



REQUEST FOR PROPOSAL

**RFP to deliver redesign, development and hosting
of the Kawatiri Coastal Trail Website for the
Charleston to Westport Coastal Trail Trust**

RFP released: 23 10 20

Deadline for Questions: 14:00 5 11 20

Deadline for Proposals: 17:00 13 11 20

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This opportunity in a nutshell

What we need

Charleston to Westport Coastal Trail Trust (CWCTT) have issued this Request for Proposal (RFP) in order to select and contract with a company (“vendor”) to create a new website for the Kawatiri Coastal Trail (www.kawatiricoastaltrail.co.nz) that is a modern, highly attractive and built with responsive web design.

CWCTT is seeking proposals from highly qualified, experienced website development companies to design, develop and implement its website promoting the Kawatiri Coastal Trail. The chosen strategic partner must be a company that has experience and expertise with best practices regarding:

- Successful website redesign
- User experience and usability testing
- Information architecture
- Website development and deployment
- Website hosting
- Content Strategy
- Social Media integration
- Search Engine Optimization
- Responsive Design

We will need:

- An audit of our current online presence
- Recommendations and planning of redevelopment
- Development and implementation of a new website
- Training and engagement strategies
- Additional information about other services you can provide along with costs eg. Managed webhosting.

What’s important to us

Expertise, creative design and proven experience in this field.

Why should you bid?

This is a great opportunity to develop a website for an exciting new visitor attraction in the Kawatiri.

A bit about us

Charleston to Westport Coastal Trail Trust (CWCTT) formed in 2016 to develop the idea for Kawatiri Coastal Trail. This will be a Grade 2 family friendly cycle and walking heritage trail which will connect the Buller District towns of Westport to Charleston.

CWCTT was awarded full funding of \$9.3m as part of the Provincial Growth Fund in 2018, with construction beginning in 2020. The first section between Westport and Carters Beach – Pūwaha, will be open to the public on 6th December 2020. Other sections will begin in November with the full trail to be open in 2022.

SECTION 1: Key information



1.1 Context

- a. This Request for Proposal (RFP) is an invitation to suitably qualified suppliers to submit a Proposal for the proposed development of the Kawatiri Coastal Trail Website.
- b. This RFP is a single-step procurement process.
- c. Words and phrases that have a special meaning are shown by the use of capitals e.g. Respondent, which means ‘a person, organisation, business or other entity that submits a Proposal in response to the RFP. The term Respondent includes its officers, employees, contractors, consultants, agents and representatives. The term Respondent differs from a supplier, which is any other business in the market place that does not submit a Proposal.’. Definitions are at the end of [Section 6](#).



1.2 Our timeline

- a. Here is our timeline for this RFP.

Steps in RFP process:	Date:
Deadline for Questions from suppliers:	15:00 5 Nov 20
Deadline for the Buyer to answer suppliers’ questions:	11 Nov 20
Deadline for Proposals:	17:00 13 Nov 20
Evaluation of Proposals	17–18 Nov 20
Contract Negotiations	24-26 Nov 20
Anticipated Contract start date:	Jan 20
Unsuccessful Respondents notified of award of Contract:	26 Nov 20

- b. All dates and times are dates and times in New Zealand.



1.3 How to contact us

- a. All enquiries must be directed to our Point of Contact. We will manage all external communications through this Point of Contact.

b. Our Point of Contact

Name: Siobhan Neill Tel: 021 1818 215

Title/role: Project Administrator

Email address: admin@kawatiricoastaltrail.co.nz



1.4 Developing and submitting your Proposal

- a. This is a closed, competitive tender process. The RFP sets out the step-by-step process and conditions that apply.
- b. Take time to read and understand the RFP. In particular:
 - i. develop a strong understanding of our Requirements detailed in [Section 2](#).
 - ii. in structuring your Proposal consider how it will be evaluated. [Section 3](#) describes our Evaluation Approach.

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- c. If anything is unclear or you have a question, ask us to explain. Please do so before the Deadline for Questions. Email our [Point of Contact](#).
 - d. Check you have provided all information requested
 - e. Please ensure you get your Proposal to us before the Deadline!
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1.5 Address for submitting your Proposal

Proposals to be submitted by email/electronically to the following address:

Kawatiri Coastal Trail: admin@kawatiricoastaltrail.co.nz

Alternatively, a hard copy of your proposal can be delivered. Please send or deliver them to the following address:

For Proposals sent by post or courier:

Attention: Siobhan Neill

Kawatiri Coastal Trail

Level 1 EPIC Building

52 Russell Street

PO Box 450

Westport, 7866

Ph 021 1818 215



1.6 Our RFP Process, Terms and Conditions

- a. **Offer Validity Period:** In submitting a Proposal the Respondent agrees that their offer will remain open for acceptance by the Buyer for two calendar months from the Deadline for Proposals.
- b. The RFP is subject to the RFP Process, Terms and Conditions (shortened to RFP-Terms) described in [Section 6](#).



1.7 Later changes to the RFP or RFP process

If, after publishing the RFP, we need to change anything about the RFP, or RFP process, or want to provide suppliers with additional information we will let all suppliers know

SECTION 2: Our Requirements

2.1 Background

This RFP is for the development of a new website for the Kawatiri Coastal Trail

2.2 What we are buying and why

We want a website developed to replace our placeholder site and need:

- An audit of our current online presence
- Recommendations and planning of redevelopment
- Development and implementation of a new website
- Training and engagement strategies
- Additional information about other services you can provide along with costs e.g. Managed webhosting.

2.3 What we require: the solution

The solution must detail all estimated costs and timelines for all options to be considered for the development of a website that takes into consideration all information in the Terms of Reference.

2.4 Contract term

We anticipate that the Contract will commence January 2020

Description	Months/weeks
Completion of the new website	12 weeks

2.5 Key outcomes

The following are the key outcomes that are to be delivered.

Description	date for delivery
First draft of Website	March 2021
Final – Website ready to be launched	April 2021

2.6 Other information

- a. Payment will be on successful delivery of milestones as agreed in the Contract
- b. New Intellectual Property arising as a result of the Contract will be the property of Kawatiri Coastal Trail

2.7 Other tender documents

In addition to this RFP we refer to the following documents. These documents form part of this RFP.

- Terms of Reference

SECTION 3: Our Evaluation Approach

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

3.1 Pre-conditions

Respondents who are unable to meet all pre-conditions should conclude that they will not benefit from submitting a Proposal.

#	Pre-condition
1.	Respondents must be able to complete the work to the deadlines specified.

3.2 Evaluation criteria

Proposals which meet all pre-conditions will be evaluated on their merits according to the following evaluation criteria and weightings.

Criterion	Weighting
1. Proposed solution (fit for purpose)	30%
2. Capability of the Respondent to deliver	25%
3. Methodology	20%
4. Price	25%
Total weightings	100%

3.3 Scoring

The following scoring scale will be used in evaluating Proposals. Scores by individual panel members may be modified through a moderation process across the whole evaluation panel.

Rating	Definition	Score
EXCELLENT significantly exceeds the criterion	Exceeds the criterion. Exceptional demonstration by the Respondent of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion. Proposal identifies factors that will offer potential added value, with supporting evidence.	9-10
GOOD exceeds the criterion in some aspects	Satisfies the criterion with minor additional benefits. Above average demonstration by the Respondent of the relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion. Proposal identifies factors that will offer potential added value, with supporting evidence.	7-8
ACCEPTABLE meets the criterion in full, but at a minimal level	Satisfies the criterion. Demonstration by the Respondent of the relevant ability, understanding, experience, skills, resource, and quality measures required to meet the criterion, with supporting evidence.	5-6

MINOR RESERVATIONS marginally deficient	Satisfies the criterion with minor reservations. Some minor reservations of the Respondent’s relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.	3-4
SERIOUS RESERVATIONS significant issues that need to be addressed	Satisfies the criterion with major reservations. Considerable reservations of the respondent’s relevant ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.	1-2
UNACCEPTABLE significant issues not capable of being resolved	Does not meet the criterion. Does not comply and/or insufficient information provided to demonstrate that the Respondent has the ability, understanding, experience, skills, resource and quality measures required to meet the criterion, with little or no supporting evidence.	0

SECTION 4: Pricing information

4.1 Pricing information to be provided by respondents

Respondents are to provide their price as part of their Proposal. In submitting the price the Respondent must meet the following:

- a. the pricing schedule 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. It must also clearly state the total Contract price exclusive of GST.
- b. 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.
- c. 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.
- d. 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.
- e. prices should be tendered in NZ\$. Unless otherwise agreed, the Buyer will arrange contractual payments in NZ\$.

SECTION 5: Our Proposed Contract

5.1 Proposed Contract

The attached Contract template is the Proposed Contract that we intend to use for the purchase and delivery of the Requirements.

In submitting your Proposal, you must let us know if you wish to question and/or negotiate any of the terms or conditions in the Proposed Contract or wish to negotiate new terms and/or conditions.

If you do not state your position you will be deemed to have accepted the terms and conditions in the Proposed Contract in full.

SECTION 6: RFP Process, Terms & Conditions

Note to suppliers and Respondents

- In managing this procurement, the Buyer will endeavour to act fairly and reasonably in all of its dealings with interested suppliers and Respondents, and to follow due process which is open and transparent.
 - This section contains the government's standard RFP Process, Terms and Conditions (shortened to RFP-Terms) which apply to this procurement. Any variation to the RFP-Terms will be recorded in Section 1, [paragraph 1.6](#). Check to see if any changes have been made for this RFP.
 - Words and phrases that have a special meaning are shown by the use of capitals e.g. Respondent, which means *'a person, organisation, business or other entity that submits a Proposal in response to the RFP. The term Respondent includes its officers, employees, contractors, consultants, agents and representatives. The term Respondent differs from a supplier, which is any other business in the market place that does not submit a Proposal.'* [Definitions](#) are at the end of this section.
 - If you have any questions about the RFP-Terms please email our [Point of Contact](#).
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Standard RFP process



Preparing and submitting a proposal

6.1 Preparing a Proposal

- a. Respondents must include all information requested by the Buyer in relation to the RFP.
- b. By submitting a Proposal the Respondent accepts that it is bound by the RFP Process, Terms and Conditions (RFP-Terms) contained in Section 6 (as varied by Section 1, paragraph 1.6, if applicable).
- c. Each Respondent will:
 - i. examine the RFP and any documents referenced in the RFP and any other information provided by the Buyer
 - ii. consider all risks, contingencies and other circumstances relating to the delivery of the Requirements and include adequate provision in its Proposal to manage such risks and contingencies
 - iii. document in its Proposal all assumptions and qualifications made about the delivery of the Requirements, including any assumption that the Buyer or a third party will deliver any aspect of the Requirements or incur any cost related to the delivery of the Requirements
 - iv. ensure that pricing information is quoted in NZ\$ exclusive of GST
 - v. if appropriate, obtain independent advice before submitting a Proposal
 - vi. satisfy itself as to the correctness and sufficiency of its Proposal, including the proposed pricing and the sustainability of the pricing.
- d. There is no expectation or obligation for Respondents to submit Proposals in response to the RFP solely to remain on any prequalified or registered supplier list. Any Respondent on such a list will not be penalised for failure to submit a Proposal.

6.2 Offer Validity Period

- a. Proposals are to remain valid and open for acceptance by the Buyer for the Offer Validity Period.



6.3 Respondents' Deadline for Questions

- a. Each Respondent should satisfy itself as to the interpretation of the RFP. If there is any perceived ambiguity or uncertainty in the RFP document/s Respondents should seek clarification before the Deadline for Questions.
- b. All requests for clarification must be made by email to the Buyer's Point of Contact. The Buyer will endeavour to respond to requests in a timely manner, but not later than the deadline for the Buyer to answer Respondents' questions in Section 1, paragraph 1.2.a, if applicable.
- c. If the Buyer considers a request to be of sufficient importance to all Respondents it may provide details of the question and answer to other Respondents. In doing so the Buyer may summarise the Respondent's question and will not disclose the Respondent's identity. The question and answer may be posted on GETS and/or emailed to participating Respondents. A Respondent may withdraw a request at any time.
- d. In submitting a request for clarification a Respondent is to indicate, in its request, any information that is commercially sensitive. The Buyer will not publish such commercially sensitive information. However, the Buyer may modify a request to eliminate such commercially sensitive information, and publish this and the answer where the Buyer considers it of general significance to all Respondents. In this case, however, the Respondent will be given an opportunity to withdraw the request or remove the commercially sensitive information.



6.4 Submitting a Proposal

- a. Each Respondent is responsible for ensuring that its Proposal is received by the Buyer at the correct address on or before the Deadline for Proposals. The Buyer will acknowledge receipt of each Proposal.
- b. The Buyer intends to rely on the Respondent's Proposal and all information provided by the Respondent (e.g. correspondence and negotiations). In submitting a Proposal and communicating with the Buyer each Respondent should check that all information it provides to the Buyer is:
 - i. true, accurate and complete, and not misleading in any material respect
 - ii. does not contain Intellectual Property that will breach a third party's rights.
- c. Where the Buyer requires the Proposal to be delivered in hard and soft copies, the Respondent is responsible for ensuring that both the hard and soft copies are identical.
- d. Where the Buyer stipulates a two envelope RFP process the following applies:
 - i. each Respondent must ensure that all financial information and pricing components of its Proposal are provided separately from the remainder of its Proposal
 - ii. financial information and pricing must be contained either in a separate sealed envelope or as a separate soft copy file (whichever option has been requested by the Buyer)



- iii. the pricing information must be clearly marked 'Financial and Pricing Information.' This is to ensure that the pricing information cannot be viewed when the package containing the other elements of the Proposal is opened.

Assessing Proposals



6.5 Evaluation panel

- a. The Buyer will convene an evaluation panel comprising members chosen for their relevant expertise and experience. In addition, the Buyer may invite independent advisors to evaluate any Proposal, or any aspect of any Proposal.

6.6 Third party information

- a. Each Respondent authorises the Buyer to collect additional information, except commercially sensitive pricing information, from any relevant third party (such as a referee or a previous or existing client) and to use that information as part of its evaluation of the Respondent's Proposal.
- b. Each Respondent is to ensure that all referees listed in support of its Proposal agree to provide a reference.
- c. To facilitate discussions between the Buyer and third parties each Respondent waives any confidentiality obligations that would otherwise apply to information held by a third party, with the exception of commercially sensitive pricing information.



6.7 Buyer's clarification

- a. The Buyer may, at any time, request from any Respondent clarification of its Proposal as well as additional information about any aspect of its Proposal. The Buyer is not required to request the same clarification or information from each Respondent.
- b. The Respondent must provide the clarification or additional information in the format requested. Respondents will endeavour to respond to requests in a timely manner. The Buyer may take such clarification or additional information into account in evaluating the Proposal.
- c. Where a Respondent fails to respond adequately or within a reasonable time to a request for clarification or additional information, the Buyer may cease evaluating the Respondent's Proposal and may eliminate the Proposal from the RFP process.

6.8 Evaluation and shortlisting

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- a. The Buyer will base its initial evaluation on the Proposals submitted in response to the RFP. The Buyer may adjust its evaluation of a Proposal following consideration of any clarification or additional information as described in paragraphs 6.6 and 6.7.
 - b. In deciding which Respondent/s to shortlist the Buyer will take into account the results of the evaluations of each Proposal and the following additional information:
 - i. each Respondent's understanding of the Requirements, capability to fully deliver the Requirements and willingness to meet the terms and conditions of the Proposed Contract
 - ii. except where the price is the only criterion, the best value-for-money over the whole-of-life of the goods or services.
 - c. In deciding which Respondent/s, to shortlist the Buyer may take into account any of the following additional information:
 - i. the results from reference checks, site visits, product testing and any other due diligence
 - ii. the ease of contracting with a Respondent based on that Respondent's feedback on the Proposed Contract (where these do not form part of the weighted criteria)
 - iii. any matter that materially impacts on the Buyer's trust and confidence in the Respondent
 - iv. any other relevant information that the Buyer may have in its possession.
 - d. The Buyer will advise Respondents if they have been shortlisted or not. Being shortlisted does not constitute acceptance by the Buyer of the Respondent's Proposal, or imply or create any obligation on the Buyer to enter into negotiations with, or award a Contract for delivery of the Requirements to any shortlisted Respondent/s. At this stage in the RFP process the Buyer will not make public the names of the shortlisted Respondents.

6.9 Negotiations

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- a. The Buyer may invite a Respondent to enter into negotiations with a view to contract. Where the outcome is unsatisfactory the Buyer may discontinue negotiations with a Respondent and may then initiate negotiations with another Respondent.
 - b. The Buyer may initiate concurrent negotiations with more than one Respondent. In concurrent negotiations the Buyer will treat each Respondent fairly, and:
 - i. prepare a negotiation plan for each negotiation
 - ii. advise each Respondent, that it wishes to negotiate with, that concurrent negotiations will be carried out
 - iii. hold separate negotiation meetings with each Respondent.
 - c. Each Respondent agrees that any legally binding contract entered into between the Successful Respondent and the Buyer will be essentially in the form set out in Section 5, the Proposed Contract.

6.10 Respondent's debrief

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- a. At any time after shortlisting Respondents the Buyer will offer all Respondents who have not been shortlisted a debrief. Each Respondent will have 30 Business Days, from the date of offer, to request a debrief. When a Respondent requests a debrief, the Buyer will

provide the debrief within 30 Business Days of the date of the request, or of the date the Contract is signed, whichever is later.

- b. The debrief may be provided by letter, email, phone or at a meeting. The debrief will:
 - i. provide the reasons why the Proposal was or was 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 advantage/s 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 the RFP process.



6.11 Notification of outcome

- a. At any point after conclusion of negotiations, but no later than 30 Business Days after the date the Contract is signed, the Buyer will inform all unsuccessful Respondents of the name of the Successful Respondent, if any. The Buyer may make public the name of the Successful Respondent and any unsuccessful Respondent. Where applicable, the Buyer will publish a Contract Award Notice on GETS.

6.12 Issues and complaints

- a. A Respondent may, in good faith, raise with the Buyer any issue or complaint about the RFP, or the RFP process at any time.
- b. The Buyer will consider and respond promptly and impartially to the Respondent's issue or complaint.
- c. Both the Buyer and Respondent agree to act in good faith and use their best endeavours to resolve any issue or complaint that may arise in relation to the RFP.
- d. The fact that a Respondent has raised an issue or complaint is not to be used by the Buyer to unfairly prejudice the Respondent's ongoing participation in the RFP process or future contract opportunities.

Standard RFP Conditions

6.13 Buyer's Point of Contact

- a. All enquiries regarding the RFP must be directed by email to the Buyer's Point of Contact. Respondents must not directly or indirectly approach any representative of the Buyer, or any other person, to solicit information concerning any aspect of the RFP.
- b. Only the Point of Contact, and any authorised person of the Buyer, are authorised to communicate with Respondents regarding any aspect of the RFP. The Buyer will not be bound by any statement made by any other person.
- c. The Buyer may change the Point of Contact at any time. The Buyer will notify Respondents of any such change. This notification may be posted on GETS or sent by email.
- d. Where a Respondent has an existing contract with the Buyer then business as usual communications, for the purpose of managing delivery of that contract, will continue using the usual contacts. Respondents must not use business as usual contacts to lobby the Buyer, solicit information or discuss aspects of the RFP.

6.14 Conflict of Interest

- a. Each Respondent must complete the Conflict of Interest declaration in the Response Form and must immediately inform the Buyer should a Conflict of Interest arise during the RFP process. A material Conflict of Interest may result in the Respondent being disqualified from participating further in the RFP.



6.15 Ethics

- a. Respondents must not attempt to influence or provide any form of personal inducement, reward or benefit to any representative of the Buyer in relation to the RFP.
- b. A Respondent who attempts to do anything prohibited by paragraphs 6.13.a. and d. and 6.15.a. may be disqualified from participating further in the RFP process.
- c. The Buyer reserves the right to require additional declarations, or other evidence from a Respondent, or any other person, throughout the RFP process to ensure probity of the RFP process.

6.16 Anti-collusion and bid rigging

- a. Respondents must not engage in collusive, deceptive or improper conduct in the preparation of their Proposals or other submissions or in any discussions or negotiations with the Buyer. Such behaviour will result in the Respondent being disqualified from participating further in the RFP process. In submitting a Proposal the Respondent warrants that its Proposal has not been prepared in collusion with a Competitor.
- b. The Buyer reserves the right, at its discretion, to report suspected collusive or anti-competitive conduct by Respondents to the appropriate authority and to give that authority all relevant information including a Respondent's Proposal.

6.17 Confidential Information

- a. The Buyer and Respondent will each take reasonable steps to protect Confidential Information and, subject to paragraph 6.17.c. and without limiting any confidentiality undertaking agreed between them, will not disclose Confidential Information to a third party without the other's prior written consent.
- b. The Buyer and Respondent may each disclose Confidential Information to any person who is directly involved in the RFP process on its behalf, such as officers, employees, consultants, contractors, professional advisors, evaluation panel members, partners, principals or directors, but only for the purpose of participating in the RFP.
- c. Respondents acknowledge that the Buyer's obligations under paragraph 6.17.a. are subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 1993, parliamentary and constitutional convention and any other obligations imposed by law. The Buyer will not be in breach of its obligations if Confidential Information is disclosed by the Buyer to the appropriate authority because of suspected collusive or anti-competitive tendering behaviour. 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.

6.18 Confidentiality of RFP information

- a. For the duration of the RFP, to the date of the announcement of the Successful Respondent, or the end of the RFP process, the Respondent agrees to keep the RFP strictly confidential and not make any public statement to any third party in relation to any aspect of the RFP, the RFP process or the award of any Contract without the Buyer's prior written consent.



- b. A Respondent may disclose RFP information to any person described in paragraph 6.17.b. but only for the purpose of participating in the RFP. The Respondent must take reasonable steps to ensure that such recipients do not disclose Confidential Information to any other person or use Confidential Information for any purpose other than responding to the RFP.

6.19 Costs of participating in the RFP process

- a. Each Respondent will meet its own costs associated with the preparation and presentation of its Proposal and any negotiations.

6.20 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. The Buyer may request the immediate return or destruction of any or all RFP documents and any copies. Respondents must comply with any such request in a timely manner.
- b. All documents forming the Proposal will, when delivered to the Buyer, become the property of the Buyer. Proposals will not be returned to Respondents at the end of the RFP process.
- c. Ownership of Intellectual Property rights in the Proposal remain the property of the Respondent or its licensors. However, the Respondent grants to the Buyer a non-exclusive, non-transferable, perpetual licence to retain, use, copy and disclose information contained in the Proposal for any purpose related to the RFP process.

6.21 No binding legal relations

- a. Neither the RFP, nor the RFP process, creates a process contract or any legal relationship between the Buyer and any Respondent, except in respect of:
 - i. the Respondent's declaration in its Proposal
 - ii. the Offer Validity Period
 - iii. the Respondent's statements, representations and/or warranties in its Proposal and in its correspondence and negotiations with the Buyer
 - iv. the Evaluation Approach to be used by the Buyer to assess Proposals as set out in Section 3 and in the RFP-Terms (as varied by Section 1, paragraph 1.6, if applicable)
 - v. the standard RFP conditions set out in paragraphs 6.13 to 6.26
 - vi. any other matters expressly described as binding obligations in Section 1, paragraph 1.6.
- b. Each exception in paragraph 6.21.a. is subject only to the Buyer's reserved rights in paragraph 6.23.
- c. Except for the legal obligations set out in paragraph 6.21.a. no legal relationship is formed between the Buyer and any Respondent unless and until a Contract is entered into between those parties.

6.22 Elimination

- a. The Buyer may exclude a Respondent from participating in the RFP if the Buyer has evidence of any of the following, and is considered by the Buyer to be material to the RFP:
 - i. the Respondent has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFP
 - ii. the Proposal contains a material error, omission or inaccuracy
 - iii. the Respondent is in bankruptcy, receivership or liquidation



- iv. the Respondent has made a false declaration
- v. there is a serious performance issue in a historic or current contract delivered by the Respondent
- vi. the Respondent has been convicted of a serious crime or offence
- vii. there is professional misconduct or an act or omission on the part of the Respondent which adversely reflects on the integrity of the Respondent
- viii. the Respondent has failed to pay taxes, duties or other levies
- ix. the Respondent represents a threat to national security or the confidentiality of sensitive government information
- x. the Respondent is a person or organisation designated as a terrorist by New Zealand Police.

6.23 Buyer's additional rights

- a. Despite any other provision in the RFP the Buyer may, on giving due notice to Respondents:
 - i. amend, suspend, cancel and/or re-issue the RFP, or any part of the RFP
 - ii. make any material change to the RFP (including any change to the timeline, Requirements or Evaluation Approach) on the condition that Respondents are given a reasonable time within which to respond to the change.
- b. Despite any other provision in the RFP the Buyer may:
 - i. accept a late Proposal if it is the Buyer's fault that it is received late
 - ii. in exceptional circumstances, accept a late Proposal where it considers that there is no material prejudice to other Respondents. The Buyer will not accept a late Proposal if it considers that there is risk of collusion on the part of a Respondent, or the Respondent may have knowledge of the content of any other Proposal
 - iii. in exceptional circumstances, answer a question submitted after the Deadline for Questions, if applicable
 - iv. accept or reject any Proposal, or part of a Proposal
 - v. accept or reject any non-compliant, non-conforming or alternative Proposal
 - vi. decide not to accept the lowest priced conforming Proposal unless this is stated as the Evaluation Approach
 - vii. decide not to enter into a Contract with any Respondent
 - viii. liaise or negotiate with any Respondent without disclosing this to, or doing the same with, any other Respondent
 - ix. provide or withhold from any Respondent information in relation to any question arising in relation to the RFP. Information will usually only be withheld if it is deemed unnecessary, is commercially sensitive to a Respondent, is inappropriate to supply at the time of the request or cannot be released for legal reasons
 - x. amend the Proposed Contract at any time, including during negotiations with a shortlisted Respondent
 - xi. waive irregularities or requirements in or during the RFP process where it considers it appropriate and reasonable to do so.
- c. The Buyer may request that a Respondent/s agrees to the Buyer:

- i. selecting any individual element/s of the Requirements that is offered in a Proposal and capable of being delivered separately, unless the Proposal specifically states that the Proposal, or elements of the Proposal, are to be taken collectively
- ii. selecting two or more Respondents to deliver the Requirements as a joint venture or consortium.

6.24 New Zealand law

- a. The laws of New Zealand shall govern the RFP and each Respondent agrees to submit to the exclusive jurisdiction of the New Zealand courts in respect of any dispute concerning the RFP or the RFP process.

6.25 Disclaimer

- a. The Buyer will not be liable in contract, tort, equity, or in any other way whatsoever for any direct or indirect damage, loss or cost incurred by any Respondent or any other person in respect of the RFP process.
- b. Nothing contained or implied in the RFP, or RFP process, or any other communication by the Buyer to any Respondent shall be construed as legal, financial or other advice. The Buyer has endeavoured to ensure the integrity of such information. However, it has not been independently verified and may not be updated.
- c. To the extent that liability cannot be excluded, the maximum aggregate liability of the Buyer, its agents and advisors is \$1.

6.26 Precedence

- a. Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:
 - i. Section 1, paragraph 1.6
 - ii. Section 6 (RFP-Terms)
 - iii. all other Sections of this 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 later information or document will prevail.