



Christchurch
City Holdings
Limited

Request for Proposals (RFP)

Principal Advisor: Business Case and
Investment Advisory Service

RFP released: 5 April 2023

Deadline for Questions: 14 April 2023

Deadline for Proposals: 24 April 2023

Key Information

1.1 Context

- a. This Request for Proposals (RFP) is an invitation to suitably qualified Respondents to submit a Proposal for the provision of Business Case, Investment Analysis and Portfolio Management Services as **Principal Advisor** to Christchurch City Holdings Limited.
- b. This RFP is issued by Christchurch City Holdings Limited, referred to below as “CCHL”, “the Buyer” or “we” or “us”.
- c. This RFP is a single step procurement process.

1.2 Our timeline

The timeline for the RFP is set out below:

Description	Due
Deadline for Questions	5pm 14 April 2023
Deadline for Proposals	5pm 24 April 2023
Successful Respondent(s) notified (indicative)	1 May 2023
Expected start date of Contract (indicative)	3 May 2023

1.3 How to contact us

- a. Contact us through our Point of Contact via email.
- b. Our point of Contact:

Name: Holly Darling
Email Address: holly.darling@cchl.co.nz
- c. When contacting us with any questions, Respondents must notify us of the name and contact details of the person within their own organisation to whom all communications will be directed.

1.4 Developing and submitting your Proposal

- a. This is a closed, competitive tender process.
- b. If you have questions, please contact our Point of Contact before the Deadline for Questions (see section 1.3 above).
- c. Any questions should be raised with us as soon as possible but not later than the date shown in section 1.2. Where we consider it necessary and/or appropriate, we will endeavour to respond to all questions within three Business Days of receiving them.
- d. The Response Form must be completed and included when you submit your Proposal.

- e. Complete **and** sign the declaration at the end of the Response Form.
- f. The non-price attribute submission must not exceed 12 pages of single sided A4 size pages of ordinary type (10-point Arial or similar typeface). The page limit includes all attribute information for all organisations participating in a Proposal. A3 size paper shall be deemed to be two A4 pages and shall be numbered accordingly. Two pages of the 12-page submission should be allocated to relevant capability. For any submissions that exceed the page limit, the first 12 pages, excluding the additional pages, only will be considered for the evaluation. Additional pages may be included (in addition to the 12- page requirement above) as follows:
- Title Page (one page)
 - Covering Letter (one page but will not be considered as part of evaluation)
 - Index (one page)
 - Organisational Structure illustrating how their team will integrate with each other, the steering group, CCHL management, the relevant subsidiaries and Council (one A3 or A4 page)
 - CVs (two pages for each person nominated in the proposal)
- Additional pages are subject to the same font size requirements.
- g. Prices are to be submitted in a separate file.
- h. Submit your Proposal before the Deadline for Proposals.

1.5 Address for submitting your Proposal

Submit your Proposal to the following address: info@cchl.co.nz.

We will not accept Proposals sent by post or delivered to our office.

Make sure you include all attachments and reference material. Make sure all pricing information is in a separate file.

1.6 Our RFP Terms

a. Offer Validity Period

By submitting a Proposal, the Respondent agrees that their offer will remain open for 6 weeks from the Deadline for Proposals.

b. RFP Terms

By submitting a proposal, the Respondent agrees to the RFP-Terms described in [Section 6](#).

c. Variations

We have made the following variations and/or added special conditions to the RFP-Terms:

#	Variation or addition to RFP-Terms	Contractually binding?
1.	Clause 6.17 Paragraph (d) is amended by deleting "Official Information Act 1982 (OIA)" and substituting it with "Local Government Official	Y

#	Variation or addition to RFP-Terms	Contractually binding?
	Information and Meetings Act 1987 (LGOIMA)” and deleting “Parliamentary and constitutional convention”	
2.	Definitions The definition of Buyer is amending by deleting the words “The government agency” and replacing them with “Christchurch City Holdings Limited”	Y

1.7 Later changes to the RFP or RFP process

After publishing the RFP, if we need to change anything or provide additional information, we will let all Respondents know by contacting Respondents by email.

1.8 Defined terms

These are shown using capitals. You can find all definitions at the back of the RFP-Terms.

SECTION 2: Our Requirements

2.1 Introduction to CCHL

CCHL is the wholly owned commercial arm of Christchurch City Council (**Council**). It has six trading subsidiaries that own and operate essential infrastructure assets and services across Christchurch and Canterbury.

CCHL was set up in 1993 as an independent non-political buffer between the Council and its trading companies, to ensure that a commercial approach was taken to managing Council's investments.

As a Council Controlled Organisation (CCO) regulated by the Local Government Act 2002, CCHL's core mandate is established by Council through an annual letter of expectation and approval of CCHL's Statement of Intent. In addition, CCHL's commercial activities and/or those of its subsidiaries are also regulated by legislation such as the Companies Act, the Commerce Act, the Airport Authorities Act, the Port Companies Act and the Energy Companies Act.

As the owner of long-term infrastructure assets which takes a prudent, intergenerational approach to the assets it holds for the city and community, CCHL has a unique and privileged position but one which also comes with the challenges of balancing multiple objectives. CCHL's purpose statement is as follows:

By being good kaitiaki, CCHL's purpose is to make a positive difference to our community by ensuring the city's major investments provide commercial returns and at the same time provide leadership in the areas that matter to the wellbeing of our residents and our environment.

CCHL's strategic framework and core strategic pillars are not just about producing monetary returns (financial) but include our oversight (governance), human (people), infrastructure (kaitiakitanga), social (mana), and natural (sustainability) capitals. These pillars were developed as a way of thinking about our group as a whole, the relationships we hold and how our work improves – and impacts – our community, our environment and our economy.

Council has recently re-confirmed CCHL's core role and purpose. In doing so it has also strengthened its operational independence, primarily through a reset of the CCHL Board structure. This clarity of purpose, as a good kaitiaki, has an eye to the future in ensuring CCHL remains fit for purpose in meeting Council's long-term requirements.

In working with CCHL the Successful Respondent will play a key role in ensuring CCHL has a clear way to move forward; to meet the requirements of Council for building and utilising income or value from CCHL over the long term while laying the groundwork now for investment opportunities of the future.

2.2 Background

Acknowledging that CCHL had generated significant shareholder value and supported a range of Council's other strategic priorities since its inception Council requested Northington Partners to revisit the role, purpose and objectives of CCHL in 2022. The intention was to ensure that CCHL is well positioned to meet the requirements of the Council over the long-term.

The Review sought to address the following questions:

- What is the status of the current structure, effectiveness and performance of CCHL? (How is it working?)

- How can CCHL's structure and remit be modified to best meet CCC's long-term objectives? (How could and should it be working?)

The Northington review¹ found that while individual portfolio company performance had been satisfactory and consistent with the regulatory framework the CCTOs operate within, CCHL's performance as portfolio manager could be improved. This observation included consideration of portfolio performance, subsidiary performance and CCHL's operating model.

More specifically, in terms of financial performance, the review found that CCHL had been slow to manage some historical performance issues within its portfolio and had not actively challenged or reconsidered its broader strategy for some time. With respect to operational performance, whilst acknowledging Council had not provided a well-defined, measurable and prioritised set of objectives, the review found CCHL had not provided Council with a good level of base knowledge about the nature of assets and risk-adjusted returns of investments within the portfolio. Likewise, CCHL alignment with other CCOs such as CNZ, or key stakeholders such as Ngāi Tahu is not as strong as it could be.

In summary, Northington Partners considered that:

- CCHL was a significantly under-utilised asset of the Council and the ratepayers of the city;
- Significant value could be added by broadening CCHL's scope to encourage a more dynamic and active approach to maximise portfolio performance;
- Council should undertake a fully-considered and purposeful strategy reset focussed on optimising the performance of CCHL and its assets to meet specific requirements of the Council;
- Adopting a more dynamic mandate for CCHL, along with improvements to some operational features of the Group, would provide the platform to maximise the key outcomes from CCHL.

In early December 2022, Council received the Northington Partners' Strategic Review of CCHL and in line with the recommendations from Northington Partners, resolved² as follows:

- That Council develop a clear **Value Strategy** in relation to building and utilising income or value from CCHL primarily informed by Council's long-term requirements;
- Working closely with the Council, that CCHL be requested to scope and develop **Detailed Business Case(s)** which fully considers the costs and benefits of adopting a hybrid approach to managing the portfolio, including rebalancing and returning capital to Council;
- That these two pieces of work are prepared in time to inform and be considered as part of the Draft Long Term Plan 2024-2034.

At the same time, Council also resolved a number of operational improvements including to:

- Maintain the CCHL structure to continue to provide an independent non-political buffer between the Council and the commercial companies and clarify that CCHL's core role and purpose is to deliver commercial-based outcomes for its shareholder;
- Modify the Statement of Expectations process to be a more comprehensive, three year process based on a ten year planning horizon which becomes part of the LTP process;

¹https://christchurch.infocouncil.biz/Open/2022/12/CNCL_20221207_AGN_8233_AT_SUP_ExternalAttachments/CNCL_20221207_AGN_8233_AT_SUP_Attachment_39221_1.PDF

² https://christchurch.infocouncil.biz/Open/2022/12/CNCL_20221207_AGN_8233_AT_SUP.htm#PDF2_ReportName_39221

- Acknowledge that the recruitment of the Board of Directors and Executive of CCHL would need to consider the experience and skill-set required to support the strategy evaluation and implementation;
- Reduce the number of Councillor Directors on CCHL from four to two, which maintains the valued links between CCC and CCHL, while also providing for the number of independent commercial directors up to six including the Chair, which will be required to support the nature of the work ahead for CCHL;
- Request CCHL to seek better engagement with other aligned stakeholders (both other CCOs like CNZ) and aligned partners like Ngāi Tahu.

CCHL will in turn be required to establish investment policy settings in response to Council's Value Strategy. From CCHL's perspective, the outputs from the Value Strategy would therefore need to include:

- A mutual understanding of the characteristics of long-term investing and a set of guiding principles which ensure the Value strategy informs a clear articulation of CCHL's purpose and investment objectives;
- Clear requirements (including amount and timing) of expected income and capital distributions along with the impact sought (across non-financial capitals) from an infrastructure portfolio;
- A risk appetite statement which clarifies Council's willingness for CCHL to prudently take risks and accept uncertainties, including geographic concentration risk, over a long-term horizon;
- Consideration of the strategic case for Council ownership and control in subsidiaries, with options to consider minimum and/or optimum shareholdings including any consequential amendments required to Council's strategic asset policy.

2.3 What we are buying and why

2.3.1 Indicative problem statements

The Northington Partners' report framed the wider problem statements relevant to CCHL's requirements as follows:

Indicative Problem Statement 1

How can Council sustainably fund the costs of the activities it is to provide under its Long-Term Plan, much of which go toward providing essential services that keep the city running smoothly?

The scale of this funding problem is front and centre for all councils across the country. For Christchurch City Council, this funding requirement falls against a backdrop of a potentially unsustainable path of rates increases, material affordability pressures at a household level, together with a significant forecasted increase in debt levels.

Indicative Problem Statement 2

Despite having the largest investment portfolio of any CCO across the country, CCHL debt levels and relatively low income returns will significantly impact on CCHL's ability to pay meaningful dividends to Council in the medium term.

CCHL provides Council with a key lever in helping to ensure projected rates increases remain affordable. This requires certainty of dividend projections that also help underpin the LTP process. A combination of low cash returns and current dividend policies results in Council holding the majority of any downside risk to these projections.

Indicative Problem Statement 3

While CCHL's Investments include essential infrastructure assets that typically form part of a core infrastructure portfolio, the strategic case for ownership, the nature of assets within the portfolio and risk-adjusted returns are not well understood.

CCHL's ability to provide Council with the full benefits of a significant investment portfolio is constrained by a requirement to consider multiple, often conflicting investment objectives and a strategic framework that places an emphasis on passive monitoring, not active management of the portfolio.

The Successful Respondent will assist CCHL in developing a detailed business case (DBC) which considers its options and makes recommendations in responding to these problem statements. More specifically:

- How and to what extent can CCHL best provide for sustainable growth in dividends to Council, over time?
- How and to what extent can CCHL ensure the total returns of its portfolio are aligned to and balance Council's long-term requirements for income and capital growth with support for its strategic and community objectives?
- To what extent should CCHL's operating model transition to a new portfolio management approach in optimising the allocation of capital in seeking stronger alignment with Council's long-term requirements?

The recommendations of the Northington Partners' report established a framework against which CCHL's strategic response could be considered – broadly, transitioning from a passive to a more active investment management approach.

The specific nature of this response will be determined by the development of Council's Value Strategy. This strategy will primarily be informed by Council's long-term requirements, with a deliberate balancing of target capital structure, financial capacity and requirements for an acceptable rates path. This will in turn allow CCHL to establish the investment policy settings and operating model that best respond to Council's Value Strategy.

The potential outcomes from this transition could include improving the risk/return profile of the existing investment portfolio, through the recycling and reinvestment of capital, and/or increased distributions to Council through higher dividends and/or capital release.

2.4 Scope of Services

2.4.1 Support for Council Value Strategy

Both the Value Strategy (including any proposed changes to Council's strategic asset policy) and CCHL's DBC are required to inform and be considered as part of the Draft Long Term Plan 2024-2034. The Council is required by the Local Government Act to consult with its community before finalising the Long-Term Plan.

CCHL will be required to develop and deliver supporting information and analysis to Council to inform and enable the development of its Value Strategy. This is part of the critical path to resolving Council's problem statement in respect of income expectations and/or strategic case for ownership. The Value Strategy incorporates a number of dependencies for CCHL and the Successful Respondent will be required to support CCHL in the development and delivery of the required supporting information and analysis as well as facilitating the resolution of CCHL's dependencies.

The specifics of this workstream will be resolved in consultation with Council and subsequently scoped with the Successful Respondent. This work will inform both the development of Council's Value Strategy and the first two phases of CCHL's DBC (see below).

2.4.2 CCHL's Detailed Business Case

Council's requirements include the development of a DBC which fully considers the costs and benefits of any change required to CCHL's Portfolio, Investment Management approach, Capital requirements and Operating Model in responding to Council's requirements. **It is important to note that the final document will be a CCHL Business Case, presented by CCHL Management, with the support of the successful respondent, to the CCHL Board and Council for consideration and approval.**

The content of the DBC will be more fully scoped with the Successful Respondent. However, the following table provides further detail on the expected phasing, focus areas and key considerations forming part of our Requirements.

The first phase will prioritise the completion of **Subsidiary Investment Reviews** (scoping studies) of the major existing investments within CCHL's portfolio. These Investment Reviews have two clear objectives:

- To assist Council's development of its Value Strategy through a clearer understanding of the nature of assets within the portfolio, along with an overview of projected capital requirements and risk-adjusted returns. This will include an assessment of the strategic case for ownership.
- To assist CCHL in developing a more detailed 'owner's perspective' on each investment, including the nature of the asset, the opportunity to create and extract value, considerations for future ownership, related investment strategies and 'fit' within the investment portfolio.

Phase 1: Strategic Context

Strategic Context	
Scope	<p>The successful respondent will, in collaboration with CCHL, confirm the problem definition and scope of strategic response (framed by Northington Partners' Review) in defining the case for change to CCHL's strategic framework, investment portfolio, and operating model. This is expected to include:</p> <ol style="list-style-type: none"> A current state assessment – assessing CCHL's existing mandate, portfolio, and ability to add value in addressing the problem definition, including key constraints and dependencies; Future state scenarios – including a framework which outlines a continuum of passive to active investment management strategies and implementation options; Draft investment objectives –which balance income, growth and impact considerations and inform the Value Strategy, the scope of Investment Reviews and the development and evaluation of options; Intended benefits from the desired strategic response of realizing more value from CCHL; Identification of key stakeholders CCHL should engage with in effectively completing this work programme.
Key Activities	<ul style="list-style-type: none"> Revisit problem definition – outlining Council's existing requirements and CCHL's ability to respond in the context of the problem statements identified in 2.3.1.; Revisit proposed strategic response – assessing CCHL's ability to add value within the current operating model and/or through a transition from passive to more active portfolio management; Assess the likely impact of operational improvements underway at CCHL; Consider transition scenarios along the continuum of passive to active management and the associated implications for risk and return that inform a long-list of options; Scope potential impact of trade-offs between strategic ownership and commercial considerations, at a portfolio and entity level; Identify benefits, risks, constraints, dependencies, and uncertainty attached to transition scenarios; Define long-term Investment Objectives against which to develop and assess options; Outline a stakeholder engagement plan, including the potential for interactive sessions with capital market participants.
Portfolio Review	
Scope	<p>The Successful Respondent will, in collaboration with CCHL, complete a detailed review of the existing portfolio, including historical, current and expected performance as a core infrastructure portfolio, assessed against a relevant benchmark.</p>
Key Activities	<ul style="list-style-type: none"> Taking a prudent intergenerational investment approach provide current state and scenario analysis from an owner's perspective of the performance, contribution and strategic fit of CCHL's assets at portfolio level including: <ul style="list-style-type: none"> Capital structure and efficiency at portfolio level; Historical and forecast performance analysis, commensurate benchmarking, including testing the assumptions and findings of the Northington Partners' report;

- Impact / CSR / ESG analysis;
- Expected benefits – scope and quantum from a Hold-Co approach to portfolio management.
- Create baseline expectations for infrastructure portfolio returns on a risk-adjusted basis – which could include development of a reference portfolio.
- Develop a risk appetite statement commensurate with a benchmark methodology or reference portfolio.
- Provide an integrated Risk Assessment at a Portfolio level.
- Consider alignment of current ownership arrangements with Council’s strategic case for ownership, including options which balance ownership, control, influence and capital considerations.
- Undertake an Infrastructure sector ‘macro review’ which assists in the consideration of major trends impacting the infrastructure sector and alternative investment opportunities that might flow from that.
- Provide balanced advice, which could include literature reviews, on the trade-off between public and private ownership of an infrastructure portfolio.

Subsidiary Investment Reviews (Scoping Studies)

Scope

The successful respondent will, in collaboration with CCHL, develop and deliver Investment Reviews of the Group’s major subsidiaries. These are CIAL, LPC, Enable, Orion and Citycare. These reviews are expected to provide a deep understanding of major sector trends, the nature of the asset, the opportunities to create and extract value from these investments and the implications for CCHL as the owner. This is expected to include evidence of deep sector and entity-specific expertise from the successful respondent.

Key Activities

- Assess the fundamental nature of the asset, together with the ability to create and generate long-term real value based on the underlying business assets of each entity by business area including:
 - Capital structure and efficiency;
 - Historical and forecast performance analysis, capital investment analysis, SWOT analysis, sector review, and commensurate benchmarking including testing the assumptions and findings of the Northington Partners’ report;
 - Opportunities for earnings growth / improved financial performance through growth opportunities, adjacencies, capital investment, acquisition and/or divestment;
 - Valuation scenarios including financial modelling, DCF and sensitivity analysis;
 - Key commercial and stakeholder arrangements, and if required, recommended commercial settings and performance management measures;
 - Impact / CSR / ESG analysis and assessment, with particular reference to CCHL’s sustainability framework and impact work programme.
- Undertake market soundings which provide key insights into the opportunity to attract external investment into the subsidiaries, where relevant, with a particular focus on strategic co-investment.
- Assess the implications for CCHL as the owner, in the first instance, and Council as the ultimate shareholder from key conclusions arising from these reviews.

Phase 2: Options Assessment

Options Assessment
<p>Scope</p> <p>The successful respondent will, in collaboration with CCHL identify and refine long-list options for the CCHL Board and Council that will be evaluated against the Investment Objectives developed in phase 1. These options will likely include dimensions of scope (mandate), time (transition timeframes) and capital requirements (optimal capital allocation).</p> <p>The short list options assessment phase should:</p> <ul style="list-style-type: none"> • Evaluate effectiveness (vs Investment Objectives); • Evaluate efficiency (utilising a cost-benefit analysis); • Identify Preferred Option(s) to carry forward to more detailed analysis in the business case phase.
<p>Key Activities</p> <p>Scope considerations:</p> <ul style="list-style-type: none"> • Develop a continuum of approaches which consider the range of options in transitioning from passive to a more active approach. • Consider options for incremental change (within the portfolio), step-change (within the infrastructure sector) and transformation (evolving to an endowment and/or balanced portfolio approach). <p>Portfolio considerations:</p> <ul style="list-style-type: none"> • Develop and evaluate parameters for active portfolio management including: <ul style="list-style-type: none"> ○ Key risks, risk appetite and risk measures; ○ Diversification that will provide meaningful benefits over the long-term including consideration of: <ul style="list-style-type: none"> ▪ Change in infrastructure mix: core, core plus, value-add, opportunistic; ▪ Change in asset mix: a rebalancing of investment exposure away from regulated returns in favour of a higher return / higher risk strategy, for some portion of the overall portfolio; ▪ Geographic Diversification: a rebalancing of the CCHL portfolio to include a meaningful component of asset exposure outside of the Christchurch / Canterbury area. ○ Enhanced hold-co company mandate / increased competition for capital; ○ Strategic co-investment by or with other investors. • Quantitative and qualitative benefits analysis on a risk-adjusted basis and including Impact / CSR / ESG analysis at an indicative level to inform the scope of the Value Strategy, and to a detailed level for the analysis of shortlisted options for: <ul style="list-style-type: none"> ○ Portfolio structure: (asset allocation and optimal capital structure) to test opportunity cost of invested capital, to inform and ultimately respond to Council value strategy (risk, yield and value scenario analysis to inform Value Strategy development, options refinement and recommendations); ○ Portfolio strategy: that supports Council objectives and explicitly balances value growth, income and risk, including any for release of capital. • High level policy, regulatory, legal, accounting and tax considerations High level policy,

regulatory, legal, accounting and tax considerations.

- Transition considerations.
- Develop a framework which considers key transition timeframes, including implications for potential transactions, changes to operating model, and optimal capital allocation.

Phase 3: CCHL Business Case

CCHL Business Case

Scope

The successful respondent will, in collaboration with CCHL complete a DBC for the Preferred Option(s). This is expected to include:

- Detailed Financial Case – assess the feasibility of the preferred option, with particular regard to optimal capital requirements and projected risk-adjusted returns;
- Detailed Commercial Case – assess the viability of the preferred option(s) in the context of a CCO structure and related expectations and obligations;
- Detailed Management/Implementation case – assess the deliverability of the preferred option(s) against timelines to be considered as part of the LTP process.

Key Activities

- Develop a baseline investment policy framework based on preferred option(s) which should include, but not limited to:
 - Investment Thesis and Strategy
 - Investment Process
 - Risk Guidelines
- Evaluate internal and external asset management approaches, including consideration of:
 - Structure and compensation arrangements
 - Key governance and operational requirements
- Develop a Capital Optimisation Strategy, including:
 - Portfolio considerations
 - Entity considerations
 - Detailed financial modelling
 - Ability to accelerate outcomes across all capitals
- Transaction structure and methodology:
 - Ownership vs operating models
 - Co-investment structures
 - Lease or concession arrangements
 - Partnership arrangements
 - Divestment strategies
- Organisational structure, people, platform and process requirements to successfully implement preferred option including:
 - Effective risk management and transparency of decision-making and performance attribution
 - Benefits realisation
 - Portfolio benchmarking
 - High-level implementation plan

2.4.3 Additional Considerations

It is CCHL's expectation that the skills required to complete the DBC, and Investment Reviews will include deep industry, sector and entity-level expertise. This may include skillsets specific to individual sectors and/or entities and include consideration of alternative operating models, not just financial considerations.

The investment reviews should also place significant weight on considering options for strategic co-investment, where relevant. An understanding of valuation methodologies will be necessary but not necessarily sufficient to complete the reviews. CCHL expects the successful respondent will bring expertise on opportunities that exist for attracting new capital into infrastructure assets.

The Value Strategy, investment reviews, and business case development are interdependent and as such, must be resolved in parallel. The investment reviews and DBC options analysis, for example, will help inform Council's development of its Value Strategy as well as CCHL's strategic response. Facilitated workshops with Council and the CCHL Board will be required to progressively develop and clarify the Value Strategy including identifying and resolving the balancing and trade-offs required. In turn, this will enable the options analysis to be progressively shaped and narrowed to provide clear recommendations as to the preferred way forward.

More broadly, the investment reviews are also required as part of the DBC, where CCHL must undertake its own evaluation of the nature, performance and strategic fit of the existing assets within its portfolio.

We are looking to optimise the efficiency and effectiveness of the assessment process. To the extent applicable, we would look to build upon previous work and/or accessible and compatible existing information including previous analysis conducted by or for CCHL, which will be made available to the Successful Respondent.

2.4.4 Stakeholder Engagement Plan

Preparation of a stakeholder engagement plan in consultation with CCHL and its communications and engagement advisors, including strategic context, identification, process and outcomes for:

- Council Management
- Steering Committee
- CCHL Board
- Councillors
- Key Stakeholders
- Workshop facilitator
- Interactive Sessions with capital markets participants

2.4.5 Project management

Project management services on all aspects relating to the project including the scoping studies, the development of the DBC and Council's development of its Value Strategy, including:

- Assisting with the project co-ordination and management of project and steering group meetings;
- Liaison with Steering Committee and CCHL management, staff and advisors workshops with CCHL Board, Council staff and Councillors;

- Liaison with each of the subsidiaries as required;
- Preparing and making presentations to CCHL management and board, Council officials, Councillors and other stakeholders;
- Management of Successful Respondent's consortium (if relevant).

2.4.6 Responses as part of a consortium

The scale and scope of expertise and resources required to meet our Requirements may require potential Respondents to consider whether a consortium of entities might provide the optimum response to this RFP. This is both recognised and accepted by CCHL. Respondents will be responsible for determining how they structure their Proposal to best meet CCHL's Requirements including whether they respond as an individual entity, or as part of a consortium that may include additional business case, sector, investment, portfolio, actuarial or other advice.

In the event of a consortium response, it is CCHL's preference to contract with a single entity as a prime contractor, with additional advisors in the consortium engaged by the prime contractor as subcontractors. The prime contractor would be responsible for managing all aspects of the consortium including the timely delivery of advice.

2.4.7 Further procurement of services (if any)

CCHL requires Respondents to offer deep expertise in capital markets advisory services as part of their Proposal and acknowledges that Respondents (or members of their consortium) may wish to participate in any future procurement by CCHL, or any of its subsidiaries, of transaction execution services that may be required in the future.

Notwithstanding the above, CCHL expects Respondents to demonstrate an ability to provide independent advice in performing the services. Each Respondent should indicate on behalf of it and (if applicable) each member of its consortium:

- Whether it is prepared to commit exclusively to acting as the Successful Respondent or a member of a Successful Respondent and rule itself out of any subsequent transaction execution role; or
- If it is appointed as the Successful Respondent, and either it or any member of its consortium, may wish to subsequently tender for any subsequent transaction execution role, how it would manage any real or perceived conflicts of interest.

2.4.8 CCHL's existing mandate

CCHL's mandate continues under its existing governance structures, unless and until the Council's Value Strategy (including any proposed changes to Council's strategic asset policy) is incorporated into Council's Long Term Plan 2024 – 2034 and reflected in CCHL's letter of expectations, Statement of Intent and other applicable governance frameworks. Accordingly, as part of the DBC process, CCHL is also interested in receiving recommendations that are immediately actionable for consideration by CCHL board and management.

2.5 Critical Success Factors

As set out in section 2.1, CCHL's strategic framework and core strategic pillars were developed as a way of thinking about our group as a whole, the relationships we hold and how our work improves – and impacts – our community, our environment and our economy. As confirmed by Council, CCHL's core role and purpose is to deliver commercial-based outcomes for its shareholder, but it is equally clear that environmental, social and governance issues are long-term factors that can be highly relevant to investment performance.

The following critical success factors have been identified for our project:

- A compelling Business Case;
- Provision of financial flexibility in alignment with Council's Value Strategy;
- A global best practice investment policy framework within the unique context of our operating model and foundation portfolio of infrastructure investments;
- Genuine partnership with mana whenua;
- A clear, prioritised and measurable framework for inter-generational delivery of our investment objectives, which considers the enhancement of the economic, social and environmental wellbeing of the region, promoting Council's community outcomes (and strategic directions) and taking a leadership role in social and corporate responsibility.

To deliver this challenging project within tight timeframes, the Successful Respondent needs to be integral in developing and maintaining a strong collaborative culture, enabling integration with Council, CCHL and stakeholders. CCHL is seeking an outcome focused culture through open minded and innovative thinking and challenge.

2.6 What we require from a Respondent:

2.6.1 Track record

We are seeking Respondents that have a demonstrated track record in undertaking high-quality and comparable work to the Requirements both domestically and internationally. Respondents must provide the following information for three projects which demonstrate their ability to provide the expertise required to successfully deliver the required outcomes as they relate to the following:

- Investment portfolio strategy, design, structure, benchmarking and implementation;
- Capital markets advisory services including public and private sector capital recycling programmes of a similar nature, scale and complexity such as asset sales, concessions, IPOs and mixed ownership models;
- Corporate finance including strategic analysis, investment appraisal, financial modelling and valuation in relevant sectors;
- Public and local government business case advisory.

For each nominated project, Respondents should provide the names, company(s) and current contact email addresses and phone numbers of two people to act as referees who have been directly responsible for supervising or overseeing the nominated projects.

2.6.2 Capability

We are seeking Respondent team members that are able to demonstrate the capabilities necessary to meet our Requirements including:

- A robust approach to our Requirements and our deliverables that will withstand public and professional scrutiny;
- Noting the tight timeframes, the ability to illustrate how the team members will deliver good quality outputs;
- Team members with deep expertise in relevant fields such as corporate finance, investment analysis, relevant industry sector expertise, New Zealand capital markets, portfolio structuring, optimisation and implementation, business case advisory and government capital recycling programmes such as asset sales, concessions and mixed ownership models.

Given the complexity of the role of the Principal Advisor, it is anticipated that only organisations (not individuals) with sufficient expertise and resources to meet the Requirements will respond to this RFP. We note, however, that Respondents may need to form consortia in order to meet the scale and scope of our Requirements, which conceivably may include expert individuals.

The Respondent must identify the key personnel that will provide the services, including their relevant experience, and what their role in the provision of the services will be. In the case of a consortium Proposal, the roles and responsibilities of the respective team members of the consortium must be outlined and how their input will be managed and coordinated to achieve integrated service provision and optimal outcomes.

2.6.3 Capacity

We are seeking Respondents that are able to demonstrate the capacity to undertake the work described in our Requirements, acknowledging the challenging timescale. We require an available, qualified team of experts that will be available to work with our Christchurch based team, subsidiaries and stakeholders, meet the timeframes and reporting requirements. Respondents should identify which team members would be co-located at CCHL's offices including an indication of availability (e.g. 0.5 FTE at CCHL).

The Respondent must also provide a commitment:

- That sufficient personnel will be made available to ensure delivery of the Services, advice and documentation within agreed timeframes;
- That key personnel will only be changed with the prior consent of CCHL; and
- To provide work in progress reporting as required by CCHL.

2.6.4 Solutions

We are seeking a Proposal that provides us with an outline of your overall approach and methodology including how you will engage, how you will meet our Requirements and how you will provide the deliverables. This should include how you will manage the independencies between the Value Strategy development and the options analysis and recommendations, and refine the options in order to arrive at the preferred option(s).

Respondents should also describe their approach to helping CCHL be a good kaitiaki under its strategic framework and core pillars including oversight (governance), human (people), infrastructure (kaitiakitanga), social (mana), and natural (sustainability) capitals.

Respondents will also demonstrate how they will successfully work alongside CCHL and Council teams, developing and maintaining a strong collaborative culture, enabling integration with Council, CCHL and stakeholders and help CCHL provide an outcome focused culture through open minded and innovative thinking and challenge.

2.7 Contract term

We expect that the Contract will commence in mid-May 2023. The anticipated Contract term is six months but may be extended for an additional term of up to six months.

2.8 Key deliverables

Description	Indicative date for completion
In consultation with CCHL, develop a project execution plan for the process, methodology and milestones and due diligence requirements for subsidiaries.	17 May
Investment reviews of CIAL, LPC, Orion, Enable and Citycare to inform Council's development of its Value Strategy.	End June
Facilitation of initial workshop(s) with Council <ul style="list-style-type: none">Nature of assetsNature or returnsCouncil income requirements	Early July
Facilitation of further workshops with Council to advance Value Strategy as necessary to inform business case progression	July / August
Finalise investment objectives	July
Draft strategic case, current and future state analysis and high level options analysis	Mid July
Shortlist options and detailed options analysis	Early August
Draft business case (including outline management case) and investment policy framework for CCHL Board and Council	Mid September
Final business case (including management case) and investment policy framework for CCHL Board	Mid October

SECTION 3: Our Evaluation Approach

This section sets out the Evaluation Approach that will be used to assess Proposals.

3.1 Evaluation model

The evaluation model that will be used is the Value Add Price methodology. Price is NOT a weighted criterion. **Prices are to be submitted in a separate file** and only when the evaluation team has agreed on the raw scores and the weightings are applied will the prices be revealed to the evaluators. The Value Add Price methodology then compares weighted scores to the proposed prices. The price submitted by the highest weighted scoring Respondent will then be compared with the other prices submitted and a decision will be made on whether or not any price premium associated with the highest weighted scoring Respondent's price provides added value that is worth the premium. If not, then the process is again conducted with the second highest weighted scoring Respondent etc.

3.2 Evaluation criteria

Proposals will be evaluated on their merits according to the following evaluation criteria and weightings.

Criterion	Weighting
1. The Respondent commits that the proposed team will maintain direct involvement for the duration of the contract. This is a mandatory (pass/fail) criterion.	Yes/No
2. Track record Extent to which the Respondent (including the consortium team if applicable) meets the requirements outlined in section 2.6.1.	30%
3. Capability and Capacity Extent to which the Respondent (including the consortium team if applicable) meets the requirements outlined in section 2.6.2 and 2.6.3.	30%
4. Solutions / Methodology Extent to which the Respondent (including the consortium team if applicable) meets the requirements outlined in section 2.6.4.	40%
6. Price There will be no weighting for price. CCHL will use the Value Add Price methodology.	0%
Total weightings	100%

3.3 Scoring

Rating	Definition	Score
EXCELLENT	Respondent demonstrates exceptional ability, understanding, experience and skills. The Proposal identifies factors that will offer potential added value, with supporting evidence.	9-10
GOOD	Respondent demonstrates above average ability, understanding, experience and skills. The Proposal identifies minor additional benefits, with supporting evidence.	7-8
ACCEPTABLE	Respondent demonstrates the ability to meet the criteria, with supporting evidence.	5-6
RESERVATIONS	Satisfies only a minimum of the criteria but not all. Reservations about the Respondent to adequately meet the criteria. Little supporting evidence.	3-4
SERIOUS RESERVATIONS	Extremely limited or no supporting evidence to meet the criteria. Minimum effort made to meet the criteria.	1-2
UNACCEPTABLE	Does not comply or meet the criteria at all. Insufficient information to demonstrate the criteria.	0

3.4 Minimum Standard

Where the Respondent does not meet the minimum standard required of these RFP documents or a grade of 55 or less is awarded, the Respondent will be deemed to be a non-conforming Respondent and no further evaluation will take place.

3.5 Price

If a Respondent offers a substantially lower price estimate than other Proposals, we may make enquiries or require additional evidence to verify that the Respondent can meet all the Requirements and conditions of the Proposed Contract within the price estimate. Note: Any claims made about price must be clear, accurate and unambiguous. Prices must include or be clear about Goods and Services Tax (GST).

3.6 Due Diligence

We may:

- reference check the Respondent and any named personnel;
- make other checks against the Respondent and any named personnel e.g. publicly available records;
- interview Respondents;
- request Respondents make a presentation;
- undertake a Police check for all named personnel.

SECTION 4: Pricing information

4.1 Value for money

We wish to obtain the best value-for-money over the term of the Contract. This means achieving the right combination of fit for purpose, quality and on time delivery.

4.2 Pricing information provided by Respondents

The Respondent must provide an estimate of its price as part of their Proposal in a second envelope/file clearly marked as Price. In submitting the price the Respondent must meet the following requirements:

- a. provide an estimate of the total price for full delivery of the services including for all members of the consortia (if relevant) exclusive of GST.
- b. the pricing information is to show a breakdown of all costs, fees, expenses and charges associated with the full delivery of the Requirements over the whole-of-life of the Contract.
- c. where the price, or part of the price, is based on fee rates, all rates are to be specified, either hourly or daily or both as required, including any discount applied.
- d. in preparing their Proposal, Respondents are to consider all risks, contingencies and other circumstances relating to the delivery of the Requirements and include adequate provision in the Proposal and pricing information to manage such risks and contingencies.
- e. Respondents are to document in their Proposal all assumptions and qualifications made about the delivery of the Requirements, including in the financial pricing information. Any assumption that the Buyer or a third party will incur any cost related to the delivery of the Requirements is to be stated, and the cost estimated if possible.
- f. prices should be tendered in NZ\$. Unless otherwise agreed, the Buyer will arrange contractual payments in NZ\$.
- g. The Buyer expects that the rates will be inclusive of all service charges and travel costs.

SECTION 5: Proposed Contract

5.1 Proposed Contract

Our proposed contract is attached.

Contract for Services

Contract Details

Principal Advisor: Business Case and Investment Advisory Service

The Parties

The Buyer:

Christchurch City Holdings Limited

The Supplier:

Insert the legal name of the Supplier

The Contract

Agreement

The Buyer appoints the Supplier to deliver the Services described in this Contract and the Supplier accepts that appointment. This Contract sets out the Parties' rights and obligations.

Parts of this Contract

The documents forming this Contract are:

1.

Contract Details: This section.
2.

Schedule 1: Description of Services.
3.

Schedule 2: Standard Terms and Conditions GMC Form 2 SERVICES | Schedule 2 (3rd Edition: Version 3.1) available at: www.procurement.govt.nz.
4.

Any other attachments described at Schedule 1.

How to read this Contract

- Together the above documents form the whole Contract.

•

Any Supplier terms and conditions do not apply.

•

Clause numbers refer to clauses in Schedule 2.

•

Words starting with capital letters have a special meaning. The special meaning is stated in the Definitions section at the end of Schedule 2.

Acceptance

In signing this Contract each Party acknowledges that it has read and agrees to be bound by it.

Signed for and on behalf of the Buyer:	Signed for and on behalf of the Supplier:
<div></div>	<div></div>
(signature)	(signature)
Name: Insert name	Name: Insert name
Position: Insert position	Position: Insert position
Date: Select date	Date Select date

Schedule 1

Description of Services

Contract Management and Personnel

Start Date	3/05/2023	<i>Reference Schedule 2 clause 1</i>
End Date	30/11/2023	<i>Reference Schedule 2 clause 1</i>
Renewal	Not applicable, any renewal will be on terms to be agreed	<i>Reference Schedule 2 clause 1</i>

Contract Managers

Reference Schedule 2 clause 4

	Buyer's Contract Manager	Supplier's Contract Manager
Name:	Insert name	Insert name
Title / position:	Insert position	Insert position
Address:	Insert address	Insert address
Phone:	Insert phone number	Insert phone number
Email:	Insert email address	Insert email address

Addresses for Notices

Reference Schedule 2 clause 14

	Buyer's address	Supplier's address
For the attention of:	Name of contract manager or senior manager	Name of contract manager or senior manager
c.c. Contract Manager	cc Name of contract manager if senior manager above	cc Name of contract manager if senior manager above
Delivery address:	Level 1 151 Cambridge Terrace Christchurch 8013	Delivery address
Postal address:	Christchurch City Holdings Limited PO Box 1151 Christchurch 8140	Postal address
Email:	Email address	Email address

Supplier's Approved Personnel

Reference Schedule 2 clause 2.4

	Approved Personnel
Name:	Insert name

	Approved Personnel
Position:	Insert position
Specialisation:	Insert specialisation

Copy set of three rows and paste to add more Approved Personnel.

Supplier's Approved Sub-contractor

Reference Schedule 2 clause 7

	Approved Sub-contractor
Name:	Insert name
Position:	Insert name
Specialisation:	Insert name

Copy set of three rows and paste to add more approved subcontractors

Description of Services

Description of Services

As described in sections 2.3 – 2.5 of the Buyer's RFP dated 5 April 2023.

Deliverables and Milestones

As described in section 2.8 of Buyer's RFP dated 5 April 2023.

Supplier's Reporting Requirements

Reference Schedule 2 clause 5.2

Report to:	Description of report	Due date
Contract Manager	Interim progress report	Select date
	Monthly progress report	Select date
	Project completion report	Select date

Charges

The following section sets out the Charges. Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include Fees, and where agreed, Expenses and Daily Allowances. The Charges for this Contract are set out below.

Fees

Reference Schedule 2 clause 3

The Supplier's Fees will be calculated as follows: [\[Choose one option, insert relevant details and delete remainder\]](#)

Fixed Fee

A fixed Fee of \$Fixed fee amount excluding GST.

OR

Hourly Fee Rate

For each hour worked an Hourly Fee Rate of \$Hourly rate fee excluding GST, up to a total maximum of \$Maximum fee excluding GST.

If the Supplier reaches the total maximum without completing the Services, the Supplier is required to complete the Services without further payment, unless otherwise agreed in writing.

OR

Daily Fee Rate

For each day worked a Daily Fee Rate of \$Daily fee rate excluding GST, up to a total maximum of \$Maximum fee excluding GST. One day's work is defined as eight hours. If the Supplier works less than a full day the Fee shall be calculated based on the time worked at the agreed Daily Fee Rate; that is, (Daily Fee Rate ÷ 8) x hours worked.

If the Supplier reaches the total maximum without completing the Services, the Supplier is required to complete the Services without further payment, unless otherwise agreed in writing.

OR

Individual Personnel Rates and/or Approved Personnel Rates

Hourly/Daily Fee Rate for each of the Specialist/Approved Personnel set out below, up to a total maximum of \$Maximum fee excluding GST, in accordance with the following table of rates.

The Supplier's Approved Personnel are named individuals approved by the Buyer, as stated above.

[Choose 'Specialist' if there are no Approved Personnel]

Specialist or Approved Personnel	Hourly/Daily. Fee Rate (exc GST)	Total hours/days.	Total Fees
Insert required specialisation or name of Approved personnel	Insert hourly or daily rate as applicable	Insert total maximum chargeable hours/days	\$Insert total maximum charge for fees
Insert required specialisation or name of Approved personnel	Insert hourly or daily rate as applicable	Insert total maximum chargeable hours/days	\$Insert total maximum charge for fees
Insert required specialisation or name of Approved personnel	Insert hourly or daily rate as applicable	Insert total maximum chargeable hours/days	\$Insert total maximum charge for fees
Insert required specialisation or name of Approved personnel	Insert hourly or daily rate as applicable	Insert total maximum chargeable hours/days	\$Insert total maximum charge for fees
Total chargeable hours/days			Insert total
Total chargeable Fees (excluding GST)			\$Insert total

Delete unwanted rows. Copy and paste to add rows.

Expenses

Reference Schedule 2 clause 3

No Expenses are payable.

Daily Allowance

Reference Schedule 2 clause 3

No Daily Allowances are payable.

Invoices

Reference Schedule 2 Subject to clauses 3 and 11.7

The Supplier must send the Buyer an invoice for the Charges at the following times:

At the end of the month, for Services delivered during that month.

Address for invoices

Reference Schedule 2 clause 3

	Buyer's address
For the attention of:	Name of Senior Manager or Contract Manager
Address:	Insert address for invoices: physical, postal, or email

Other instructions about invoices

Insurance

Reference Schedule 2 Clause 8.1

The Supplier must have the following insurance:

1. Public liability insurance of \$5m per occurrence
2. Professional indemnity insurance of \$10m per claim.

Changes to Schedule 2

None

Schedule 2

Standard Terms and Conditions—Services

Length of Contract

- 1.1 **Start Date:** This Contract starts on the Start Date. Services must not be delivered before the Start Date.
- 1.2 **End Date:** This Contract ends on the End Date.
- 1.3 **Renewal:**
- The Buyer may extend the End Date the number of times, and for the additional period (**Additional Period**), set out in Schedule 1 by giving the Supplier Notice at least 20 Business Days before the then current End Date (**Extension Notice**).
 - If the Buyer gives an Extension Notice, the Contract will be renewed for the Additional Period on the same terms, unless the Parties agree otherwise in a Variation.

The Services

- 2.1 **Both Parties' obligations:** Both Parties agree to:
- act in good faith and honestly in their dealings with each other
 - discuss matters affecting this Contract or the delivery of the Services, whenever necessary
 - notify each other promptly of any actual or anticipated issues that could:
 - significantly impact on the Services or the Charges, and/or
 - receive media attention, and
 - comply with all applicable laws and regulations.
- 2.2 **Buyer's obligations:** The Buyer must:
- provide the Supplier with any information and/or access to Buyer Personnel the Supplier has reasonably requested to enable the delivery of the Services
 - make decisions and give approvals reasonably required by the Supplier to enable delivery of the Services, within reasonable timeframes, and
 - pay the Supplier the Charges for the Services in accordance with this Contract.
- 2.3 **Supplier's obligations:** The Supplier must:
- deliver the Services:
 - on time (including meeting all Milestones on time), except where delay is caused by the Buyer, and to the required performance standards and quality set out in Schedule 1 or reasonably notified by the Buyer to the Supplier from time to time, and
 - with due care, skill and diligence, and to the appropriate professional standard or in accordance with good industry practice as would be expected from a leading supplier in the relevant industry

- b. ensure that its Personnel have the necessary skills, experience, training and resources to deliver the Services
- c. provide all equipment and resources necessary to deliver the Services, and
- d. comply with any relevant codes of conduct listed in Schedule 1, including (if applicable) the [Supplier Code of Conduct issued by the Procurement Functional Leader \(see \[www.procurement.govt.nz\]\(http://www.procurement.govt.nz\)\)](#).

2.4 **Approved Personnel:** Where Approved Personnel have been agreed in Schedule 1, the Supplier must:

- a. use those Approved Personnel in delivering the Services, and
- b. obtain the Buyer's prior written approval if it wishes to change any Approved Personnel.

2.5 **Premises:** If the Supplier is at the Buyer's premises, the Supplier must observe the Buyer's policies and procedures, including those relating to health and safety, and security requirements, as provided to the Supplier.

2.6 **Health, Safety and Security:** The Supplier must:

- a. consult, cooperate and coordinate with the Buyer regarding the Parties' overlapping obligations under, and what is required from the Supplier to assist the Buyer to comply with the HSW Act as it relates to, or affects, the Contract
- b. comply, and ensure that its Personnel comply, with their obligations under the HSW Act as it relates to, or affects, the Contract
- c. comply with all reasonable directions of the Buyer relating to health, safety, and security, and
- d. report any of the following that applies to the Supplier or the Buyer, or relates to or affects the Contract:
 - notifiable injury, illness, incident or event, or any notice issued under the HSW Act or any other health and safety legislation, and
 - Protective Security Incident.

2.7 **Employment standards:** The Supplier must:

- a. comply with its obligations under the Employment Relations Act 2000, Minimum Wage Act 1983, Wages Protection Act 1983, Holidays Act 2003 and the Parental Leave and Employment Protection Act 1987, and
- b. report any instances where the Supplier is being investigated by the Labour Inspectorate, or where the Supplier has been found by the Labour Inspectorate, Employment Relations Authority, or the Employment Court to have breached any of the legislation referenced in clause 2.7.a.

2.8 **Respect:** The Supplier must deliver the Services in a manner that:

- a. is culturally appropriate for Māori, Pacific and other ethnic or indigenous groups, and
- b. respects the personal privacy and dignity of all individuals.

Charges and payment

3.1 **Maximum amount:** The Charges are the total maximum amount payable by the Buyer to the Supplier for delivery of the Services. Charges include Fees and, where agreed, Expenses and Daily Allowances.

- 3.2 **Valid tax invoice:** The Supplier must provide valid tax invoices for all Charges on the dates or at the times specified in Schedule 1. The Buyer has no obligation to pay the Charges set out on an invoice that is not a valid tax invoice. A valid tax invoice must:
- clearly show all GST due, if any
 - be in New Zealand currency or the currency stated in Schedule 1
 - be clearly marked 'Tax invoice'
 - contain the Supplier's name, address, NZBN and GST number, if the Supplier is registered for GST
 - contain the Buyer's name and address and be marked for the attention of the Buyer's Contract Manager or such other person stated in Schedule 1
 - state the date the invoice was issued
 - name this Contract and provide a description of the Services supplied, including the amount of time spent in the delivery of the Services if the Charges are based on an Hourly Fee Rate or Daily Fee Rate
 - contain the Buyer's contract reference or purchase order number if there is one
 - state the Charges due, calculated correctly, and
 - be supported by GST receipts if Expenses are claimed, and any other verifying documentation reasonably requested by the Buyer.
- 3.3 **Payment:** Subject to clauses 3.4 and 11.4(e), if the Buyer receives a valid tax invoice:
- on or before the 5th Business Day of the month, the Buyer will pay that invoice by the 20th calendar day of that month, or
 - after the 5th Business Day of the month, the Buyer will pay that invoice by the 20th calendar day of the following month.
- 3.4 **Dispute:** The Buyer must notify the Supplier within 10 Business Days of the date of receipt of a tax invoice if the Buyer disputes any part of that tax invoice, and the Buyer:
- must pay the portion of the tax invoice that is not in dispute (and the Supplier will provide a further valid tax invoice for the undisputed amount if required), and
 - may withhold payment of the disputed portion until the dispute is resolved.

Contract management

- 4.1 **Contract Manager:** The persons named in Schedule 1 as the Contract Managers will manage the Contract, including:
- managing the relationship between the Parties
 - overseeing the effective implementation of this Contract, and
 - acting as a first point of contact for any issues that arise.
- 4.2 **Changing the Contract Manager:** A Party may change its Contract Manager by telling the other Party, in writing, the name and contact details of the replacement.

Information management

- 5.1 **Information and Records:** The Supplier must:
- keep and maintain Records in accordance with prudent business practice and all applicable laws

- b. make sure the Records clearly identify all relevant time and Expenses incurred in providing the Services
- c. make sure the Records are kept safe and are easy to access
- d. give information to the Buyer relating to the Services that the Buyer reasonably requests, in a format that is usable by the Buyer, and within a reasonable time of the request
- e. co-operate with the Buyer to provide information promptly if the information is required by the Buyer to comply with an enquiry or its statutory, parliamentary, or other reporting obligations
- f. make its Records available to the Buyer during the term of the Contract and for 7 years after the End Date (unless already provided to the Buyer earlier), and
- g. make sure that Records provided by, or created for, the Buyer are securely managed and destroyed on their disposal.

5.2 **Reports:** The Supplier must give the Buyer the reports, by the due dates, stated in Schedule 1.

The contractual relationship

- 6.1 **Independent contractor:** Nothing in this Contract constitutes a legal relationship between the Parties of partnership, joint venture, agency, or employment.
- 6.2 **No representing:** Neither Party has authority to bind or represent the other Party in any way.
- 6.3 **Transfer of rights or obligations:** The Supplier must not transfer any of its rights or obligations under this Contract without the Buyer's prior written approval. The Buyer will not unreasonably withhold its approval.

Subcontractors

- 7.1 **Subcontracting:** The Supplier must not enter into a contract with someone else to deliver any part of the Services without the Buyer's prior written approval.
- 7.2 **Supplier responsibilities:** The Supplier:
- a. must ensure that each Subcontractor is suitable and has the capability and capacity to deliver that aspect of the Services being subcontracted
 - b. must ensure that:
 - each Subcontractor is fully aware of the Supplier's obligations under this Contract, and
 - any subcontract it enters into is on terms that are consistent with this Contract
 - c. is responsible for delivering the Services under this Contract even if aspects of the Services are subcontracted, and
 - d. is responsible for the acts and omission of any Subcontractor as if they were the acts and omissions of the Supplier.

Insurance

- 8.1 The Supplier is responsible for ensuring its risks of doing business are adequately covered, whether by insurance or otherwise. If required in Schedule 1, the Supplier must:
- hold the insurance, with a reputable insurer, as specified in Schedule 1, and maintain that insurance cover for the term of this Contract and for a period of 3 years after the End Date, and
 - provide a certificate confirming the nature of the insurance cover and proving that each policy is current within 10 Business Days of any request from the Buyer.

Conflicts of Interest

- 9.1 **Avoiding conflicts of interest:** The Supplier:
- warrants that as at the Start Date, it has no Conflict of Interest in providing the Services or entering into this Contract, and
 - must do its best to avoid situations that may lead to a Conflict of Interest arising.
- 9.2 **Obligation to tell Buyer:** The Supplier must tell the Buyer promptly, in writing, if any Conflict of Interest arises in relation to the Services or this Contract. If a Conflict of Interest does arise the Parties must discuss, agree and record in writing whether it can be managed and, if so, how it will be managed. Each Party must pay its own costs in relation to managing a Conflict of Interest.

Resolving disputes

- 10.1 **Negotiation:** The Parties agree to use their best endeavours to resolve any dispute that may arise under this Contract. The following process will apply to disputes:
- a Party will notify the other if it considers a matter is in dispute
 - the Contract Managers will attempt to resolve the dispute through negotiation
 - if the Contract Managers have not resolved the dispute within 10 Business Days of notification, they will refer it to the Parties' senior managers for resolution, and
 - if the senior managers have not resolved the dispute within 10 Business Days of it being referred to them, the Parties shall refer the dispute to mediation or, if agreed by the parties, some other form of alternative dispute resolution.
- 10.2 **Mediation:** If a dispute is referred to mediation, the mediation will be conducted:
- by a single mediator agreed by the Parties or if they cannot agree, appointed by the Resolution Institute
 - on the terms of the Resolution Institute Mediation Rules, and
 - at a fee to be agreed by the Parties or if they cannot agree, at a fee determined by the Resolution Institute.
- 10.3 **Costs:** Each Party will pay its own costs of mediation or alternative dispute resolution under this clause 10.
- 10.4 **Effect of dispute:** If there is a dispute, each Party will continue to perform its obligations under this Contract as far as practical given the nature of the dispute.

- 10.5 **Taking court action:** Each Party agrees not to start any court action in relation to a dispute until it has complied with the process described in clause 10.1, unless that Party requires urgent relief from a court.

Ending this Contract

- 11.1 **Supplier's request to terminate:** At any time during the term of this Contract the Supplier may notify the Buyer that it wishes to terminate this Contract. The Buyer will, within 20 Business Days following receipt of the Supplier's Notice, notify the Supplier whether, in its absolute discretion, it consents to the Supplier's Notice of termination. If the Buyer:
- consents, the Contract will be terminated on a date that is mutually agreed between the Parties, or
 - does not consent, the Contract will continue in full force as if the Supplier's Notice requesting termination had not been given.
- 11.2 **Buyer's termination for convenience:**
- The Buyer may terminate this Contract at any time by giving not less than 20 Business Days' Notice to the Supplier.
 - If the Buyer terminates the Contract under this clause then, subject to all other clauses of this Contract, the Buyer will pay the Supplier for all Services performed up to the End Date.
- 11.3 **Buyer's termination for cause:** The Buyer may terminate this Contract immediately, by giving Notice, if the Supplier:
- becomes bankrupt or insolvent
 - has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed
 - becomes subject to any form of external administration
 - ceases for any reason to continue in business
 - does something or fails to do something that, in the Buyer's opinion, results in damage to the Buyer's reputation or business
 - has a Conflict of Interest that in the Buyer's opinion is so material as to impact adversely on the delivery of the Services, the Buyer, or
 - provides information to the Buyer that is misleading or inaccurate in any material respect.
- 11.4 **Termination for breach:**
- If a Party breaches this Contract (**defaulting Party**), the non-defaulting Party may give a default Notice to the defaulting Party.
 - A default Notice must state:
 - the nature of the breach, and
 - the time and date by which it must be remedied.
 - The period allowed to remedy the breach must be reasonable given the nature of the breach.
 - The non-defaulting Party may terminate this Contract immediately by giving a further Notice to the defaulting Party if the defaulting Party does not remedy the breach as required by the default Notice.
 - If the Buyer gives a default Notice to the Supplier, the Buyer may also:

- withhold any payment of Charges due until the breach is remedied as required by the default Notice, and/or
- if the breach is not remedied as required by the default Notice, deduct a reasonable amount from any Charges due to reflect the reduced value of the Services to the Buyer.

11.5 **Supplier's obligations:**

- On giving or receiving a Notice of termination, the Supplier must immediately do everything reasonably possible to reduce its losses, costs and expenses arising from the termination of this Contract.
- On termination or expiry of this Contract, the Supplier must, if requested by the Buyer, promptly return or securely destroy all Confidential Information and other material or property belonging to the Buyer.

11.6 **Accrued rights:** The termination or expiry of this Contract does not affect any rights of a Party which:

- arose prior to the End Date, or
- relate to any breach of this Contract that arose prior to the End Date.

11.7 **Buyer's rights:** Subject to clause 11.2(b), if this Contract is terminated the Buyer:

- will only be liable to pay Charges that were due for Services delivered before the effective date of termination, and
- may recover from the Supplier or set off against sums due to the Supplier, any Charges paid in advance for Services or Deliverables that have not been provided.

11.8 **Handing over the Services:**

- The Supplier will provide all reasonable assistance and cooperation necessary to facilitate a smooth handover of the Services to the Buyer or any person appointed by the Buyer during the term of this Contract and for a period of 10 Business Days after the End Date.
- If required by the Buyer, the Supplier will provide additional assistance to support any replacement supplier to deliver the Services, for a period of up to 3 months from the End Date at a reasonable fee to be agreed between the Parties, based on the Charges.

Intellectual Property Rights

12.1 **Ownership of Intellectual Property Rights:**

- Pre-existing Intellectual Property Rights remain the property of their owner.
- New Intellectual Property Rights in the Deliverables become the property of the Buyer when they are created, and the Supplier agrees to do all things necessary to give effect to this clause 12.1(b).
- New Intellectual Property Rights that are not in the Deliverables will become the property of the Party that created them.
- The Supplier grants to the Buyer a perpetual, non-exclusive, worldwide, transferable, sub-licensable and royalty-free licence to use, for any purpose, all Intellectual Property Rights in the Deliverables that are not owned by the Buyer to:
 - receive the full benefit of the Services and Deliverables, and
 - use, copy, modify and distribute the Deliverables.

12.2 Supplier warranties: The Supplier warrants that:

- a. it is legally entitled to grant the licence in clause 12.1(d), and
- b. the Buyer's use of anything provided by the Supplier and incorporated in the Services and Deliverables, for the purposes communicated to, or that are or ought to be known by, the Supplier, will not infringe the rights, including Intellectual Property Rights, of any third party.

The Supplier's liability for breach of the warranties in this clause is not subject to any limitation or cap on liability that may be stated elsewhere in this Contract.

Confidential Information

13.1 Protection of Confidential Information: Each Party agrees to not use or disclose the other Party's Confidential Information to any person or organisation other than:

- a. to the extent that use or disclosure is necessary for the purposes of providing the Deliverables or Services or, in the case of the Buyer, using the Deliverables or Services
- b. if the other Party gives prior written approval to the use or disclosure
- c. if the use or disclosure is required by law (including under the Official Information Act 1982), Ministers, parliamentary convention or any other regulation, rules or policy that is binding on that Party, or
- d. if the information has already become public, other than through a breach of the obligation of confidentiality by one of the Parties.

13.2 Obligation to inform staff: Each Party will ensure that its Personnel:

- a. are aware of the confidentiality obligations in this Contract, and
- b. do not use or disclose any of the other Party's Confidential Information except as allowed by this Contract.

13.3 Security: Each Party will:

- a. put in place and maintain adequate security measures to safeguard the other Party's Confidential Information from unauthorised access or use by third parties,
- b. notify the other Party if it becomes aware of any suspected or actual unauthorized use, copying or disclosure of the other Party's Confidential Information, and
- c. comply with any reasonable direction of the other Party in relation to any suspected or actual breach of the obligations in this clause 13 as the other Party reasonably requests.

Privacy

14.1 Protection of Personal Information Where the Supplier has access to Personal Information under or in connection with this Agreement, the Supplier must:

- a. only use, access, store, process or transmit that Personal Information to the extent necessary to provide the Deliverables or Services,
- b. ensure that the Personal Information is protected against loss, access, use, modification, or disclosure that is not authorised by the Buyer,
- c. provide all information and assistance reasonably required by the Buyer to comply with its obligations under the Privacy Act in relation to this Agreement, and
- d. comply with the Privacy Act and not do anything under this Agreement that would cause the Buyer to breach the Privacy Act.

- 14.2 **Privacy Breaches** If the Supplier becomes aware of any Privacy Breach in relation to this Agreement it will notify the Buyer as soon as possible and take all reasonable steps:
- to identify the person or persons affected,
 - required by the Buyer to undertake its own investigation,
 - stop, and/or mitigate the impact of, any Privacy Breach and prevent its reoccurrence, and
 - the Supplier shall not notify any person of the Privacy Breach without the Buyer's prior written approval.
- 14.3 **Application to Confidential Information** The obligations under this clause 14 are not limited by and do not limit either Party's other obligations as regards the protection or security of Confidential Information set out in clause 13, provided that any disclosure of Confidential Information under clause 13.1 shall be subject to this clause 14.

Notices

- 15.1 **Requirements:** All Notices must be:
- in writing and delivered by hand or sent by post, courier or email to the recipient Party's address for Notices stated in Schedule 1, and
 - signed, or in the case of email sent, by the appropriate manager or person having authority to do so.
- 15.2 **Receipt of Notices:** A Notice will be considered to be received:
- if delivered by hand or sent by courier, on the date it is delivered
 - if sent by post within New Zealand, on the 5th Business Day after the date it was sent
 - if sent by post internationally, on the 9th Business Day after the date it was sent, or
 - if sent by email, at the time the email enters the recipient's information system and it is not returned undelivered or as an error,
- but a Notice received after 5pm on a Business Day or on a day that is not a Business Day will be considered to be received on the next Business Day.

Extraordinary Events

- 16.1 **No liability:** Neither Party will be liable to the other for any failure to perform its obligations under this Contract to the extent the failure is due to an Extraordinary Event.
- 16.2 **Obligations of affected Party:** A Party who wishes to claim suspension of its obligations due to an Extraordinary Event must notify the other Party as soon as reasonably possible. The Notice must state:
- the nature of the circumstances giving rise to the Extraordinary Event
 - the extent of that Party's inability to perform under this Contract
 - the likely duration of that non-performance, and
 - what steps are being taken to minimise the impact of the Extraordinary Event on the performance of this Contract.
- 16.3 **Termination:** If a Party is unable to perform any obligations under this Contract for 20 Business Days or more due to an Extraordinary Event, the other Party may terminate this Contract immediately by giving Notice.

General

- 17.1 **Variations:** A Variation must be agreed by both Parties and recorded:
- in writing and signed by both Parties, or
 - through an exchange of emails,
- where the signatories or authors have delegated authority to approve the Variation.
- 17.2 **Entire contract:** This Contract, including any Variation, records everything agreed between the Parties relating to the Services. It replaces any previous communications, negotiations, arrangements or agreements that the Parties had with each other relating to the Services before this Contract was signed, whether they were oral or in writing.
- 17.3 **Waiver:** If a Party does not immediately enforce its rights under this Contract that:
- does not mean that the other Party is released or excused from any obligation to perform at the time or in the future, and
 - does not prevent that Party from exercising its rights at a later time.
- 17.4 **New Zealand law, currency and time:** This Contract will be governed and interpreted in accordance with the laws of New Zealand. All money is in New Zealand dollars, unless Schedule 1 specifies a different currency. Dates and times are New Zealand time.
- 17.5 **Publication:** The Supplier must obtain the Buyer's prior written approval before making reference to the Buyer or this Contract in its publications, public statements, promotional material or promotional activities.
- 17.6 **No derogatory remarks:** Each Party undertakes not to publicly make objectionable or derogatory comments about the Services, this Contract, the other Party or any of the other Party's Personnel, and to ensure that its Personnel do not do so.
- 17.7 **Signing the Contract:** The date of execution is the date this Contract has been signed by both parties. This Contract is properly signed if each Party signs the same copy, or separate identical copies, including electronic copies, of the Contract Details section.
- 17.8 **No poaching:** During the term of this Contract and for a period of 6 months after the End Date neither Party shall, without the other's written consent, deliberately seek to employ or hire any person who is or has been employed by the other and involved in the delivery of the Services. This does not apply where a person has responded to a legitimate advertisement.
- 17.9 **Clauses that remain in force:** The clauses that by their nature should remain in force on expiry or termination of this Contract do so, including clauses 5 (Information management), 8 (Insurance), 10 (Resolving disputes), 11 (Ending this Contract), 12 (Intellectual Property Rights), 13 (Confidential Information), 15 (Notices), 17 (General) and 18 (Definitions).
- 17.10 **Precedence:** If there is any conflict or difference between the documents forming this Contract (as stated in the Contract Details section) then the order of precedence is:
- a Variation
 - Schedule 1
 - any Attachment to Schedule 1, and
 - Schedule 2.

Definitions

When used in this Contract the following terms have the meaning beside them:

Attachment Any supplementary document named in Schedule 1 as an Attachment to this Contract.

Approved Personnel A person who is engaged by the Supplier to deliver the Services and is named in Schedule 1.

Business Day A day when most businesses are open for business in New Zealand. It excludes Saturday, Sunday, and public holidays. A Business Day starts at 8.30am and ends at 5pm.

Buyer The Buyer is the entity named as the Buyer in the Contract Details section.

Charges The total amount payable by the Buyer to the Supplier as stated in Schedule 1, including Fees and any Expenses and Daily Allowances.

Confidential Information Information, including data and personal information, that:

- is by its nature confidential
- is marked by either Party as 'confidential', 'in confidence', 'restricted' or 'commercial in confidence'
- is provided by either Party or a third party 'in confidence', or
- either Party knows or ought to know is confidential.

Conflict of Interest A Conflict of Interest arises if a Party or its Personnel's personal or business interests or obligations do or could conflict or be perceived to conflict with its obligations under this Contract, such that the Party's or its Personnel's independence, objectivity or impartiality can be called into question. A Conflict of Interest may be:

- actual: where the conflict currently exists
- potential: where the conflict is about to happen or could happen, or
- perceived: where other people may reasonably think that a person is compromised.

Contract The legal agreement between the Buyer and the Supplier that comprises the Contract Details section, Schedule 1, this Schedule 2 and any other Schedule, and any Variation and Attachment.

Contract Manager The person named in Schedule 1 as the Contract Manager.

Daily Allowance An allowance to cover accommodation, meals and incidentals for the Supplier's Personnel if they are required in order to deliver the Services or to travel overnight away from their normal place of business, as agreed in Schedule 1.

Daily Fee Rate A fee payable for each day spent in the delivery of Services. A day is a minimum of 8 working hours.

Deliverables An output resulting from the delivery of the Services as stated in Schedule 1. A Deliverable may be a document, a piece of equipment, goods or information or data stored by any means.

End Date The earlier of the date this Contract is due to end as stated in Schedule 1, as may be extended under clause 1.3, and the date of termination as set out in a Notice of termination, or any other date agreed between the Parties as the date the Contract is to end.

Expenses Any actual and reasonable out-of-pocket costs incurred by the Supplier in the delivery of the Services and agreed to in Schedule 1.

Extraordinary Event An event that is beyond the reasonable control of the Party immediately affected by the event. An Extraordinary Event does not include any risk or event that the Party claiming could have prevented or overcome by taking reasonable care.

Fees The amount payable to the Supplier for the time spent in delivery of the Services calculated on the basis stated in Schedule 1, excluding any Expenses and Daily Allowances.

GST The goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.

HSW Act means the Health and Safety at Work Act 2015.

Hourly Fee Rate A Fee payable for each hour spent delivering the Services.

Intellectual Property Rights All industrial and intellectual property rights whether conferred by statute, at common law or in equity, including, but not limited to copyright, trademarks, designs and patents.

Milestone A phase or stage in the delivery of Services resulting in a measurable output. Payment of Fees is usually due on the satisfactory delivery of a Milestone.

New Intellectual Property Rights Intellectual Property Rights developed under this Contract or in the performance of the Services.

Notice A communication from one Party to the other that meets the requirements of clause 14.

Party The Buyer or the Supplier, and together they are the **Parties**.

Personal Information has the meaning given to that term in the Privacy Act.

Personnel All individuals engaged by either Party in relation to this Contract or the delivery of Services. Examples include: the owner of the business, its directors, employees, Subcontractors, agents, external consultants and co-opted or seconded staff.

Pre-existing Intellectual Property Rights Intellectual Property Rights developed before the date of, or independently from, this Contract.

Privacy Act means the Privacy Act 2020 and includes any codes or regulations issued under that Act.

Privacy Breach means any:

- unauthorised or accidental access to or use of, or disclosure, alteration, loss, or destruction of any Personal Information; and
- any action that prevents any Buyer from accessing Personal Information on either a temporary or permanent basis,

whether or not:

- caused by a person inside or outside of the Supplier;
- attributable in whole or in part to any action by the Supplier; or
- ongoing.

Protective Security Incident A security incident that is:

- a breach of protective security policy or procedures
- an approach from anybody seeking unauthorised access to officials or official information, or
- any other event that harms, or may harm, the security of the Buyer and/or the Buyer's Confidential Information.

Records All information and data necessary for the management of this Contract and the delivery of Services. Records include, but are not limited to, reports, invoices, letters, emails, notes of meetings, photographs and other media recordings. Records can be hard copies or soft copies stored electronically.

Services All work, tasks and Deliverables, including those stated in Schedule 1, that the Supplier must perform and deliver under this Contract.

Schedule An attachment to this Contract with the title 'Schedule'.

Start Date The date when this Contract starts as stated in Schedule 1.

Subcontractor A person, business, company or organisation contracted by the Supplier to deliver or perform part of the Supplier's obligations under this Contract.

Supplier The person, business, company or organisation named as the Supplier in in the Contract Details section.

Variation A change to any aspect of this Contract that complies with clause 17.1.

SECTION 6: RFP Terms

6.1 RFP Terms

Our proposed RFP terms are attached.

SECTION 6: RFP Terms

Defined terms are shown using capitals. You can find definitions at the end of this Section.

Preparing and submitting a Proposal

6.1 Preparing a Proposal

a. **Respondent obligations**

The Respondent must:

- i. read the complete RFP and any additional information provided and referred to by the Buyer
- ii. respond using the RFP Response Form and Pricing Schedule provided and include all information the Buyer requests
- iii. consider the risks and contingencies relating to the delivery of the RFP requirements and outline how it will manage those risks and contingencies
- iv. include any assumptions, dependencies and/or qualifications in the Proposal, including anything that may limit its obligations or increase its quoted pricing or cost estimates
- v. quote prices in NZ\$, exclusive of GST
- vi. obtain independent advice before submitting a Proposal (if necessary)
- vii. make sure the Proposal is correct and the Proposal pricing is sustainable, e.g. covers the Whole-of-Life of the Contract, not just the initial term.

b. **Process acceptance**

By submitting a Proposal, the Respondent accepts the RFP-Terms.

c. **No obligation, no penalty**

Suppliers are not expected or required to submit a Proposal in order to remain on any prequalified or registered supplier list.

6.2 Offer Validity Period

The Proposal must remain open for the Offer Validity Period stated in Section 1 of the RFP.

6.3 Respondent questions

- a. The Respondent must make sure they understand the RFP.
- b. If the Respondent has any questions or needs clarification, they:
 - i. must submit questions before the Deadline for Questions (Section 1 of the RFP)
 - ii. must clearly indicate any commercially sensitive information in their questions

- iii. may withdraw their questions at any time.
- c. When the Buyer receives questions before the Deadline for Questions:
 - i. The Buyer will respond on or before the Deadline for Answers.
 - ii. The Buyer may provide details of both the questions and the answers to other Respondents. In these circumstances the Buyer will summarise the questions and will not disclose the Respondent's identity.
 - iii. Unless stated otherwise in the RFP, the Buyer will post both the questions and answers onGETS.
 - iv. The Buyer will not publish the Respondent's commercially sensitive information. However, if the Buyer considers the information to be significant for all Respondents, the Buyer may modify the question and publish both this and the answer. In that case the Buyer will first give the Respondent the opportunity to withdraw the question or remove any of their own commercially sensitive information.

6.4 Submitting a Proposal

- a. The Respondent must ensure the Buyer receives the Proposal at the correct address on or before the Deadline for Proposals.
- b. Where the RFP stipulates a 'two-envelope' process, the Respondent must ensure that all financial information and pricing components of the Proposal are contained either:
 - i. in a sealed envelope, separate from the rest of the Proposal and clearly marked 'Financial and Pricing Information', or
 - ii. in a separate digital file from the rest of the Proposal, clearly marked 'Financial and Pricing Information'.
- c. After the Deadline for Proposals, the Buyer will acknowledge receipt of the Proposal.
- d. The Respondent must ensure that all information they provide to the Buyer:
 - i. is true, accurate and complete
 - ii. is not misleading in any material respect
 - iii. does not contain material that infringes a third party's intellectual property rights
 - iv. is identical, if they supply both hard and soft copy Proposals.
- e. The Buyer may rely on the Proposal and all information provided by the Respondent during the RFP process (e.g. correspondence and negotiations).

Assessing Proposals

6.5 Evaluation panel

The Buyer's evaluation panel will evaluate the Proposal. The Buyer may have different evaluation panel members for evaluating different aspects of the Proposal. The Buyer include independent advisors as evaluation panel members to evaluate some or all aspects of the Proposal.

6.6 Third party information

- a. The Buyer may request information from a third party where the Buyer considers the information may be relevant to the RFP process, excluding commercially sensitive information about pricing or contract terms.
- b. If this occurs, the Respondent:
 - i. authorises the Buyer to collect that information from the relevant third party (e.g. a referee or client), and authorises the third party to release it to the Buyer
 - ii. agrees the Buyer may use that information in its evaluation of the Proposal
 - iii. must ensure that all referees listed in the Proposal agree to provide a reference.

6.7 Clarification of Proposal

- a. The Buyer may ask the Respondent for more information or clarification on the Proposal at any time during the RFP process.
- b. The Buyer need not ask all Respondents for the same clarification.
- c. The Respondent agrees to provide the information or clarification as soon as possible, in the format requested by the Buyer.
- d. If the Respondent does not provide adequate information or clarification within a reasonable time (as determined by the Buyer), the Buyer may remove the Proposal from its evaluation process.

6.8 Evaluation and shortlisting of Proposal

- a. The Buyer will evaluate the Proposal according to the Evaluation Approach (Section 3 of the RFP).
- b. The Buyer may adjust its evaluation after considering additional information or clarification, as described in Sections 6.6 and 6.7 above.

6.9 Negotiations

- a. The Buyer may invite one or more Respondents to enter into negotiations with a view to forming a contract.

- b. During negotiations, the Buyer may:
 - i. discontinue negotiations with one Respondent and then initiate negotiations with another Respondent
 - ii. negotiate concurrently with more than one Respondent.
- c. If negotiating concurrently with more than one Respondent, the Buyer must:
 - i. treat each Respondent fairly
 - ii. prepare a separate plan for each negotiation
 - iii. hold a separate negotiation meeting with each Respondent
 - iv. advise each relevant Respondent that concurrent negotiations will be carried out.
- d. Unless the Buyer agrees otherwise, the Respondent agrees that any legally binding contract that may result from the negotiations will be essentially in the form in Section 5 of the RFP (Proposed Contract).

6.10 Respondent debrief

- a. At the end of the RFP process, the Buyer will offer to debrief the Respondent. This debrief may be by letter, email, phone or a meeting.
- b. The Respondent has 10 Business Days from the date of the Buyer's offer to accept a debrief.
- c. The Buyer will provide the debrief within 30 Business Days from either the date of the Respondent's acceptance of a debrief, or the date the Contract is signed, whichever is later.
- d. The debrief will:
 - i. explain why the Proposal was successful or not successful
 - ii. explain how the Proposal performed against the pre-conditions (if applicable) and the evaluation criteria
 - iii. indicate the Proposal's relative strengths and weaknesses
 - iv. explain, in general terms, the relative advantages of the successful Proposal
 - v. seek to address any concerns or questions from the Respondent
 - vi. seek feedback from the Respondent on the RFP and RFP process.

6.11 Notification of outcome

During the 30 Business Days after the Contract has been signed, the Buyer:

- a. will let all unsuccessful Respondents know the name of the Successful Respondents, if any
- b. may make public the name and address of the Successful Respondents (if any) and any unsuccessful Respondents
- c. will publish a Contract Award Notice on GETS, where applicable. Contract Award Notices are available to view by the public on GETS. The Respondent may request that the Buyer withhold its address from the

Contract Award Notice for privacy reasons. The Buyer may withhold the Respondent's address from the Contract Award Notice in a manner consistent with the Privacy Act 2020.

6.12 Issues and complaints

- a. The Respondent may, in good faith, raise with the Buyer any issue or complaint about the RFP or RFP process at any time.
- b. When this occurs:
 - i. the Buyer will consider and respond promptly and impartially to the Respondent's issue or complaint
 - ii. both the Respondent and the Buyer must do their best to resolve the issue or complaint
 - iii. the Buyer must not allow the issue or complaint to prejudice the Respondent's participation in the RFP process, or limit or affect the Respondent's future procurement opportunities.

Standard RFP conditions

6.13 Buyer's Point of Contact

- a. The Respondent must direct all RFP enquiries to the Buyer's Point of Contact in Section 1 of the RFP.
- b. The Respondent must not approach any other employee or other representative of the Buyer, directly or indirectly, for information on any aspect of the RFP.
- c. Only the Point of Contact, or a person authorised by the Buyer, may communicate with the Respondent on any aspect of the RFP. The Buyer will not be bound by any statement made by any other person.
- d. The Buyer may change its Point of Contact at any time. The Buyer will notify the Respondent of any change by email or posting a notification on GETS.
- e. If the Respondent has an existing contract with the Buyer, the Respondent must not use its business-as-usual communications to contact the Buyer regarding the RFP.

6.14 Conflict of Interest

- a. The Respondent must complete the Conflict of Interest declaration in the RFP Response Form. If a joint Proposal is being submitted, each party must complete the Conflict of Interest declaration separately.
- b. If a Conflict of Interest arises during the RFP process, the Respondent must inform the Buyer immediately.
- c. The Buyer may exclude a Respondent from the RFP process if a material Conflict of Interest arises.

6.15 Ethics

- a. The Respondent must not attempt to influence, reward or benefit any representative of the Buyer, nor offer any form of personal inducement, in relation to the RFP or the RFP process.
- b. The Respondent must comply with the Supplier Code of Conduct issued by the Procurement Functional

Leader, and any other relevant codes of conduct listed in the RFP.

- c. The Buyer may exclude the Respondent from the RFP process for a breach of paragraphs 6.13b, 6.13e, 6.15a or 6.15b.
- d. To maintain a fair and ethical RFP process, the Buyer may require additional declarations or other evidence from the Respondent, or any other person, at any time.

6.16 Anti-collusion and bid rigging

- a. By submitting the Proposal the Respondent warrants that:
 - i. the Proposal has not been prepared in collusion with a Competitor.
 - ii. it will not engage in deceptive or improper conduct during the RFP process.
- b. The Buyer may exclude the Respondent from the RFP process if a breach of these warranties occurs.
- c. The Buyer reserves the right to report suspected collusion or anti-competitive behaviour to the appropriate authority, and to give that authority all relevant information, including the Proposal.

6.17 Confidential Information

- a. Without limiting any other confidentiality agreement between them, the Buyer and the Respondent will both take reasonable steps to protect the other party's Confidential Information.
- b. Except as permitted by the other provisions of this Section 6.17, neither party will disclose the other party's Confidential Information to a third party without that other party's prior written consent.
- c. Each party may each disclose the other party's Confidential Information to anyone who is directly involved in the RFP process on that party's behalf, but only for the purpose of participating in the RFP. This could include (but is not limited to) officers, employees, consultants, contractors, professional advisors, evaluation panel members, partners, principals or directors. Where this occurs, the disclosing party must take reasonable steps to ensure the third party does not disclose the information to anyone else, and does not use the information for any purpose other than participating in the RFP process.
- d. The Respondent acknowledges that the Buyer's confidentiality obligations are subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 2020, parliamentary and constitutional convention, and any other obligations imposed by law. Where the Buyer receives an OIA request that relates to a Respondent's Confidential Information, the Buyer will consult with the Respondent and may ask the Respondent to explain why the information is considered by the Respondent to be confidential or commercially sensitive.
- e. The Respondent may disclose the Buyer's Confidential Information to the extent strictly necessary to comply with law or the rules of any stock exchange on which the securities of the Respondent or any related entity are currently listed. Unless prohibited by law, the Respondent must consult with the Buyer before making such a disclosure.
- f. The Buyer will not be in breach of its obligations if it discloses Confidential Information to the appropriate authority because of suspected collusive or anti-competitive tendering behaviour.

6.18 Costs of participating in the RFP process

Except as otherwise stated in the RFP, the Respondent must meet their own costs associated with the preparation, presentation and negotiation of the Proposal.

6.19 Ownership of documents

- a. The RFP and its contents remain the property of the Buyer. All Intellectual Property rights in the RFP remain the property of the Buyer or its licensors.
- b. The Buyer may request the immediate return or destruction of any RFP documents and any copies, in which case the Respondent must comply in a timely manner.
- c. All documents forming part of the Proposal will, once they are delivered to the Buyer, become the property of the Buyer. The Proposal will not be returned to the Respondent.
- d. Intellectual Property rights in the Proposal remain the property of the Respondent or its licensors.
- e. The Respondent grants to the Buyer a licence to retain, use, copy and disclose information contained in the Proposal for any purpose related to the RFP process, including keeping appropriate records.

6.20 Limited rights and obligations

- a. Except as stated otherwise in this Section 6.20, nothing in the RFP, these RFP Terms or the RFP process creates a contract or any other legal relationship between the Buyer and Respondent, unless and until they enter into a Contract.
- b. The following are binding on the Respondent:
 - i. The Respondent's signed declaration (contained in the RFP Response Form).
 - ii. The Respondent's obligation under Section 6.2 to ensure the Proposal remains open for the Offer Validity Period.
 - iii. The Respondent's obligations under paragraphs 6.4d and 6.4e. Nothing in this Section 6.20 takes away from any rights or remedies the Buyer may have in relation to the Respondent's statements, representations or warranties in the Proposal or in correspondence or negotiations with the Buyer.
 - iv. The standard RFP conditions in Sections 6.13 to 6.25.
- c. Sections 6.17 and 6.19 are binding on the Buyer.
- d. Where applicable, the Buyer and each Respondent are bound by any other obligation expressly identified in Section 1 of the RFP as being binding.
- e. All terms and other obligations that are binding on the Buyer are subject to the Buyer's additional rights in Section 6.22.

6.21 Exclusion from the RFP process

- a. The Buyer may exclude the Respondent from the RFP process if the Respondent:
 - i. has not provided requested information in the correct format
 - ii. has breached the RFP-Terms and the Buyer considers the impact of the breach is more than trivial (this applies whether or not the provision in question is itself legally binding on the Recipient)
 - iii. included a material error, omission or inaccuracy in the Proposal
 - iv. is in bankruptcy, receivership or liquidation
 - v. has made a false declaration
 - vi. has a conviction for a serious crime or offence
 - vii. has failed to pay taxes, duties or other levies
 - viii. represents a threat to national security or to confidentiality of government information, and/or
 - ix. is a person or organisation designated as a terrorist by New Zealand Police.
- b. The Buyer may exclude the Respondent from the RFP process if:
 - i. there was a serious performance issue in a previous, or current, contract delivered by the Respondent
 - ii. the Buyer considers the integrity of the Respondent is in doubt due to the Respondent's professional misconduct or an act or omission contrary to the Supplier Code of Conduct, and/or
 - iii. the Buyer becomes aware of any other matter that materially diminishes the Buyer's trust in the Respondent.

6.22 Buyer's additional rights

- a. **Changes to the RFP**
 - i. The Buyer may amend, suspend, cancel or re-issue the RFP, or any part of it, so long as it notifies the Respondent.
 - ii. The Buyer may change material aspects of the RFP, such as the timeline, Requirements or Evaluation Approach, provided it gives the Respondent time to respond to update its Proposal in relation to the changes.
- b. **Timeline**
 - i. The Buyer may accept a late Proposal if it is the Buyer's fault it is late, or if the Buyer considers there is no material prejudice to other Respondents in accepting a late Proposal.
 - ii. The Buyer may answer a question submitted after the Deadline for Questions, and notify all Respondents about the submission of the question and the answer.

c. **The Proposal**

- i. The Buyer may accept or reject any Proposal, or part of a Proposal. This includes any non-compliant, non-conforming or alternative Proposal.
- ii. The Buyer may decide not to accept the lowest price conforming Proposal, unless stated otherwise in the Evaluation Approach.

d. **RFP Process**

- i. Subject to paragraph 6.9c, the Buyer may liaise or negotiate with any Respondent without informing, or doing the same, with any other Respondent.
- ii. The Buyer may provide Respondents with information arising from questions about the RFP.
- iii. The Buyer may withhold information arising from questions about the RFP. This may be the case if the information is unnecessary, is commercially sensitive, is inappropriate to supply at the time of the request or cannot be released for legal reasons.
- iv. The Buyer may waive requirements or irregularities around the RFP process if the Buyer considers it appropriate or reasonable to do so.
- v. The Buyer may amend the Proposed Contract at any time, including during negotiations with a Respondent.
- vi. The Buyer may decide not to enter into a Contract with any Respondent.

e. **Consortia and unbundling**

The Buyer may make its selection conditional on the Respondent agreeing to:

- i. the Buyer selecting the Respondent to deliver the Requirements as a joint venture or consortium with another Respondent selected by the Buyer, and/or
- ii. the Buyer selecting individual elements of the Proposal that can be delivered separately, unless the Proposal specifically states that the Proposal, or the relevant elements, must be taken collectively.

6.23 New Zealand law

The laws of New Zealand govern the RFP. Each Respondent agrees New Zealand courts have non-exclusive jurisdiction to rule in any dispute concerning the RFP or the RFP process. The Respondent agrees that it cannot bring any claim in relation to the RFP except in a New Zealand court.

6.24 Disclaimer

- a. Nothing contained or implied in the RFP, or RFP process, or any other communication by the Buyer to the Respondent is to be construed as legal, financial or other advice.
- b. The Buyer will endeavour to provide accurate information in any communication, but the Respondent accepts this information is not independently verified and may not be up-to-date.
- c. The Buyer will not be liable in contract, tort, equity, or in any other way for any direct or indirect damage, loss or cost incurred by the Respondent or any other person in respect of the RFP process, whether as a result of the Buyer exercising its rights under Section 6.22, the Buyer's negligence or

breach of these RFP Terms, the Buyer failing to select the Respondent as the Successful Respondent, or any other cause.

- d. To the extent that liability cannot be excluded, the maximum aggregate liability of the Buyer, its agents and advisors in connection with the RFP process, to all Respondents combined, is NZ\$5,000 or (if known and greater than \$5,000) 5% of the estimated value of the proposed Contract as determined by the Buyer prior to the release of the RFP.
- e. The limitations and exclusions in paragraphs c and d above do not apply to any liability the Buyer may have for breach of confidentiality or infringement of the Respondent's intellectual property rights.

6.25 Precedence

- a. Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:
 - i. Section 1 of the RFP
 - ii. these RFP-Terms
 - iii. all other Sections of the RFP document
 - iv. any additional information or document provided by the Buyer to Respondents through the Buyer's Point of Contact or GETS.
- b. If there is any conflict or inconsistency between information or documents having the same level of precedence the more recent information or document will prevail.

Definitions

In relation to the RFP the following words and expressions have the meanings described below.

Advance Notice	A notice published by the Buyer on GETS in advance of publishing the RFP. An Advance Notice alerts the market to a contract opportunity. Where used, an Advance Notice forms part of the RFP.
Business Day	Any week day in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year's Day.
Buyer	The government agency that has issued the RFP with the intent of purchasing the goods or services described in the Requirements.
Competitors	Any other business that is in competition with a Respondent either in relation to the goods or services sought under the RFP or in general.

Confidential Information	<p>Confidential Information of a party (Provider) means information acquired by the other party (Recipient) from the Provider in connection with the RFP process, where that information:</p> <ol style="list-style-type: none"> is by its nature confidential is marked at the time of disclosure to the Recipient as ‘confidential’, ‘in confidence’, ‘restricted’, ‘sensitive’, ‘secret’ or ‘top secret’, and/or the Recipient knows, or ought to know, is confidential to the Provider or a third party who supplied it to the Provider. <p>However, this does not include information that is publicly available through no fault of the Recipient, or that the Recipient acquired entirely independently of the Provider.</p>
Conflict of Interest	<p>A Conflict of Interest arises if personal or business interests, relationships or obligations of the Respondent or any of its personnel do, could, or could be perceived to:</p> <ol style="list-style-type: none"> conflict with the Respondent’s obligations to the Buyer under the RFP or in the provision of the goods or services, and/or call into question the independence, objectivity or impartiality of any person involved in the RFP process on behalf of the Buyer. <p>A Conflict of Interest may be:</p> <ol style="list-style-type: none"> actual: where the conflict currently exists potential: where the conflict is about to happen or could happen, or perceived: where other people may reasonably think that a person is compromised.
Contract	Any written Contract entered into by the Buyer and a Successful Respondent for the delivery of the Requirements.
Contract Award Notice	A notice on GETS which a Buyer is required to publish under Rule 48 of the Government Procurement Rules, when it has awarded a contract that is subject to those Procurement Rules.
Deadline for Answers	The deadline for the Buyer to respond to questions submitted by a Respondent stated in Section 1.2 of the RFP.
Deadline for Proposals	The deadline for delivering or submitting Proposals to the Buyer as stated in Section 1 of the RFP.
Deadline for Questions	The deadline for submitting questions to the Buyer as stated in Section 1 of the RFP.
Evaluation Approach	The approach used by the Buyer to evaluate Proposals as described in Section 3 of the RFP.
GETS	Government Electronic Tenders Service available at www.gets.govt.nz .

Intellectual Property	All industrial and intellectual property rights whether conferred by statute, at common law or in equity, including (but not limited to) copyright, trademarks, designs and patents.
Offer Validity Period	The period of time when a Proposal is held open by the Respondent for acceptance by the Buyer as stated in Section 1 of the RFP.
Pricing Schedule	The form prescribed by the Buyer and used by a Respondent to submit its pricing for the RFP, duly completed and submitted by a Respondent as part of the Proposal.
Point of Contact	The Buyer and each Respondent are required to appoint a Point of Contact. This is the channel to be used for all communications during the RFP process. The Buyer's Point of Contact is identified in Section 1 of the RFP. The Respondent's Point of Contact is identified in its Proposal.
Proposal	The response a Respondent submits in reply to the RFP. It comprises the RFP Response Form, the Pricing Schedule and all other information submitted by a Respondent.
Proposed Contract	The contract terms and conditions proposed by the Buyer for the delivery of the Requirements as described in Section 5 of the RFP.
Registration of Interest	A formal request by a Buyer asking potential Respondents to register their interest in a procurement. It is the first step in a multi-step tender process.
Request for Proposals (RFP)	The RFP comprises the Advance Notice (where used), the Registration of Interest (where used), the RFP document (including the RFP-Terms) and any other schedule, appendix or document attached to the RFP, and any subsequent information provided by the Buyer to Respondents through the Buyer's Point of Contact or GETS.
Requirements	The Buyer's requirements for goods and/or services as described in Section 2 of the RFP.
Respondent	A person, company or organisation that submits a Proposal in response to the RFP. The term Respondent includes each member of any consortium.
RFP Response Form	The form and declaration prescribed by the Buyer and used by a Respondent to respond to the RFP, duly completed and submitted by a Respondent as part of the Proposal.
RFP-Terms	Means the RFP Terms as set out in Section 6 of the RFP, together with any additions or amendments to those RFP Terms specifically identified in Section 1 of the RFP.
Successful Respondent	Following the evaluation of Proposals and successful negotiations, any Respondent who is awarded a Contract to deliver all or part of the Requirements.

For more definitions, click [HERE](#).

SECTION 7: RFP Response form

6.2 RFP Response form

Our proposed RFP response form is attached.

Request for Proposal (RFP)

Response Form

Section 1: About the Respondent

1.1 Our profile

This is a Proposal by [insert the name of your organisation] (the Respondent) to supply the Requirements.

Item	Detail
Full legal name:	[insert the name that you do business under]
Trading name (if different):	[if applicable]
Physical address:	[put the address of your head office]
Postal address:	[e.g. P.O Box address]
Registered office:	[if you have a registered office insert the address here]
Business website:	[url address]
Type of entity (legal status):	[sole trader / partnership / limited liability company / registered charity / other please specify]
NZBN number:	[insert your NZBN registration number here]
Country of residence:	[insert country where you (if you are a sole trader) or your organisation is resident for tax purposes]
GST registration number:	[NZ GST number / if overseas please state]

1.2 Our Point of Contact

Item	Detail
Contact person:	[name of the person representing the Respondent and responsible for communicating with the Buyer]
Position:	[job title or position]
Phone number:	[landline]
Mobile number:	[mobile]
Email address:	[work email]

Section 2: Response to the Requirements

2.1 Pre-conditions

#	Pre-condition	Meets
1.	The Respondent commits that the proposed team will maintain direct involvement for the duration of the contract.	[Yes/No]

2.2 Detailed response

Please submit your detailed response to the Requirements in a separate document.

2.3 Pricing Schedule

Please submit your financial information and pricing in a separate file from your detailed response, clearly marked as price (in accordance with Section 4 of the RFP).

Section 3: Proposed Contract

Choose one and delete the other:

Having read and understood the Proposed Contract, in the RFP Section 4, I confirm that these terms and conditions are acceptable. If successful, I agree to sign a Contract based on the Proposed Contract, or such amended terms and conditions of the Contract as are agreed with the Buyer following negotiations.

OR

Having read and understood the Proposed Contract, in the RFP Section 4, I have the following suggestions to make. If successful, I agree to sign a Contract based on the Proposed Contract subject to negotiating the following clauses:

Clause	Concern	Proposed solution
[insert number]	[briefly describe your concern about this clause]	[describe your suggested alternative wording for the clause or your solution]
[insert number]	[briefly describe your concern about this clause]	[describe your suggested alternative wording for the clause or your solution]

Section 4: Declaration

Respondent's declaration		
Topic	Declaration	Respondent's declaration
RFP-Terms:	I/we have read and fully understand this RFP, including the RFP-Terms, as amended by Section 1.6 of the RFP (if applicable). I/we confirm that the Respondent agrees to be bound by them.	[agree / disagree]
Collection of further information:	<p>The Respondent authorises the Buyer to:</p> <ul style="list-style-type: none"> collect any information about the Respondent, except commercially sensitive pricing information, from any relevant third party, including a referee, or previous or existing client; and use such information in the evaluation of this Proposal. The Respondent agrees that all such information will be confidential to the Buyer. 	[agree / disagree]
Requirements:	I/we have read and fully understand the nature and extent of the Buyer's Requirements as described in Section 2. I/we confirm that the Respondent has the necessary capacity and capability to fully meet or exceed the Requirements and will be available to deliver throughout the relevant Contract period.	[agree / disagree]
Ethics:	<p>By submitting this Proposal the Respondent warrants that it:</p> <ul style="list-style-type: none"> has not entered into any improper, illegal, collusive or anti-competitive arrangements with any Competitor; has not directly or indirectly approached any representative of the Buyer (other than the Point of Contact) to lobby or solicit information in relation to the RFP; and has not attempted to influence, or provide any form of personal inducement, reward or benefit to any representative of the Buyer. 	[agree / disagree]
Offer Validity Period:	I/we confirm that this Proposal, including the price, remains open for acceptance for the Offer Validity Period stated in Section 1, paragraph 1.6 a. of the RFP.	[agree / disagree]

Conflict of Interest declaration:	<p>The Respondent warrants that it has no actual, potential or perceived Conflict of Interest in submitting this Proposal, or entering into a Contract to deliver the Requirements.</p> <p>Where a Conflict of Interest arises during the RFP process the Respondent will report it immediately to the Buyer's Point of Contact.</p>	[agree / disagree]
Details of conflict of interest:	[if you think you may have a conflict of interest briefly describe the conflict and how you propose to manage it or write 'not applicable'].	

DECLARATION BY THE RESPONDENT

I/we declare that in submitting the Proposal and this declaration:

- the information provided is true, accurate and complete and not misleading in any material respect;
- the Proposal does not contain any material that will infringe a third party's intellectual property rights;
- I/we have secured all appropriate authorisations to submit this Proposal, to make the statements and to provide the information in the Proposal and I/we am/are not aware of any impediments to enter into a Contract to deliver the Requirements.

I/we understand that the falsification of information, supplying misleading information or the suppression of material information in this declaration and the Proposal may result in the Proposal being eliminated from further participation in the RFP process and may be grounds for termination of any Contract awarded as a result of the RFP.

By signing this declaration the signatory below represents, warrants and agrees that they have been authorised by the Respondent to make this declaration on its/their behalf.

Signature: _____

Full name: _____

Title/position: _____

Name of organisation: _____

Date: _____