

Report to Cabinet

24 November 2022

Cabinet Member for Property and the Local Economy

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt except for Appendix A
Appendix A - Not for Publication – Exempt under
Paragraph 3 of Part 1 of Schedule 12A to the Local
Government Act 1972

Horsham Carfax Markets Operator Contract Award 2023 - 2026

Executive Summary

The purpose of this report is to gain Cabinet agreement to award the contract for Horsham Carfax Markets Operator to Supplier A. Their proposal meets all of the requirements of the Councils' contract specification and should result in a significantly improved service for both public and traders.

Recommendations

That the Cabinet is recommended to:

- i) Approve the award to Supplier A Limited as Horsham Carfax Markets Operator for a period of three years with an option to extend for one additional year starting 1 January 2023.

Reasons for Recommendations

- i) The tender received from Supplier A meets and exceeds the Council's requirements and aspirations for this Contract

Background Papers

Carfax Market Operator Contract Tender Specification 2023-2026

Supplier A Contract proposals 2023- 2026

Quarterbridge Markets Report 2022

Notes: 20th-Sep-2022 Horsham Town Policy Development Advisory Group.pdf

Wards affected:

The markets fall within Denne Ward

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Background Information

1 Introduction and Background

- 1.1 This contract relates to the operation, management and investment in the Carfax based markets in Horsham Town Centre.
- 1.2 Carfax markets are run twice weekly. Saturdays are Local Produce and Crafts focused, (with other types of stalls directed to Bishopric), whilst Thursdays are open to all traders. Street Food is present at both markets and acts as a 'draw' that benefits the markets and wider businesses as a whole.
- 1.3 The markets are run for the benefit of the town as a whole, being an essential element of the town's character and visitor appeal drawing its own footfall to the town every week. The operational emphasis is on quality, vibrancy, safety and good management on site in co-operation with property-based businesses. They provide opportunities for social engagement and act as a tangible community hub.
- 1.4 The markets are also an important part of Council's economic policy in that they support the trading by and development of many local small and start-up businesses. They also have many other Council strategy benefits including 'Buy Local', healthy eating, sustainability – reduced food miles, promotion of waste reduction and recycling.
- 1.5 The Council's current operator contract expires on 31 December 2022 and therefore the Council is required to review its contract arrangements to run the Horsham Markets. There needs to be a sufficient lead in period to ensure full continuity of staffing, investment and the introduction of enhancements.
- 1.6 The aim is that there will be a smooth transition to operations under the new contract. All essential features of the market operations are expected to remain the same with any significant developments being introduced in consultation with the Council via monthly management meetings and with advance notice to traders and public where necessary.
- 1.7 The most immediate and noticeable change is expected to arise as a result of specific promotion of 'pop up' (new and irregular) trader stalls with other management changes having already been gradually introduced as part of the assimilation of the Quarterbridge reports recommendations.
 - ii) The Quarterbridge Market Review and Strategy report specifically praised the current operation and recommended its continuation – subject to contract.
 - iii) Supplier A has successfully run markets since 2016. Additionally, the company has a credible track record in local produce & specialist markets and public events across Sussex.
 - ii) Supplier A has responded thoughtfully and enthusiastically to an updated contract specification that was developed based on the Quarterbridge Market Report's recommendations and surveys, operational experience, market trading conditions and our own Economic Strategy.

- iii) Supplier A recognises the balance to be struck between commercial success and the markets role as an economic development tool for enabling new businesses to trade in a high street setting.
- iv) Supplier A is promising tighter controls of market content, with a renewed focus on local produce and crafts and layouts. This will produce consequent opportunities to build an alternative offer in the separately run Bishopric market.
- v) Supplier A proposes to increase communications with their traders and surrounding businesses including newsletters, surveys and promotions. They also are committed to pre-promoting who is on the market each week. This will further improve the standing of the market in the community and provide ongoing feedback, safeguarding future market operations.
- vi) The Supplier A offer sets out increased market revenues over baseline forecasts, thereby boosting income to the Council. Their proposed operational initiatives are considered both creative and achievable. These include introducing more market led town events.

2 Relevant Council policy

- 2.1 As referred to above, the report supports the priorities in the District Plan through Economic Development support for small businesses, local producers and vibrant town centres. The markets also support elements of sustainability (buy local/reduced food miles) and a better quality of life.

3 Details

- 3.1 The tender was advertised on the South East Shared Opportunities Portal and Contracts Finder on 22 July 2022 and an email with link to the adverts was sent to all market operators who had previously expressed an interest or had approached the Council.
- 3.2 Two bids were received by the deadline on 5 September 2022 however one bid had failed to submit all required information by the given timeframe. Following consultation with the Senior Solicitor and the Council's Procurement Manager it was decided to reject it as a non-compliant bid.
- 3.3 Following submission, an officer tender panel evaluated Supplier A's proposal against the advertised contract criteria independently and then jointly, agreeing unanimously that the Supplier A's proposal met or exceeded all requirements. Supplier A is therefore the Preferred Bidder.
- 3.4 Since the bid received has been in excess of the anticipated contract value (£361,000 over the three years), the Council's Director of Resources and Head of Legal and Democratic Services confirmed that the contract award would need to be

approved by Cabinet as part of the process contained in the Council's Procurement Code.

4 Next Steps

- 4.1 Subject to agreement by Cabinet, notification of the final contract award will be sent to Supplier A by the Procurement Officer.
- 4.2 A Contract has been prepared to commence on 1 January 2023.

5 Views of the Policy Development Advisory Group and Outcome of Consultations

- 5.1 The Contract recommendation was presented to the Horsham Town Centre PDAG on 20 September 2022 receiving favourable feedback. PDAG notes as follows:

The Economic Development Officer provided an update on the Carfax Market Contract for the Group.

The contract had been put out to tender and was at the point of award. A report on the contract would be considered at the Cabinet Meeting on 24 November, with a three-year contract scheduled to start in January 2023 with an option to extend for a further year.

- 5.2 Extensive local consultations were carried out as part of the Quarterbridge Review of Horsham's Markets and Strategy report delivered to the Council in July 2022. One to one interviews were conducted with Members, operators and local stakeholders as well as surveys of traders and public. The findings of this report have been incorporated in the tender specification for this contract.

6 Other Courses of Action Considered but Rejected

- 6.1 The option to cease Market Operations in Carfax was rejected as being counterproductive to the Council's Economic Development Strategy overall and support for Horsham Town Centre's economy specifically. The market enables more than forty businesses to trade weekly and is an attraction that drives footfall that benefits many premises-based businesses in the town. Support for markets across the District is an increasingly central part of the Council's strategy for supporting high street vibrancy and the enabling of entrepreneurial business opportunities in our towns. Its contribution to produce a modest income for the Council was not an influencing factor.
- 6.2 Demand for and popularity of the Carfax markets was evidenced by the Quarterbridge report with a strong recommendation to build on what we have.
- 6.3 The format of the market's management was also considered, and the report concluded that a Council led concession operating contract was still the most appropriate and the Council's existing arrangements were seen to be enviably successful relative to other similar markets nationally.

7 Resource Consequences

- 7.1 The Concession Markets Contract has its own budget code which is principally made up of Council income derived as a percentage of stall rental fees (not vatable) and a fixed fee per electricity hook up (vatable). There is little to no exclusive expenditure in support of the market but provision for limited support for marketing materials on and offline is made within the Economic Development budget.
- 7.2 The proposal made by Supplier A provides for payments to Horsham District Council at or above the Council's budgeted income figures for the market, currently at £16,000 per annum. Provision has been made for the phased transfer of business rate liability from the Council to the operator over the contract term. Actual income levels will depend on performance in retaining and growing the number of businesses trading on the markets each week and through special events.

8 Legal Consequences

- 8.1 There are no statutory obligations involved in the Council running the markets operation.
- 8.2 The markets have planning permission to be run in the Carfax on land that is County Highways land with delegated powers for licencing other activities to the District Council.
- 8.3 The Council has complied with all necessary Procurement Regulations and the Council's Procurement Code.
- 8.4 In-house legal resources will be used to complete the legal documentation.

9 Staffing Consequences

- 9.1 There are no staffing consequences arising from this contract award within the Council and Supplier A has indicated that it is looking to reemploy the current onsite manager meaning that no third-party jobs are likely to be lost.

10 Risk Assessment

- 10.1 The risks associated with this contract award are no different to that of the previous contract. Therefore, no new formal risk assessment has been undertaken.
- 10.2 As summarised above the decision taken to appoint Supplier A as our Carfax markets contractor has been taken on the quality of their proposal and basis of their excellent experience. Their positioning within the local producer and market events sectors combined gives Horsham District Council a minimum risk opportunity to build on previous market performance.

11. Equalities and Human Rights implications / Public Sector Equality Duty

- 11.1 No changes to the terms and conditions associated with the operation of and accessibility to Horsham Markets by traders, staff or the public are proposed under this contract award. The Market Operator is responsible for staffing and engaging with market traders and the Contract requires them to protect human rights where it would be relevant to do so.
- 11.2 The main responsibility around Equalities and Diversity lies with the Market Operator who are employing staff and engaging with market traders. Consequently, the Contract states that they must comply with equality and discrimination legislation to the standard of the Council's public sector equality duty under the Equality Act 2010 which include advancing equality of opportunity and eliminating unlawful discrimination on grounds of sex, race, disability, religion or belief, sexual orientation and age where relevant the protection of human rights.

12 Environmental Implications

- 12.1 The Council has given regard to the Social Value Act 2012 and has incorporated obligations on the Market Operator within the contract documentation. This includes an obligation on the Market Operator to do the following:
- reduce waste and encourage waste recycling wherever possible;
 - encourage and incentivise Traders to adopt and implement sustainable values including participation in initiatives to reduce public and trader food waste;
 - increase the energy efficiency through the life of the Contract and encourage and incentivise Traders to adopt and implement sustainable values;
 - channel traders to sources of business skills training and support that increases their survivability
- 12.2 The Supplier A proposal contains commitments to several sustainability initiatives addressing their ability to influence both traders and public behaviour directly, through stakeholder partnerships and in concert with the Council's own policies and services.

13 Other Considerations

13.1 GDPR/Data Protection

Within the contract and for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. The Market operator is charged with processing data on behalf of the Council according in accordance with its responsibility to keep data secure and to share data with the Council of stall holders and prospects plus any customer databases that are collected in the name of Horsham Markets.

13.2 Crime & Disorder

Section 17 of the Crime and Disorder Act 1998 requires the Council to do all that it reasonably can to reduce crime and disorder. There are no crime and disorder implications as a result of this report. The markets have historically provided opportunities for the Police to generate awareness of their campaigns and it is expected that this will continue.

13.3 National Emergency & COVID Type Response

The Market Operator shall be prepared to implement operational changes that will enable the Carfax Market to continue to provide an essential and 'safe to shop' source of local produce and essential items in the event of any national emergency. The Council is likely to waive its own market fees for a defined period in recognition of reduced profitability during these times.

13.4 Sustainable Procurement Charter – Tier 2 Services

The Market operator will plan its operations and actively work to deliver its obligations under the Council's four SPC priority headings and report annually on this aspect.

13.5 Procurement Implications

The market's tender process has been carried out in accordance with the Concessions Contract Regulations 2016 and the Council's Procurement Code.

The tender process has been overseen by the Council's Procurement Manager.