the section and paragraph numbers of this invitation to tender.

1.6.6 Where any external reference material, such as brochures, specifications and system descriptions, is used to support your tender, any statements within the reference material which may allow change to obligations or reduce liability, such as "specifications subject to change without notice", or other disclaimers will be regarded as void and shall not form part of the contract in the event that the tender is accepted.

1.6.7 Where a particular section of the tender response relates to information given in another section or in external reference material, then you must ensure that the response is clearly cross-referenced.

1.6.8 All pricing should be stated exclusive of VAT.

1.6.9 Tenders shall remain open for an initial acceptance for a minimum of 120 calendar days, although the Council may ask you to extend of the period of validity.

1.7 Evaluation of Tenders

1.7.1 Tenderers will initially be evaluated on being able to meet the mandatory requirements detailed in the sections listed below. Tenders that fail to meet any of the mandatory requirements shall be rejected at this stage and eliminated from the process. Tenders that meet the mandatory requirements shall then go forward to be assessed against the criteria described at paragraph 1.7.2 below.

Criteria	Marks	Applicable Document(s) & Section(s)
Organisation Information:		
<i>A Organisation & Contact</i>	Pass/Fail	Schedule 1

<i>Details</i>		
<i>B Grounds For Mandatory Rejection</i>	Pass/Fail	Schedule 1
<i>C Grounds for Discretionary Rejection</i>	Pass/Fail	Schedule 1
<i>D/E Economic & Financial Standing</i>	Pass/Fail	Schedule 1, review and/or credit check
<i>F Business Continuity</i>	Pass/Fail	Schedule 1
<i>G Equal Opportunities</i>	Pass/Fail	Schedule 1
References	Pass/Fail	Schedule 3

- 1.7.2 The contract will be awarded on the basis of the most economically advantageous offer based on the following criteria:

Price – 50%	
Estimated Price over the contract period will be based on the proposed tariffs applied to the indicative transaction volumes (Schedule 5, Pricing Schedule)	
Quality - 50% (broken down further into the following sub-criteria)	
Method Statement (Schedule 2):	
<i>Relationship Management</i>	
<i>Innovation</i>	
<i>Implementation</i>	
<i>Performance & Service Delivery</i>	
<i>Online Management Tool</i>	
Specification Compliance (Schedule 4)	
Conditions of Contract Compliance (Schedule 6)	
Schedule of Reserved Information (Schedule 7)	
Form of Tender Completed (Schedule 8)	
Tender Checklist (Schedule 9)	

- 1.7.3 The **Total Cost** score is out of 100 marks and will be awarded based on a mathematical formula taking into account the overall weighting allocated to this particular section. In this instance, it is calculated by taking the lowest Total Cost divided by the next lowest Total Cost and multiplied by 100. As a result, the lowest Total Cost (subject to the provisions of regulation 30(6) of the Public Contracts Regulations 2006) will be awarded a score of 100 for price alone, with tenderers thereafter being allocated a relative score. This will be combined with quality, to give an overall score for each tenderer.
- 1.7.4 The Council's evaluation may include the option of clarification interviews. Further details will be sent out only if required, after the submission of your tender.
- 1.7.5 The evaluation spreadsheet which details **any sub-criteria** and formulae used is attached as Section 5 of this ITT.

1.7.6 The Council shall be under no obligation to award a contract for all or any part of the requirement set out in the Invitation to Tender, to any tenderer or at all.

1.7.7 You may be required to answer any Council queries on your proposal and to attend formal meetings with the Council during the tender evaluation period. Additionally the Council may wish to visit tenderers' premises to view the facilities and systems that may be used to deliver the service.

1.8 Alternative Offers

1.8.1 Alternative offers will not be considered. However, tenderers may submit pricing based on blended/all-inclusive tariffs and/or Interchange Plus.

1.9 Canvassing

1.9.1 Any contractor who directly or indirectly canvasses any member or official of the Council concerning the award of the contract for the provision of the Goods/Services, or who directly or indirectly obtains or attempts to obtain information from any such member or official concerning any other tender for the Goods/Service will be disqualified. If discovery occurs after the award of the contract, the Council shall then be entitled to summarily terminate the contract.

1.10 Whistle Blowing Policy

1.10.1 Your attention is drawn to the Council's whistle blowing policy which can be found on the Procurement website at: www.bracknell-forest.gov.uk/procurement

2 Terms and Conditions



BRACKNELL FOREST BOROUGH COUNCIL

CARD ACQUIRING SERVICES

CONDITIONS OF CONTRACT

CONDITIONS OF CONTRACT

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Appendix1-Exempted Information

THIS CONTRACT is made the _____ day of _____ 2014 **BETWEEN**
BRACKNELL FOREST BOROUGH COUNCIL of Easthampstead House Town Square
Bracknell Berkshire (hereinafter referred to as “the Council”) of the one part and [_____]
whose registered office is situate at [_____]
(hereinafter referred to as “the Contractor”) of the other part

WHEREAS:-

- (1) The Contractor has agreed to provide certain services to the Council as detailed in this Contract

NOW IT IS AGREED AS FOLLOWS:-

1. Definitions

1.1 In this Contract the following words shall have the following meanings assigned to them:-

“Commencement Date”	means the date of commencement of this Contract which shall be 1 April 2015
“Confidential Information”	means the Council’s secrets or confidential information and extends to all knowledge and information relating to the Council’s business organisation finances processes specifications clients services and technology
“the Contractors Response”	means the Contractors Response to the Invitation to Tender dated [_____]
“Contract”	means the agreement between The Council and the Contractor, for the supply of the Services, comprising the Specification and the terms of this Contract and any other written requirements or particulars of the Council
“Exempted Information”	means any information or category of information, document, report, contract or other material containing information relevant to this Contract that has been designated by the mutual agreement of the Parties as potentially falling within an FOIA Exemption and listed from time to time as such in Schedule 2
“FOIA”	means the Freedom of Information Act 2000
“FOIA Exemption”	means any applicable exemption to the FOIA including, but not limited to, confidentiality (section 41 FOIA), trade secrets (section 43 FOIA) and prejudice to commercial interests (section 43 FOIA)
“Invitation to Tender”	means the Invitation to Tender of the Council dated _____
“IP”	means all intellectual property rights of whatsoever nature including (without limiting the generality of the foregoing) copyright (and rights in the nature of copyright), design rights, database rights, trade marks,

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- patents and patentable inventions (and the right to apply for any of the foregoing)
- “Prohibited Act” means the following which constitute Prohibited Acts:
- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity;
 - (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 Contract;
 - (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the Council;or
 - (iv) defrauding, attempting to defraud or conspiring to defraud the Council.
- “the Payment” means the consideration for the Services which is detailed in clause 4.1 hereto
- “the Services” means the services to be provided by the Contractor to the Council in accordance with the Specification and the terms of this Contract
- “the Specification” means the specification included in the Council’s [Invitation to Tender as responded to in the Contractors Response / the Specification attached as Schedule 1 hereto]
- “Term” means the term of this Contract commencing on the Commencement Date and terminating upon 31 March 2020 unless extended in accordance with the provisions of this Contract
- “VAT” means value added tax payable under the Value Added Tax Act 1994
- 1.2 A reference to any Act Statute or statutory provision shall include a reference to that Act Statute or statutory provision as amended re-enacted or replaced from time to time whether before or after the date hereof and any former Act Statute or statutory provision replaced (with or without modification) by the Act Statute or statutory provision referred to and any subordinate legislation made thereunder respectively

1.3 References to the singular shall include the plural and vice versa, references to one gender shall include all genders. References to a “person” shall be construed so as to include any individual, firm, company or other body corporate, government, state or agency of the state, joint venture, association or partnership (wherever and however incorporated or established and whether or not being of separate legal personality)

1.4 References to a Clause, Sub-clause or Schedule are references to that Clause or Sub-clause of or Schedule to this Contract. Clause and Schedule headings are for convenience only and shall not affect the construction of this Contract

2. Term

2.1 This Contract shall commence on the Commencement Date and shall continue for the Term subject to the terms and conditions of this Contract

2.2 This Contract may be extended by the Council giving reasonable written notice to the Contractor before then end of the expiry of the initial Term. Such period of extension shall be at the discretion of the Council but shall in any event be for a period of no more than 2 periods of one year from the date of the expiry of the initial Term

3. The Services

3.1 The Services shall be provided by the Contractor to the Council in accordance with the Specification for the Term.

3.2 It is intended that the Services shall be provided by the Contractor in close consultation with the Council and accordingly the Council and the Contractor shall agree during the Term the manner and timing of the provision of the Services. The Contractor shall use its reasonable endeavours to provide the Services in the manner so directed

3.3 It is a condition of the Contract that the Services shall be provided in the manner indicated in the Contractors Response and that any proposed replacement employee must be approved in writing in advance by the Council and the Council shall reserve the right to interview or review any Employee proposed by the Contractor prior to such approval.

3.4 The Contractor shall undertake not to remove or replace any employee without the prior written consent of the Council (which shall not be unreasonably withheld).

4. Payment Provisions and Default Interest

4.1 In consideration of the provision of the Services the Council agrees to pay the Contractor in accordance with the Pricing Schedule at Schedule 5

4.2 Payment will be made on a monthly basis. A detailed breakdown of the charge to include transaction volumes/values and agreed tariffs must be provided at least 14 days before the charge is due.

4.3 If the Council fails to pay any amount payable by it under this Contract, the Contractor shall be entitled but not obliged to charge the Council interest on the overdue amount

from the due date up to the date of actual payment at the rate of two percent above the base rate for the time being of Lloyds TSB Bank plc.

- 4.4 The Council reserves the right to withhold all or part of any payment due hereunder if the Council is not for any reason satisfied with the Services to which the payment relates

5. Liability of The Council

- 5.1 Nothing in this Contract shall exclude or restrict a Party's liability for death or personal injury caused by its negligence
- 5.2 The Council shall not be liable for any economic loss including loss of profit suffered by the Contractor and arising from any breach of the obligations of the Council in the Contract
- 5.3 The Council shall not be liable to the Contractor for any indirect consequential special or punitive losses or damages including without limitation damages for loss of profits opportunity data or use
- 5.4 All property of the Contractor shall be at the sole risk of the Contractor while on premises of the Council and the Council shall not be liable for any loss or damage to such property unless this results from the wilful act or default of the Council.
- 5.5 The Contractor shall indemnify the Council on demand against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement arising from provision of the Services by the Contractor of any third party's IP.

6. Notices

- 6.1 No notice served on the Council pursuant to this Contract shall be valid and effective unless it is sent by recorded delivery to the Council at the address above and marked for the attention of the Borough Treasurer.
- 6.2 No notice served on the Contractor shall be valid and effective unless it is sent by recorded delivery to the Contractor at the registered address detailed above
- 6.3 Any notice to be served shall be deemed to have been properly serviced upon proof of posting. A correctly addressed notice shall be deemed to have been served 48 hours after it was dispatched

7. Variations

- 7.1 Any variations to this Contract must be made in writing and signed by the duly authorised representatives of both parties.

8. Professional Expertise

- 8.1 It is a condition of this Contract that the Services to be provided shall be provided by persons of sufficient expertise and in accordance with the good working practices of the relevant profession

9. Assignment

- 9.1 The Contractor is prohibited from transferring or assigning directly or indirectly to any person or persons whatsoever this Contract in whole or part and are prohibited from sub-letting this Contract without the prior written consent of the Council
- 9.2 The Council may assign this Contract in whole or part to a statutory or public body or any successor authority or authorities of the Council

10. Termination

- 10.1 The Council may terminate this Contract forthwith by notice in writing if the Contractor:-
- 10.1.1 shall become bankrupt or have a receiving order made against them or shall present their petition in bankruptcy or shall make an arrangement with or assignment in favour of their creditors or shall agree to carry out this Contract under the committee of inspection of their creditors or (being a corporation) shall go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) or if the Contractor without the consent in writing of the Council first obtained or shall have an execution levied on their goods; or
 - 10.1.2 have failed to comply with any terms of this Contract; or
 - 10.1.3 are the subject of or cause the Council to be the subject of a penalty or reprimand imposed by any regulatory authority by which the Council is governed or to which its activities are subject; or
 - 10.1.4 are in breach of any of the terms of this Contract unless in the case of a breach capable of remedy the breach is remedied by the Contractor within 21 days of receipt by the Contractor of a notice from the Council specifying the breach and requiring its remedy; or
 - 10.1.5 are incompetent or guilty of any serious or persistent breach of its obligations hereunder; or
 - 10.1.6 fail or refuse after written warning to carry out the Services reasonably and properly required of them hereunder
- 10.2 Without limitation the Council may by notice in writing immediately terminate this Contract if the Contractor(or any other person whom the Council agree shall perform the Services on behalf of the Contractor) shall:-
- 10.2.1 in the Council's reasonable opinion be incompetent or guilty of gross misconduct or any serious or persistent negligence in respect of the performance of the Services; or
 - 10.2.2 become bankrupt or is the subject of a receiving order or enters into any composition or deed of arrangement with his creditors

- 10.3 Following termination of this Contract the Contractor (or any other person whom the Council agrees shall perform the Services on behalf of the Contractor) shall not hold himself out as being in any way connected with the Council or its business
- 10.4 The Contractor may (but not unreasonably or vexatiously) give 28 days notice to terminate this Contract if:-
- 10.4.1 the Council have failed to make any due payment in accordance with this Contract; or
- 10.4.2 the Council or any person for whom the Council is responsible intentionally or knowingly with or obstructs the progress of the Services
- 10.5 The notice of termination shall be withdrawn if the Council within the 28 days notice:-
- 10.5.1 makes any due payment; or
- 10.5.2 to the reasonable satisfaction of the Contractor the Council or any person for whom the Council is responsible ceases to interfere with or obstruct the progress of the Services

11. Bribery and Corruption

The Council shall be entitled to terminate this Contract forthwith and to recover from the Contractor the amount of any loss resulting from such termination if:-

- 11.1 The Contractor:
- (a) shall not, and shall procure that any person employed by it or who acts as an agent of the Contractor shall not in connection with this Contract commit a Prohibited Act;
- (b) warrant, represent and undertake 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 Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Contract.
- 11.2 The 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 provide such supporting evidence of compliance as the Council may reasonably request.
- 11.3 The Contractor shall have an anti-bribery policy (which shall be disclosed to the Council) to prevent any Contractors Personnel from committing a Prohibited Act and shall enforce it where appropriate.
- 11.4 If any breach of Condition 11.1 is suspected or known, the Contractors must notify the Council immediately.
- 11.5 If the Contractor notifies the Council that it suspects or knows that there may be a breach of Condition 11.1, the Contractors must respond promptly to the Council's

enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for six years following the expiry or termination of this Contract.

11.6 The Council may terminate this Contract by written notice with immediate effect if the Contractors or any person acting on its behalf (in all cases whether or not acting with the Contractors knowledge) breaches Condition 11.1

11.7 Any notice of termination under Condition 11.6 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 Contract will terminate.

11.8 Any dispute relating to:
(a) the interpretation of condition 11.1; 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.

11.9 Any termination under condition 11.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

12. Data Protection

12.1 The Contractor shall (and shall procure that any of the Contractors Personnel involved in the provision of the agreement shall) comply with any notification requirements under the Data Protection Act 1998 and shall duly observe all obligations under that Act, which arise in connection with the Contract.

12.2 Notwithstanding the general obligation in condition 12.1, where the Contractor is processing Personal Data as a Data Processor for the Council, the Contractor shall ensure that it has in place appropriate technical and contractual measures to ensure the security of Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the Act; and

(a) provide the Council with such information as the Council may reasonably require to satisfy itself that the Contractor is complying with its obligations under the Act;

(b) promptly notify the Council of any breach of the security measures required to be put in place pursuant to condition 12.2; and

(c) ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the Act.

12.3 The provisions of this condition shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

13. No Waiver

- 13.1 No delay neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Contract

14. Insurance

- 14.1 The Contractor agrees to indemnify on demand and hold harmless the Council from and against each and every loss liability or cost (including without limitation damages and costs reasonably incurred as a result of defending or settling a claim or action or awarded or agreed to be paid in connection therewith) arising or incurred by the Council whether direct or consequential (including but without limitation any economic loss or other loss of turnover profits business or goodwill) as a result of any act or omission of the Contractor (or any other person whom the Council agrees shall perform the Services on behalf of the Contractors) relating to or in connection with the provision of the Services pursuant to this Contract
- 14.2 The Contractor undertakes to the Council and agree to take out and maintain for the duration of this Contract adequate public liability insurance cover (in a sum of not less than £5,000,000 for any one occurrence or series of occurrences arising out of any one event) in relation to the provision of the Services pursuant to this Contract with a reputable insurance company and to produce upon the Council's request a copy of the insurance policy or policies and each renewal or replacement thereof for inspection by the Council
- 14.3 The insurance cover may be reasonably increased from time to time at the reasonable request of the Borough Treasurer
- 14.4 The Contractors shall maintain in force professional indemnity insurance in the sum of £2,000,000 throughout the Term and shall continue to maintain the same in force for a period of 6 years following the termination hereof. This provision and Clause 14 hereof shall survive the termination of this Contract and remain in full force and effect for 6 years following the termination hereof
- 14.5 The Contractors' insurance in respect of claims for personal injury to or the death of any person under a contract of service or apprenticeship with the Contractor and arising out of and in the course of such person's employment shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and any Statutory Orders made thereunder or any amendment or re-enactment thereof
- 14.6 The Contractor shall immediately notify the Council and the Contractors' Insurers of any happening or event which may give rise to a claim demand proceeding damage costs or charge whatsoever arising out of this Contract and the Contractor shall indemnify the Council against any loss or damages whatsoever which may be suffered or incurred by the Council by the Contractors' failure to give such notification

15. Tax Liabilities

- 15.1 The Contractor shall be responsible for paying remuneration or where applicable fees and for the deduction and payment of all income tax liabilities and national insurance contributions or other similar contributions in respect of the Employee (and any other person whom the Council agree shall perform the Services on behalf of the Contractor) as required by law

15.2 The Contractor hereby agrees to indemnify on demand and hold harmless the Council from and against each and every claim liability or demand made by the Inland Revenue, Contributions Agency or such other relevant authority against the Council in respect of income tax or national insurance contributions or other contributions relating to the engagement of the Contractor to provide the Services and the performance of the Services by the Contractor or the Employee (or any other person whom the Council agrees shall perform the Services on behalf of the Contractor) pursuant to this Contract

16. Records

16.1 At any time upon the request of the Council the Contractor shall produce all records maintained by the Contractor in relation to the Services All such records shall be transferred to the Council forthwith upon the termination of this Contract In this clause the term "records" means all records in any medium (whether written, computer readable or otherwise) including accounts, data, documents, drawings and private notes about the Council and all copies and extracts of them made or required by the Contractor in the course of this Contract.

17. Health & Safety

17.1 The Contractor shall ensure that the Services comply with the requirements of the Health and Safety at Work (etc) Act 1974 the Management of Health and Safety Regulations 1992 Control of Substances Hazardous to Health (COSHH) Regulations 1988 and 1994 and the Road Traffic Act 1988 and any other Acts Regulations Order or European Directive pertaining to the health and safety of employed persons together with the Council's own health and safety policies from time to time in force as these may be updated and amended from time to time

18. Termination upon Notice

18.1 The Council may terminate this Contract upon giving to the Contractor no less than 1 months notice of termination at any time during the Term.

19. Intellectual Property

19.1 The Contractor confirms and acknowledges that all IP including trade marks copyright and any other rights in the Council's products together with any goodwill are and shall remain the exclusive property of the Council and that the Contractor shall not acquire any rights or interests in the Council's products including any developments or variations at any time

19.2 Subject to any pre-existing rights of third parties or to any pre-existing rights of the Contractor, the Contractor hereby assigns to the Council all present and future IP relating to and/or connected with the Services for the full period of such rights and any extensions or renewals of them

19.3 The Contractor agrees to execute any document or do any thing required by the Council to confirm that all IP including copyright and any other rights in the product of its Services under this Contract belong to the Council

20. Confidentiality

- 20.1 The Contractor agrees that they will treat as secret and confidential and not at any time for any reason to disclose or permit to be disclosed to any person or otherwise make use of or permit to be made use of any information relating to the Council's technology, technical processes, business affairs, client lists or finances or any such information relating to or being the property of any client customer supplier or other party dealing with the Council where knowledge or details of the information was received during the period of this Contract but this restriction shall cease to apply to information or public knowledge which has come into the public domain other than by reach of this clause and the Contractor shall procure that the Employee (and any other person the Council agrees shall perform the Services on behalf of the Contractor) enters into an agreement with the Council placing him under similar obligations
- 20.2 Upon termination or expiry of this Contract for whatever reason or at any time upon request of the Council the Contractor will deliver up to the Council all working papers notes or other material and copies provided to the Contractor or the Employee (or any other person whom the Council agrees shall perform the Services on behalf of the Contractor) pursuant to this Contract or prepared in pursuance of this Contract
- 20.3 The Contractor acknowledges that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act ("the Act") the text of this Contract, and any Schedules to this Contract, is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any part of the Contract or its Schedules is exempt from disclosure in accordance with the provisions of the Act.
- 20.4 Notwithstanding any other term of this Contract the Contractor hereby gives its consent for the Council to publish this Contract and its Schedules in its entirety, including from time to time agreed changes to the Contract, to the general public in whatever form the Council decides.
- 20.5 No public or press announcements shall be made with regard to the subject matter of this Contract unless the text of such announcement is first approved and initialled by the Council. The Contractor shall not make or authorise the making of any press release or other public statement or disclosure concerning this Contract or any transaction contemplated by it without the prior written consent of the Council.

21. Default

- 21.1 Should the Contractor fail to deliver the Services or any proportion thereof within the time specified in this Contract the Council shall be at liberty without prejudice to any other remedy for breach of contract to determine this Contract either wholly or to the extent of such default and to purchase services of the same or of similar description to make good

21.1.1 such default or

21.1.2 in the event of the Contract being wholly determined the Services remaining be delivered

The cost of purchasing such Services, so far as they exceed the amount which would have been payable to the Contractor for them if they had been delivered in accordance with the Contract shall be recoverable from the Contractor

22. Rights of Third Parties

22.1 The parties hereby declare that no term of this Contract is intended by the parties to confer benefit on any third party (as defined by the Contracts Rights of Third Parties Act 1999) nor is intended to be enforceable by any third party. The provisions of the said Act are excluded.

23. Human Rights

23.1 The Contractor confirms that they will perform their obligations pursuant to this Contract in all respects in conformance with the Human Rights Act 1998. The Contractor hereby indemnifies the Council from and against all losses costs expenses liabilities damages and claims arising from the failure of the Contractor or the Employee to duly perform their obligations pursuant to this clause and arising further from any act or omission of the Contractor or the Employee in respect of the non performance of the said obligations.

24. Survival of Rights on Termination

24.1 Termination of this Contract shall not affect the rights of the parties accrued up to the date of termination.

25. Jurisdiction

25.1 This Contract shall be subject to the laws of England and to the jurisdiction of the Supreme Court of England and Wales

26. Freedom of Information

26.1 The Contractor recognises that the Council is subject to legal duties which may require the release of information under FOIA or the Environmental Information Regulations 1992 or any other applicable legislation or codes governing access to information and that the Council may be under an obligation to provide information on request. Such information may include matters relating to, arising out of or under this Contract in any way.

26.2 Notwithstanding anything in this Contract to the contrary including, but without limitation, the general obligation of confidentiality imposed on the Parties pursuant to Clause 20 (Confidentiality), in the event that the Council receives a request for information under the FOIA or any other applicable legislation governing access to information, the Council shall be entitled to disclose all information and documentation (in whatever form) as necessary to respond to that request in accordance with the FOIA or other applicable legislation governing access to information, save that in relation to any such information that is Exempted Information, the Council shall not:-

26.2.1 confirm or deny that the information in question is held by the Council;
or

26.2.2 disclose the information requested

to the extent that in the Council's opinion (having taken into account the views of the Contractor) that exemption is or may be applicable in accordance with the relevant section of the FOIA in the circumstances.

- 26.3. In the event that the Council is required by the Information Commissioner to release Exempted Information (following non disclosure pursuant to clause 26.2) the Council shall be entitled to disclose the information requested.
- 26.4. In the event that the Council incurs any costs, including but not limited to external legal costs, in seeking to maintain the withholding of the information, including but not limited to responding to information notices or lodging appeals against a decision of the Information Commissioner in relation to disclosure, the Contractor shall indemnify the Council.
- 26.5. In any event the Council shall not be liable for any loss, damage, harm or other detriment however caused arising from the disclosure of any Exempted Information or other information relating to this Contract under FOIA or other applicable legislation governing access to information.
- 26.6. The Contractor will assist the Council to enable the Council to comply with its obligations under FOIA or other applicable legislation governing access to information. In particular it acknowledges that the Council is entitled to any and all information relating to the performance of this Contract or arising in the course of performing this Contract. In the event that the Council receives a request for information under the FOIA or any other applicable legislation governing access to information, and requires the Contractors' assistance in obtaining the information that is the subject of such request or otherwise, the Contractors will respond to any such request for assistance from the Council at its own cost and promptly and in any event within 10 days of receiving the Council's request.
- 26.7. The provisions of this clause shall not be deemed to fetter the discretion of the Council as a public body.

27. Equal Opportunities

- 27.1 The Contractor shall ensure that its Terms and Conditions of Employment and its policies and procedures relating to employment comply with all current legislation other legal requirements and codes of practice published by all relevant recognised bodies including but not limited to:-

ACAS

The Equalities and Human Rights Commission

The Department of Communities and Local Government

The Department for Business, Enterprise and Regulatory Reform

and shall upon request furnish the Council with such evidence of compliance with the same as the Council shall specify and require

- 27.2 The Contractor shall not discriminate or permit any employee or agent of the Contractor to discriminate in any way against any person on the basis of race gender disability age religion belief or sexual orientation or in any other way prohibited by law and shall comply at all times at its own expense with any requirements made by the Council to be observed by contractors in its policies to promote equality and diversity.

- 27.3 The Contractor shall comply with the Council's policies made pursuant to the Equality Act 2010 and for the promotion of equality and diversity published from time to time and shall if required to do so produce evidence satisfactory to the Council that the performance of the contract is consistent with and in accordance with those policies
- 27.4 The Contractor shall be able to demonstrate that where appropriate (bearing in mind the nature of the Goods or Services to be provided) that those Goods or Services are accessible and delivered in a way that is appropriate to meet the needs of those people that the Goods or Services are intended to benefit
- 27.5 If required by the Council the Contractor shall prepare and monitor a plan to deliver fair and equal access to the Goods or Services to ensure delivery of the Goods or Services in accordance with condition 27.4 above and shall make this plan available to the Council upon request. The Contractor shall make such reasonable changes to his plan as may reasonably be required by the Council to ensure compliance with condition 27.4 above. Where relevant to the contract and as agreed between the contractor and the Council, the Contractor shall also be expected to monitor the representation within its workforce and provide the Council with a breakdown of job applicants and workforce on the basis of race gender disability age religion or belief
- 27.6 The Contractor shall ensure that its staff are properly trained in respect of the matters detailed in this clause to ensure compliance with the Contractor's duties relating to equality and diversity and fair access in the Contract

Appendix 1

“Exempted Information”

In clause 26 of the Contract the term “Exempted Information” means:-

- (1) Information (including the provisions of the Contract) detailing the price or prices to be paid by the Council to the Contractor pursuant to the Contract
- (2) CVs of individuals provided as part of the procurement process
- (3) Information relating to the Contractors’ performance of the Contract
- (4) Information referred to in paragraphs (1) to (3) of this Schedule shall cease to be Exempt Information 3 years from the date of termination of this Contract

Signed
by
the duly authorised officer of
**BRACKNELL FOREST BOROUGH
COUNCIL**

Signed
by
on behalf of

3 Specification

3.1 Introduction

- 3.1.1 The Council requires a card acquiring contract for the collection of credit and debit card transactions at the following Council locations:

Council Location	Type of card payments accepted
Downshire Golf Course	Face to Face, Telephone & Internet
Coral Reef Water World	Face to Face & Telephone
Bracknell Leisure Centre	Face to Face, Telephone & Internet
The Look Out Discovery Centre	Face to Face & Telephone
Easthampstead Park Conference Centre	Face to Face & Telephone
Edgbarrow Sports Centre	Face to Face, Telephone & Internet
Sandhurst Sports Centre	Face to Face, Telephone & Internet

- 3.1.2 The arrangements shall also include the requirements of South Hill Park Trust. This is a separate arts trust which is part funded by the Council. Payments are accepted face to face, via the telephone and via the internet.
- 3.1.3 The Council also collects telephone and internet payment by card for funds such as Council Tax, Business Rates, parking fines etc. It should be noted that these arrangements are subject to a separate contract provided via a fully managed service and do not form part of this Contract being tendered. Volumes/values of these transactions are excluded from the numbers provided within this document.

3.2 Transaction Volumes

- 3.2.1 The pricing schedules (Schedule 5) provide an estimate of the annual volume and value of the credit and debit card transactions. Transactions are split by card type and method of payment in line with the categories used by Visa/Mastercard for interchange rates.
- 3.2.2 The volumes of transactions quoted are only indicative and are based on actual volumes seen over a recent period. The Council will not be liable for the successful provider's unanticipated costs arising from fluctuations in volumes.

3.3 Merchant Accounts

- 3.3.1 The Council currently has 8 Merchant Accounts - one for each location plus one further account which is used for internet payments taken by the Leisure Centres/Golf Course.
- 3.3.2 South Hill Park Trust currently has 2 Merchant Accounts - one for internet payments and one for telephone/face to face payments.

3.4 Charges

3.4.1 Although interchange plus pricing will be considered, the Council would prefer the simplicity of blended/all inclusive tariffs.

3.4.2 Tariffs/margins must not be subject to annual inflationary increases.

3.4.3 If blended rates are proposed then the rates must move in line with any movements in interchange during the contract period.

3.4.4 The Council reserves the right to re-negotiate tariffs should transaction volumes and/or values increase by 20% or more.

3.4.5 In line with industry standards the Council will pay charges and fees monthly in arrears.

3.4.6 The monthly advice of charges must be sent at least 14 days before the charge is due to be debited and it must include a detailed breakdown of all card transactions.

3.5 Settlement Timescales

3.5.1 The Council requires funds in respect of card transactions to be credited to the nominated bank account 2 days after transaction date (i.e. transactions collected on Monday should be credited to the bank account on Wednesday). Settlement on Transaction Day plus 3 will also be considered.

3.6 On-Line Management Information Tool

3.6.1 An on-line management information tool must be provided that enables the Council to:

- Obtain various reports (e.g. splitting transaction volumes/values by location, payment method and card type)
- Access historical transaction data
- View monthly statements/invoices

3.7 Terminal Rental

3.7.1 Each location utilises card terminals from third party hardware providers. Terminal rental is therefore not a requirement under this contract.

3.8 Payment Service Provider (PSP's)

- 3.8.1 VeriFone are the Council's Payment Service Provider. South Hill Park Trust use YesPay for face to face/phone transactions and Transaction Network Services (TNS) for internet transactions.
- 3.8.2 Tenderers must be able to work alongside the Council's and South Hill Park Trusts' current PSP's.

3.9 PCI - DSS and Fraud Screening

- 3.9.1 The Council and its third party suppliers and South Hill Park, are PCI-DSS/PA-DSS compliant.
- 3.9.2 The following fraud/security screening services are currently used:

Payment Method	Fraud /Security Screening
Face to Face	Chip and Pin
Internet	CSC and 3D Secure
Telephone	CSC

4 Freedom of Information Act 2000

GUIDANCE TO TENDERERS ON FREEDOM OF INFORMATION ACT 2000: ACCESS TO INFORMATION ABOUT OR ARISING UNDER CONTRACTS

4.1 Introduction

4.1.1 All information relating to any tender made to the Council or any contract to which the Council is party, including information arising under the contract or about its performance, will be covered by the Freedom of Information Act 2000 (the Act) from January 2005. The Council will be under a legal obligation to disclose such information if requested unless an exemption applies. The legal obligations to respond to a request for information falls on the Council. The Council must determine whether an exemption applies to information and whether the request should be refused. The Council may also be subject to disclosure obligations under other legislation or codes of practice. This Guidance sets out the approach of the Council to the disclosure of information about contracts.

4.2 General rules on disclosure

4.2.1 The Council has determined that, in the absence of special circumstances:-

- The Invitation to Tender (ITT) will always be available under the Act to those who enquire.
- Responses to tenders (apart from price information and commercially sensitive information – see below) will be held in confidence at least until award of the contract.
- Broad cost information will generally be available after award of contract under the Act to those who enquire.
- Information obtained from suppliers in responses to tenders and not generally available (future product information, research plans, financial details) will be held in confidence until no longer sensitive.
- Detailed tender prices will be held in confidence until no longer sensitive (see below).

4.2.2 Tenderers must therefore inform the Council, on the enclosed Schedule of Reserved Information, of such other information which it regards as being eligible for exemption from disclosure by the Council under the Act. The reasons for all such exemptions must be fully justified against the relevant section of the Act.

4.3 Reserved Information

4.3.1 The Act specifies a number of different grounds for exemption. Most of these are not considered to be relevant to a tendering process or subsequent award of contract. Those which are most likely to be relevant are:-

- The information constitutes a trade secret (section 43(1))
 - Disclosure would prejudice the commercial interest of any person (including the Council) (section 43(2))
 - Disclosure would constitute an actionable breach of confidence (section 41(1))
 - Personal data or information relating to the private life of any individual which is appropriate for protection (section 40)
- 4.3.2 If the Council agrees that information nominated by the successful tenderer may be legitimately classified as “reserved”, the Schedule of Reserved Information will form an integral part of the contract. The Schedule will list the class or category of information or the information itself and specify which exemptions under the Act apply to each specified class, category or specific information. The schedule shall indicate when it is likely that the information can be made available under the Act or if the information is unlikely ever to be made so available. Where such information is exempt under the rules governing commercial matters, (section 43(2)), then unless special circumstances apply, it will not be withheld under the Act for more than three years after completion/expiry of the contract.
- 4.3.3 Information relating to the overall value, performance or completion of the contract, contract records and administration will not generally be accepted as reserved information. The Council may however withhold access to such information under the Act in appropriate cases. The decision whether to withhold information shall be for the Council alone to determine. It shall have no obligation to consult the contractor.
- 4.3.4 The Council will automatically make information available under the Act from 3 years after completion/expiry of the contract, in the absence of specific agreement to the contrary. In the event that the Council receives a request for such information before the expiry of the 3 year period which it considers it may be appropriate to provide it will, wherever possible, notify the tenderer and take into consideration any representations made by the tenderer within 7 days of receipt of the notice by the tenderer.
- 4.4 Handling requests for information and notice to those affected**
- 4.4.1 Other than as set out above the Council shall have no obligation to consult the contractor where any request for information, whether under the Act or otherwise, touches or concerns the contract.
- 4.5 Information about the provision of the service which is the subject of the contract which arises in the course of performance of the contract**
- 4.5.1 The Council will have obligations to respond to the Act and other requests for information and the contract will include appropriate terms requiring the contractor to supply such information as requested by the Council.

DATE: October 2014

**CARD ACQUIRING SERVICES
INVITATION TO TENDER**



Any enquiries about this policy and its application should be addressed to the Borough Solicitor, Bracknell Forest Borough Council, Easthampstead House, Town Square, Bracknell, Berks, RG12 1AQ

5 Evaluation Spreadsheet

Refer to Excel file attached.

SCHEDULE 1 – Organisation Information

Notes for completion:

If the question does not apply to you please write N/A; if you don't know the answer please write N/K.

“Authority” means the purchasing organisation that is seeking to place an order.

“You”/ “Your” or “Potential Provider” means the organisation which is completing this form.

Verification of Information Provided:

The higher the risk of the procurement, the higher the level of verification is likely to be required. Not all questions require supporting documents up front at this stage (for example certificates, statements with this questionnaire.) **However, the purchasing organisation may ask to see these documents at a later stage, so it is advisable you ensure they can be made available upon request.** You may also be asked to clarify your answers or provide more details about certain issues.

Sub Contracting Arrangements

Where a sub-contracting approach is proposed, all information requested should be given in respect of the prime contractor.

Where sub-contractors will play a significant role in the delivery of the services or products under any ensuing contract, please indicate in a separate annex (by inserting the relevant company/organisation name) the composition of the supply chain, indicating which member of the supply chain will be responsible for the elements of the requirement.

It is recognised that arrangements in relation to sub-contracting may be subject to future change. However, Potential Providers should be aware that where sub-contractors are to play a significant role, any changes to those sub-contracting arrangements may constitute a material change and therefore may affect the ability of the Potential Provider to proceed with the procurement process or to provide the goods and/or services.

Consortia Arrangements

If the Potential Provider bidding for a requirement is a consortium, the following information must be provided:

- full details of the consortium; and
- the information sought in this Tender in respect of each of the consortium's constituent members as part of a single composite response.

Potential Providers should provide details of the actual or proposed percentage shareholding of the constituent members within the consortium in a separate Annex. If a consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided in the Annex. However, please note the Authority reserves the right to require a successful consortium to form a single legal entity in accordance with regulation 28 of the Public Contracts Regulations 2006.

A - ORGANISATION AND CONTACT DETAILS

Full name of organisation tendering (or of organisation acting as lead contact where a consortium bid is being submitted)		
ORGANISATION DETAILS		
Registered office address	Company or charity registration number	
	Date of registration	
	VAT registration number	
	Name of immediate parent company	
	Name of ultimate parent company	
Type of organisation	i) a public limited co.	
	ii) a limited company	
	iii) a limited liability partnership	
	iii) other partnership	
	iv) sole trader	
	v) other (please specify)	

CONTACT DETAILS	
Contact details for enquiries about this ITT	
Name	
Position/Title	
Address	
Post Code	
Country	
Phone	

Mobile	
Email	

Consortia and Sub-Contracting	a) Your organisation is bidding to provide the services required itself	
	b) Your organisation is bidding in the role of Prime Contractor and intends to use third parties to provide some services	
	c) The Potential Provider is a consortium	

If your answer is (b) or (c) please indicate in a separate annex (by inserting the relevant company/organisation name) the composition of the supply chain, indicating which member of the supply chain (which may include the Potential Provider solely or together with other providers) will be responsible for the elements of the requirement.

QUESTIONS 1.1 and 1.2 FOR COMPLETION BY NON-UK BUSINESSES ONLY

1.1	<p>Registration with professional body</p> <p>Is your business registered with the appropriate trade or professional register(s) in the EU member state where it is established (as set out in Annexes IX A-C of Directive 2004/18/EC) under the conditions laid down by that member state).</p>	
1.2	<p>Is it a legal requirement in the State where you are established for you to be licensed or a member of a relevant organisation in order to provide the requirement in this procurement? If yes, please provide details of what is required and confirm that you have complied with this.</p>	

B - GROUNDS FOR MANDATORY REJECTION**Important Notice:**

In some circumstances the Authority is required by law to exclude you from participating further in a procurement. If you cannot answer 'no' to every question in this section it is very unlikely that your application will be accepted, and you should contact us for advice before completing this form.

Please state 'Yes' or 'No' to each question.

Has your organisation or any directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences as defined within Section 23 of the Public Contract Regulations 2006 (SI 5/2006):		Answer
Answer "Yes" only if they have been convicted.		
(a)	Conspiracy	Yes / No
(b)	Corruption	Yes / No
(c)	Bribery	Yes / No
(d)	Fraud (including not paying taxes or social security contributions)	Yes / No
	(i) the offence of cheating the Revenue;	Yes / No
	(ii) the offence of conspiracy to defraud;	Yes / No
	(iii) fraud or theft within the meaning of the Theft Act 1968 and the Theft Act 1978;	Yes / No
	(iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985 or section 993 of the Companies Act 2006;	Yes / No
	(v) defrauding the Customs within the meaning of the Customs and Excise Management Act 1979 and the Value Added Tax Act 1994;	Yes / No
	(vi) an offence in connection with taxation in the European Community within the meaning of section 71 of the Criminal Justice Act 1993; or	Yes / No
	(vii) destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968;	Yes / No
(e)	money laundering within the meaning of the Money Laundering Regulations 2003 or Money Laundering Regulations 2007; or	Yes / No
(f)	any other offence within the meaning of Article 45(1) of Directive 2004/18/EC as defined by the national law of any relevant State	Yes / No

C - GROUNDS FOR DISCRETIONARY REJECTION**Important Notice.**

The Authority is entitled to exclude you from consideration if any of the following apply but may decide to allow you to proceed further. If you cannot answer 'no' to every question it is possible that your application might not be accepted. In the event that any of the following do apply, please set out (in a separate Annex) full details of the relevant incident and any remedial action taken subsequently. The information provided will be taken into account by the Authority in considering whether or not you will be able to proceed any further in respect of this procurement exercise.

Please state 'Yes' or 'No' to each question.

Please state 'Yes' or 'No' to each question.

Is any of the following true of your organisation?	
(a) <u>being an individual</u> , is bankrupt or has had a receiving order or administration order or bankruptcy restrictions order made against him or has made any composition or arrangement with or for the benefit of his creditors or has not made any conveyance or assignment for the benefit of his creditors or appears unable to pay or to have no reasonable prospect of being able to pay, a debt within the meaning of section 268 of the Insolvency Act 1986, or article 242 of the Insolvency (Northern Ireland) Order 1989, or in Scotland has granted a trust deed for creditors or become otherwise apparently insolvent, or is the subject of a petition presented for sequestration of his estate, or is the subject of any similar procedure under the law of any other state;	Yes / No
(b) <u>being a partnership constituted under Scots law</u> , has granted a trust deed or become otherwise apparently insolvent, or is the subject of a petition presented for sequestration of its estate; or	Yes / No
(c) <u>being a company or any other entity within the meaning of section 255 of the Enterprise Act 2002</u> has passed a resolution or is the subject of an order by the court for the company's winding up otherwise than for the purpose of bona fide reconstruction or amalgamation, or had a receiver, manager or administrator on behalf of a creditor appointed in respect of the company's business or any part thereof or is the subject of similar procedures under the law of any other state?	Yes / No
Has your organisation	
(d) been convicted of a criminal offence relating to the conduct of your business or profession;	Yes / No
(e) committed an act of grave misconduct in the course of your business or profession;	Yes / No
(f) failed to fulfil obligations relating to the payment of social security contributions under the law of any part of the United Kingdom or of the relevant State in which you are established;	Yes / No
(g) failed to fulfil obligations relating to the payment of taxes under the law of any part of the United Kingdom or of the relevant State in which you are established; or	Yes / No
(h) been guilty of serious misrepresentation in providing any information required of you under Regulation 23 of the Public Contracts Regulations 2006?	Yes / No

If answering 'yes' to any of the above, please provide further details.

D - Economic and Financial Standing Regulation 24

FINANCIAL INFORMATION

If, for some reason, your organisation is not required to produce Audited Accounts or an Annual Report then the Council's Finance Section will need to have visibility of your management accounts.

The Council will seek more information from independent credit reference agencies as part of the evaluation and reserves the right to undertake credit checks at each stage of the procurement process.

NB We will not accept applications from more than one company forming part of the same Group

(a)	Please provide one of (or a link to) the following set out below:-	
	<i>A copy of your audited accounts for the most recent two years</i>	
	<i>A statement of your turnover, profit & loss account and cash flow for the most recent year of trading</i>	
	<i>A statement of your cash flow forecast for the current year and a bank letter outlining the current cash and credit position</i>	
	<i>Alternative means of demonstrating financial status if trading for less than a year</i>	
(b) If your latest audited accounts are more than 18 months old, please send the latest unaudited or management accounts. If, for some reason, your organisation is not required to produce Audited Accounts or an Annual Report then the Council's Finance Section will need to have visibility of your management accounts.		
(c)	INSURANCE	

<p>Please <u>provide confirmation</u> that you already have or can obtain the following levels of insurance.</p> <p>Please Note: If the required levels of insurance are not maintained please provide an explanation in the box below.</p> <p>If you do not confirm that adequate insurance is held and you fail to provide a satisfactory explanation (e.g. large organisations that self-insure will be considered) your tender may be rejected.</p>	
Public Liability = GBP(£) 5 million	Yes / No
Professional Indemnity = GBP(£) 2 million	Yes / No
<p>Reasons for insurance not being held:</p>	

E	In the last 3 years, have you had any contracts:	
(b)	That have incurred contract penalties, default notices or payment of liquidated damages	Yes / No
(c)	Terminated by the client earlier than the originally intended due to poor performance?	Yes / No
(d)	Where you have withdrawn from the contract either before or after the award of contract?	Yes / No
	<p>If “Yes” to any of the above, please give details and explain in no more than 300 words what has been rectified in order to avoid this situation arising in the future:</p>	

(F)	BUSINESS CONTINUITY	
(f.1)	Does your organisation have a Business Continuity / Disaster Recovery / Risk Management plan that ensures that services described within the Outline requirement are delivered in the event of a disruption affecting your business, ensuring continuity of supply from your critical suppliers?	Yes / No
(f.2)	If “Yes” , please include a copy within your return	

(f.3)	If "No" , briefly describe what key actions your organisation will take to ensure continued provision to customers should there be a major event; for example, should there be adverse weather, or a pandemic flu which results in loss of staff or a fire or utility failure resulting in loss of your building. (Maximum 300 words)
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(G) EQUAL OPPORTUNITIES			
(g.1)	Does your organisation have an Equal Opportunities policy? Yes / No		
(g.2)	If "Yes" , please enclose a copy of the policy within your response.		
(g.3)	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"> If "No", please refer to the Council's equal opportunities document at http://www.bracknell-forest.gov.uk/equality-and-diversity-guidance-for-employers.pdf </td> <td style="width: 50%;"> In the absence of your own policy, please download document and confirm acceptance by signing and returning as part of your response. </td> </tr> </table>	If "No" , please refer to the Council's equal opportunities document at http://www.bracknell-forest.gov.uk/equality-and-diversity-guidance-for-employers.pdf	In the absence of your own policy, please download document and confirm acceptance by signing and returning as part of your response.
If "No" , please refer to the Council's equal opportunities document at http://www.bracknell-forest.gov.uk/equality-and-diversity-guidance-for-employers.pdf	In the absence of your own policy, please download document and confirm acceptance by signing and returning as part of your response.		
(g.4)	Do you provide staff with training on Equal Opportunities? Yes / No		
(g.5)	Does your company have a procedure for employees to raise issues of discrimination or harassment? Yes / No		
(g.6)	Have any Industrial Tribunal or other Legal cases (pending or otherwise) relating to equality issues been brought against your organisation within the last three years? Yes / No		
(g.7)	If "Yes" , please provide details		

SCHEDULE 2 – Method Statements

1. INTRODUCTION

- 1.1 Responses to the questions in this section will be used to evaluate the quality element of the tenders which will account for 50% of the overall evaluation.
- 1.2 Responses to questions will be scored in accordance with the methodology and criteria described at section 1.
- 1.3 Responses must be inserted into the text box beneath each question. Please ensure that a response is provided to all questions. Please limit the responses to each question to no more than 600 words. Additional information may be provided but scoring will refer to the description provided here.

2.0 Method Statement Questions

2.1	Relationship Management	Weighting -
<p>Please provide a résumé of the Relationship Manager/Director who will be ultimately responsible for the arrangements with the Council. In addition, please confirm how many other local authority contracts he/she is responsible for as well as how many contracts in total.</p> <p>Marks will be awarded based on the proposed relationship manager's general experience as well as his/her specific experience of managing local authority contracts.</p>		

2.2	Innovation	Weighting -
<p>Please provide TWO specific examples of new products/services that are being developed (or have been developed) in partnership with other local authority clients or organisations that have similar requirements.</p>		
<p>Please include an explanation as to how these products/services could benefit the Council.</p>		
<p>Please ensure that only TWO examples are provided. (if more than two examples are provided then only the first two examples will be considered for the purpose of allocating scores).</p>		
<p>Marks will be awarded based on how relevant the two examples are for the Council as well the potential benefits they could deliver.</p>		

2.3	Implementation	Weighting -
<p>Please provide a proposed implementation plan specifically relating the Council's requirements. . This should highlight key milestones, tasks that will need to be completed by the Council and provide a clear indication of timescales. Please also outline specific experience of implementing similar local authority contracts.</p> <p>Marks will be awarded based on how detailed and realistic the proposed plan is. Experience of implementing similar local authority contracts will also be considered.</p>		

2.4	Performance and Service Delivery	Weighting -
<p>Please provide details of any service interruption to merchants in the past two years.</p> <p>Marks will be deducted based on hour's service loss experienced by merchants.</p>		

2.5	Online Management Tool	Weighting -
<p>Please provide details of the online management tool provided and the proposed benefits to the Council of using it.</p> <p>Marks will be awarded based on how comprehensive the system functionality is and the benefits achievable from the system.</p>		

SCHEDULE 3 – References

<p>Please provide details of three current contracts, where you provide services similar to those required by the Council.</p> <p>Failure to provide three references without a satisfactory explanation (see below) may result in your submission being rejected.</p>				
		Contract 1	Contract 2	Contract 3
1.	Customer Organisation (name):			
2.	Customer contact name, phone number and email			
3.	Contract start date			
4.	Brief description of one of the above contracts (max 400 words) including evidence as to your technical capability in this market.			
<p>If you cannot provide three references, please briefly explain why (100 words max)</p> <p>Response</p>				

In the last three years, have you had any contracts:

- i. That have incurred contract penalties, default notices or payment of liquidated damages?
- ii. Terminated by the client earlier than originally intended due to poor performance?
- iii. Where you have withdrawn from the contract either before or after the award of contract?

If Yes to any of the above, please give details and explain what has been rectified in order to avoid this situation arising in the future.

[Response](#)

SCHEDULE 4 – Specification Compliance Statement

Section	Subject	Compliant		If no, state why and propose alternative. (Use additional sheet(s) if necessary)
		Yes	No	
3.2	Transaction Volumes			
3.3	Merchant Accounts			
3.4	Charges			
3.5	Settlement Timescales			
3.6	On-Line Management Information Tool			
3.7	Terminal Rental			
3.8	Payment Service Provider			
3.9	PCI - DSS and Fraud screening			

NB Significantly non-compliant bids may be rejected.

SCHEDULE 5 - Pricing Schedule

The Excel file attached provides two Pricing Schedules.

Pricing Schedule 1 should be completed if you are proposing blended/all-inclusive tariffs rather than Interchange Plus.

Pricing Schedule 2 should be completed if you are proposing Interchange Plus (or Interchange Plus) pricing. All appropriate rates **MUST** be inserted in this schedule including the relevant interchange fees, margins (and scheme fees if Interchange Plus pricing is proposed).

Proposed settlement timescales should be inserted where indicated in the pricing schedule. If Transaction +3 (T+3) is proposed, the pricing schedule will automatically add an additional figure to your proposed costs representing the cost of the delay (i.e. assuming a rate of Base Rate).

SCHEDULE 6 – Conditions of Contract Compliance Statement

Clause	Subject	Compliant		If no, state why and propose alternative. (Use additional sheet(s) if necessary)
		Yes	No	
1	Definitions			
2	Term			
3	The Services			
4	Payment Provisions & Default Interest			
5	Liability of The Council			
6	Notices			
7	Variations			
8	Professional Expertise			
9	Assignment			
10	Termination			
11	Bribery and Corruption			
12	Data Protection			
13	No Waiver			
14	Insurance			
15	Tax Liabilities			
16	Records			
17	Health and Safety			

Clause	Subject	Compliant		If no, state why and propose alternative. (Use additional sheet(s) if necessary)
18	Termination upon Notice			
19	Intellectual Property			
20	Confidentiality			
21	Default			
22	Rights of Third Parties			
23	Human Rights			
24	Survival of Rights on Termination			
25	Jurisdiction			
26	Freedom of Information			
27	Equal Opportunities			

NB Significantly non-compliant bids may be rejected.

SCHEDULE 7 – Freedom of Information Act 2000 - Schedule of Reserved Information:

Reserved Information	When available for disclosure	Relevant Section of Act	Reason
Tender responses (excl sensitive tender information)	After award of contract	Section 43(2) and/or section 36	Commercial confidentiality and prejudice to the effective conduct of public affairs.
Sensitive tender information received from bidder (e.g. price information)	When no longer sensitive	Section 43(2) and/or section 36 (EIR regulation 12(5))	Sensitive information should not be released. Commercial confidentiality and prejudice to the effective conduct of public affairs.
Information obtained from suppliers and not generally available (future product information, research plans, financial details)	When no longer sensitive	Section 41 (EIR regulation 12(5))	The information will generally have been specifically requested by the authority and supplied with a reasonable expectation it will not be made public. Otherwise, companies may refuse to divulge the information, to the probable detriment of the public interest.
Price breakdown/information	When no longer sensitive	Section 43(2) (EIR regulation 12(5))	
CV's and reference site information	Until exemption does not apply	Section 40 and/or 41 (EIR regulation 12(5) and/or regulation 13)	Personal information or information supplied to the bidder in confidence
Information relating to contract negotiation	When no longer sensitive	Section 43(2) and/or section 36	

DATE: October 2014

**CARD ACQUIRING SERVICES
INVITATION TO TENDER**



I have read the accompanying "Guidance to Tenderers on Freedom of Information Act 2000: Access to information about or arising under contracts". The above table has been completed in accordance with these guidelines and I have reasonably designated this information as confidential. I understand that the Council will not accept a blanket disclaimer

Name **Job Title**..... **Organisation**.....

Signed..... **Date**.....

SCHEDULE 8 – Form of Tender

I/We, the undersigned, having examined the Conditions of Contract, Specification and all other Tender Documents, hereby offer to supply the goods/undertake the services required, in accordance with the tender documents for prices detailed in the Pricing Schedule.

I/We understand that the Council is not bound to accept the lowest or any tender received.

This tender remains open for acceptance for 120 days from the date fixed for the submission of tenders in the Invitation to Tender.

I/we agree that the essence of selective tendering is that the Council shall receive bona fide competitive tenders from all those tendering. In recognition of this principle, I/we warrant that this is a bona fide tender, intended to be competitive, and that I/we have not fixed or adjusted the price tendered by, or under or in accordance with any agreement or arrangement with any other tenderer. I/ we furthermore warrant that no approaches have been made to any other tenderers for the purpose of obtaining or influencing their tender prices or any other details of their bid. I/ we also warrant that I/we have not and will not before the award of any contract for the work:

- (i)(a) communicate to any person other than the Council the amount or approximate amount of the tender or proposed tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain insurance premium quotations required for the preparation of the tender;
- (b) enter into any agreement or arrangement with any person that they shall refrain from tendering, or that they shall withdraw any tender once offered or vary the amount of any tender to be submitted;
- (ii) pay, give or offer to pay or give any sum of money or other valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the work, any act or thing of the sort described at (i)(a) or (b) above.

Unless and until a formal agreement is prepared and executed, this tender, together with your written acceptance thereof, shall constitute a binding contract between us.

Signature

(please use non black ink)

Name

Job Title

Organisation

Address

☎ Telephone No.(s)

Email

Date

SCHEDULE 9-Tender Checklist

Please tick checklist to indicate that copies of all relevant documents are enclosed.

<i>Required Documents</i>	<i>Document enclosed Yes/No</i>
SCHEDULE 1 - ORGANISATION INFORMATION	
SCHEDULE 2 - METHOD STATEMENTS	
SCHEDULE 3 - REFERENCES	
SCHEDULE 4 – SPECIFICATION COMPLIANCE STATEMENT	
SCHEDULE 5 - PRICING SCHEDULE	
SCHEDULE 6 – CONDITIONS OF CONTRACT COMPLIANCE STATEMENT	
SCHEDULE 7 – FREEDOM OF INFORMATION ACT 2000 - SCHEDULE OF RESERVED INFORMATION	
SCHEDULE 8 – FORM OF TENDER	