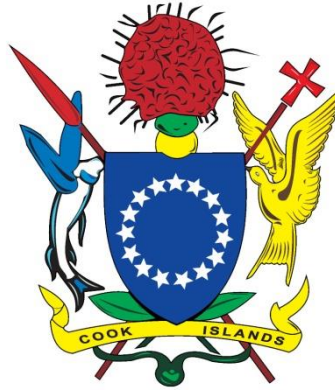


Request for Tender



Empire Bridge Replacement – Design Services

Reference No:	CK171809
Date of Release:	16 October 2017

Infrastructure Cook Islands

All queries regarding this Request for Tender should be directed to:

Contact Officer

solomona.solomona@cookislands.gov.ck

TENDER CLOSING TIME: 3:00pm (CI Time) Friday, 17 November, 2017

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GLOSSARY AND DEFINITIONS

TERM	EXPLANATION
BTIB	Business Trade Investment Board
Electronic Tender Account	Asia Pacific Public Electronic Procurement Network e-GP System https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home
Manual	The Cook Islands Government Financial Policies and Procedures manual
Policy	The Cook Islands Government Purchase and Sale of Goods and Services Policy
Principal	Infrastructure Cook Islands (ICI)
RFT	Request for Tender
Tender Team	The group of people responsible for the management of the tender process and includes those people who are specifically responsible to evaluate Tenders.
Working Days	Mondays to Fridays (except for Public Holidays)
Designated Site	Empire bridge and surrounds, Avarua, Rarotonga, Cook Islands
NES	National Environmental Services
MFEM	Ministry of Finance and Economic Management

INTRODUCTION

Summary of Requirements

Through this Request for Tender (RFT) the Principal wishes to implement the Empire Bridge Replacement Project. This RFT is for the engagement of Consultancy Services to undertake design services in relation to the design of the Empire Bridge Replacement at Avarua, Rarotonga, Cook Islands.

This RFT will identify Tenderers that are able to undertake the required Consultancy Services scope which includes;

- Review of existing information and reports including consultation with key project stakeholders.
- Concept design and cost estimate for replacement of the existing Empire Bridge in Avarua, Rarotonga.
- Submission & approval of minimum design standards to be adopted.
- Detailed bridge design including provision of design statement and calculations.
- For construction drawings and construction specifications.
- Tender documentation including; RFT documents, Contract documents (to NZS3910:2013), Schedule of Quantities (SoQ) and an Engineers estimate for the contract works.

RFT documentation can be uplifted via registering on the Cook Islands Government E-Government Procurement portal at:

<https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home>

RFT documentation can also be uplifted at www.procurement.gov.ck or www.ici.gov.ck

CONDITIONS OF TENDERING

All tenders should conform to the Conditions of Tendering, but must conform to the Mandatory Conditions as set out in this RFT.

Contact Officer

The Contact Officer for this tender is:

Name of Person: Solomona Solomona
Title: Procurement and Asset Manager
Address: Arorangi, Rarotonga, Cook Islands
Phone: +682 20321
E-mail: solomona.solomona@cookislands.gov.ck

Tender Registration

Prospective tenderers should register their interest to participate in this RFT process by registering on the Cook Islands Government E-Government Procurement portal at:

<https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home>

In order to participate in the tender process you will need to register as a supplier on the Portal. As part of registration you will need to specify relevant "Business Categories" for your business. This tender will be listed under the following category:

Category	Title
72141107	Bridge construction and repair service

Prospective tenderers should include this category when registering on the system.

Should there be any issues registering please advise the contact officer as soon as possible and alternative registration processes will be advised. The Contact Officer will acknowledge receipt of the registration. Only registered tenderers will receive notices directly as and when they are issued. It is the responsibility of the tenderer to ensure they are properly registered for this RFT. The Principal reserves the right to extend the list of registered Tenderers beyond those who register interest in this RFT.

Once the Tender is published on the portal any suppliers registered will receive automatic advice of the tender and a link to access tender documentation via the Electronic Tender Account. Submission of tenders will be through the same account.

Suppliers who register after the tender is published will receive notification of the tender upon registration.

Tender Closing Time

Tenders must be received by the Electronic Tender Account or in the tender box specified by the following deadline, or they will not be considered:

Tender Closing Time and Date: 3.00pm (CI Time) Friday, 17 November, 2017

It is the tenderer's responsibility to ensure that their tender reaches the Infrastructure Cook Islands office in Arorangi, Rarotonga, Cook Islands and is placed in the designated Tender Box and/or posted to the Electronic Tender Account (<https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home>), by the specified closing date and time.

Late tenders will not be accepted.

Submission of Tender

The cost of preparing and submitting the Tender shall be borne by the Tenderer.

The Principal may vary the Tender Specifications described in Attachment 1 at any time, including the closing date, by notice in writing to the Tenderers still involved in the RFT at the time the Tender Specifications are varied.

Tenders shall be submitted in either hard copy or electronic copy, as specified below only.

Telefax tenders will not be accepted.

Hard Copy Submission:

Original hard copy tenders shall be packaged and labelled "CONFIDENTIAL" and have the following information clearly exhibited on the outside:

Name of the Principal: Infrastructure Cook Islands

Tender: Empire Bridge Replacement – Design Services, Reference No: CK171809

Tender Closing Time: 3.00pm (CI Time) Friday, 17 November, 2017

Hard copy tenders must be placed in the Tender Box located at the Infrastructure Cook Islands office reception in Arorangi, Rarotonga, Cook Islands and submitted in the format contained in Attachment 2 – Forms to be submitted, by the due date. Failure to do so will result in the tender being disqualified.

Electronic Copy Submission:

Electronic copy tenders must be submitted through the Electronic Tender Account in the format contained in Attachment 2 – Forms to be submitted, by the due date. Failure to do so will result in the tender being disqualified.

The default portal is the Asia Pacific Public Electronic Procurement Network e-GP System (refer <https://in-tendhost.co.uk/adbprocurementnetwork/asp/Home>). The title and reference number of this document is the tender identifier.

The tender form shall be submitted in Microsoft Word format. Additional documents should be submitted in PDF format. Tenderers should seek approval for any other alternative electronic formats. If offers do not comply with the approved formats they will be deemed non-compliant and may not be accepted.

If the supplier is not able to access or upload tender documents through the default CIG Procurement Portal they should first seek guidance from the user guide using the following link

<https://in-tendhost.co.uk/adbprocurementnetwork/asp/BuyerProfiles>

or by clicking the “user guides” tab on the portal. Thereafter further guidance may be available through the Contact Officer.

If still not successful the Contact Officer will arrange a secure email tender account for the upload of documents. The Electronic Tender Account will send a confirmation of receipt email in response to your electronic submission and the time of upload will be used to confirm the date and time of upload. If you do not receive a confirmation of receipt email within five working days please contact the Contact Officer for this tender.

If offers do not comply with the approved formats they will be deemed non-compliant and may not be accepted.

Conflict of Interest Declaration

Tenderers must complete the Conflict of Interest Declaration form in Attachment 2 to disclose any potential or actual conflicts of interest that they may have or may be perceived to have, in respect of their responsibilities to the Principal and other parties should they be selected as the successful Tenderer. Where potential or actual conflicts of interests are identified, the Tenderer must specify how this will be managed in order to provide assurance that it will not adversely impact the performance of any services.

Further information or clarifications

Negotiations will not be permitted between the Tender Team and any prospective tenderers during the tender advertising period. However, prospective tenderers may seek clarification of the tender documents prior to submitting their tenders.

Any further information or clarification required by a Tenderer in relation to this RFT must be directed to the **Contact Officer**. Tenderers should note that to ensure no disadvantage to any tenderers, responses to questions pertaining to this RFT will be circulated to all those who have registered their interest.

Where the Principal considers that the competitive advantage of the individual Tenderer may be compromised by the distribution of responses to such requests for information and/or clarification to all Tenderers, the Principal reserves the right to issue such response(s) only to that particular Tenderer.

Any additional information relating to this RFT will be circulated to all registered suppliers via the E-Government Procurement portal and emailed to all registered Tenderers as a Notice to Tenderers.

Details of questions and answers provided during the tender process will be logged in the Electronic Tender Account accessible by all registered tenderers.

Probity

No gifts or entertainment of any nature will be permitted between any parties involved throughout the tender process, including: tenderers or potential tenderers, tender team members, evaluation team members, the Head of Agency, or any other member or organisation that may have an involvement with any aspect of the tender process.

Selection Process

All tenders received in the Tender Box or Electronic Tender Box by the closing date and time will be assessed on whether they have conformed to the Mandatory Conditions. Failure to comply with these conditions will result in immediate exclusion from the Evaluation process. All Tenders deemed compliant will then proceed to the evaluation stage.

Evaluation of the responses to this RFT will be in accordance with the Evaluation Criteria described in Attachment 3.

Notification of Acceptance

Tenders shall remain valid for acceptance and shall not be withdrawn for a period of sixty (60) working days from the Closing Date of the tender.

Unsuccessful tenderers shall be notified in writing by the Principal or their representative within ten (10) working days of acceptance of the successful tender.

If no tender is accepted by the Principal within twenty (20) working days after the Closing Date, each tenderer will be notified in writing by the Principal or their representative whether their tender is still under consideration or is no longer being considered.

When the preferred Tenderer has been identified, the Principal will invite the Tenderer to enter into negotiations based on the draft contract in Attachment 4 to this RFT. Only when both parties have agreed to the terms of the contract and executed the contract, will the Principal formally issue a Letter of Acceptance to the successful Tenderer.

The successful tenderer will be notified by the Principal or their representative in writing on a date yet to be confirmed, but within sixty (60) working days from the Closing Date of the tender.

The Tender Evaluation Team reserves the right to contact referees and/or customers regarding the performance of the tenderer as it may pertain to this RFT.

The Principal shall not be bound to accept the lowest priced tender or the highest scored tender or any tender.

Tenderers are entitled to the release of their evaluation report on request. Any requests for evaluation reports of other tenders must be processed under the Official Information Act 2009.

Tenderers have the right to make a complaint and may do so under the complaints process of the Cook Islands Government Purchase and Sale of Goods and Services Policy.

If no tender has been accepted within the period stated, the Principal will notify all Tenderers that no tender was accepted and may:

- Invite all Tenderers to provide additional information; and/or
- Re-advertise the RFT and extend the closing date of the Tender. Tenderers may either resubmit their tender or provide additional information to support their existing Tender already received by the Principal

At the conclusion of the tender process the outcome will be published on the procurement website showing the names of the successful Tenderer.

Confidentiality

Drawings, Specifications, Schedules and written technical information supplied to Tenderers shall not be used for purposes other than the preparation of a Tender without the approval of the Principal. Information submitted by a Tenderer shall be regarded as confidential and shall not be disclosed to a third party except with the prior written agreement of the Tenderer.

Non-Resident Tenderer

In order for foreign companies to carry out business in the Cook Islands, an application for, and approval, must be sought from the Business Trade Investment Board (BTIB). Any fees associated with the registration are to be covered by the Tenderer. Tenderers should inform themselves of the registration process and confirm in their Tender that they are willing to register once a Letter of Acceptance is issued. Information can be found at www.btib.gov.ck.

MANDATORY CONDITIONS

All tenders must conform to the Mandatory Conditions below. Any tender that fails to comply with one or more of the mandatory requirements will be deemed non-compliant and will be excluded from the evaluation process. Mandatory Conditions below are also reflected in Attachment 3 – Evaluation Criteria.

1. Tenders must be completed in the format contained in Attachment 2 of this RFT. If offers do not comply with the format contained in Attachment 2, they will be deemed non-compliant and may not be accepted.
2. Tenders must be deposited in the required form in the Tender Box or the Electronic Tender Account by the closing time as specified in this RFT.
3. All tenders and related documentation in respect of this RFT may be presented in the English or Maori language. Tenders presented in Maori or any other language must be provided with an English translation.
4. Tenderers must tender to provide services for the whole of the works/ services as specified in the Tender Specifications.
5. Tenders must be presented in hard copy format and/or electronic copy format as specified in this RFT. Telefax tenders will not be accepted.
6. All prices quoted must be landed inclusive of freight and relevant charges to the final point of delivery.
7. All prices must be in New Zealand dollars.

SPECIAL CONDITIONS

Tenderers are to, upon request from the Principal, provide evidence that they have sufficient funds / cashflow to undertake the consultancy services required by this RFT prior to the signing of the contract and any payment being made.

ATTACHMENT 1 – TENDER SPECIFICATION REQUIREMENTS

Refer to Terms of Reference: Empire Bridge Replacement – Design Services

ATTACHMENT 2 – TENDER FORMS TO BE SUBMITTED

Instructions

1. Tenderers must complete and submit all of the following forms, in the formats provided in this Attachment:
 - A1 – Form of Tender
 - A2 – Conflict of Interest Declaration
 - A3 – Completed Schedule of Prices
 - A4 – Proposed Subcontractors (*if applicable*)
 - A5 – Preliminary Delivery Programme
 - A6 – List of Referees you may contact in relation to this offer.

2. Tenderers who fail to supply all of the items listed in above, will be deemed non-compliant and will be excluded from the tender evaluation process.

A1 – Form of Tender

Infrastructure Cook Islands

PO Box 102
Arorangi, Rarotonga
COOK ISLANDS

Tender For:	Empire Bridge Replacement – Design Services
Supplier:	[Name of supplier]

Having examined the Tender Documents in relation to Tender Reference No. CK171809 and dated __/__/__, released by Infrastructure Cook Islands, we submit the following offer.

We offer to complete, handover to the Principal and remedy defects in the whole of the said Tender Specifications in conformity with these Tender Documents for the sum of [insert the price offered in text with the value in numbers thus (NZD\$_____.)] stated exclusive of Value Added Tax, together with such other sums as may be ascertained in accordance with the Contract.

We acknowledge receipt of Notices _____ to _____.

We **agree/do not agree** to the Terms and Conditions of the Purchase Agreement in Attachment 4 of the said tender and do not propose any amendments.

We undertake to complete and handover of the **whole/parts** of the Contract Works/Goods/Services within the period stated in the Conditions of Tendering.

We agree to abide by this Tender for a period of sixty (60) days from the date fixed for receiving the same and it shall remain binding upon us and may be accepted by you at any time before the expiry of that period.

Unless and until a Contract Agreement is prepared and executed, this Tender together with your written acceptance thereof, shall constitute a binding contract between us.

We understand that you are not bound to accept the lowest or any Tender you may receive.

We understand that no contract shall come into existence, and no legal or other obligations shall arise between us and you (or between us and any other agent of the Principal) in relation to the conduct, outcome or otherwise of the Tender process, prior to and apart from your acceptance of our Tender.

We understand that you may contact the referees nominated by us in this offer and make whatever enquiries you deem necessary regarding our financial health and ability to deliver the Contract Works/Goods/Services. Further, during the assessment stage we understand and agree that you may request specific information from all tenderers in order to assist your assessment. We acknowledge that a failure to provide such information may result in disqualification from the process.

We provide the following information required to be submitted with this Tender:

- A2 – Conflict of Interest Declaration
- A3 – Completed Schedule of Prices
- A4 – Proposed Subcontractors *(if applicable)*

- A5 – Preliminary Delivery Programme
- A6 – List of Referees you may contact in relation to this offer.

If the tenderer is unable to agree to any clauses included in the Conditions to the Contract, it must set out in a table form the clause reference, reason why the tenderer cannot accept it and proposed alternative wording.

Tenderers details:

Tenderers full name:

Tenderers trading name (if Company):

Contact person (if Company):

Postal address:

Physical address:

Phone number:

Mobile:

Email address:

Signature

Date

Full Name

Position (if Company)

A2 – Conflict of Interest Declaration

A conflict of interest arises if you or a close family member has an interest e.g. is a board or committee member or is employed in a senior position in the Government agency that wants to purchase the goods or services relating to this tender process.

In submitting this tender I make the following declarations:

- I understand that an actual, potential or perceived conflict of interest may arise in participating in this tender and that I am obliged to declare any such conflict of interest.
- I confirm that in submitting this information that I have either declared any potential conflicts of interest in my Tender or that I am not be aware of any situation or issue that would conflict with the interest of the Principal.
- If a conflict of interest arises at any time before or until the selected tenderer has been awarded this tender, I will advise the Contact Officer or the Principal immediately.
- I have personally completed this declaration on behalf of the Tenderer(s) and declare that the above particulars provided here and in the attached documents are true and correct.

I declare that I have a potential conflict of interest as follows:

I will manage this conflict of interest by:

Declared by:

<i>Signature</i>	<i>Date</i>
<i>Full Name</i>	<i>Position (if Company)</i>

A3 – Completed Schedule of Prices

A Schedule of Prices must be included and must clearly show the VAT exclusive amount, the VAT amount and the total inclusive VAT amount.

Principal:	INFRASTRUCTURE COOK ISLANDS			Status:	FOR RFT
Contract:	Empire Bridge Replacement Project – Design Services			Revision:	B
Contract No:	TBC			Date:	21/09/2017
Item	Description	Unit	Quantity	Rate	Amount
Empire Bridge Replacement – Design Services					
000.1	Empire Bridge replacement concept design				
	Review the supplied project information, propose minimum design standards to be adopted for the Empire Bridge replacement, finalise Empire Bridge Replacement concept design and Concept design cost estimate.	LS	1		\$ -
000.2	Empire Bridge Replacement NES Submission				
	NES Environment Submission including preparation of an Environmental Impact Assessment in line with requirements of the NES (Provisional Item)	LS	1		\$ -
000.3	Empire Bridge Replacement Detailed Design				
	Complete detailed design including completion of construction drawings, calculations, material requirements specifications and design report.	LS	1		\$ -
000.4	Tender and contract documentation				
	Provision of tender documentation including; Request for tender documents and Contract documents (NZS3910:2013), Scheduling of Quantities (SoQ), Completed Engineers estimate for the contract works.	LS	1		\$ -
	The items in the Schedule of Prices together with the rates and sums entered are deemed to cover all works necessary for the completion of the services as per the Terms of Reference: Empire Bridge replacement – Design Services and to the satisfaction of the Principal. Items have been provided in the Schedule of Prices for key activities, and the rates and sums entered against them cover all requirement, minor items, travel expenses and the like, together with the cost of complying with all general obligations imposed by the Contract. Except where identified separately in the Schedule of Prices, all miscellaneous items not specifically mentioned, project management, profit plus general overhead administration are incorporated in the rates and sums entered in the Schedule of Prices.				
	The cost of any item not specifically referred to in the Schedule of Prices is deemed to be spread over and included in the price or prices for other items in the Schedule of Prices which are most closely appropriate for the work not specifically referred to.				
	SUB-TOTAL				\$ -
				Total (excluding VAT)	\$ -
				VAT (15%)	\$ -
				Total (including VAT)	\$ -

A4 – Proposed Subcontractors (if applicable)

Subcontractor details:

Subcontractors full name:

Subcontractor s trading name (if Company):

Contact person (if Company):

Postal address:

Physical address:

Phone number:

Mobile:

Email address:

Works/Skills to be performed:

Educational/Technical Qualifications:

Work Experience:

Potential or Actual Conflicts of Interest:

A5 – Preliminary Delivery Programme

This should include the Tenderers delivery schedule and be generally in line with the proposed Outputs and Timeline, or a suggested alternative. The Preliminary Delivery Programme is to be completed by the Tenderers in the form set out below or other form such as Microsoft Project or similar.

No.	Activity	Weeks										
		1	2	3	4	5	6	7	8	9	10	n
1												
2												
3												
4												
5												
6												
7												
8												
n												

A6 – List of Referees who may be contacted

Name: _____

Company: _____

Address: _____

E-mail Address: _____

Phone No.: _____

Facsimile No.: _____

Nature of Relationship with Tenderer: _____

Name: _____

Company: _____

Address: _____

E-mail Address: _____

Phone No.: _____

Facsimile No.: _____

Nature of Relationship with Tenderer: _____

ATTACHMENT 3 – EVALUATION CRITERIA

The Mandatory Conditions have been drawn from the Conditions of Tendering in this RFT. Tenders that do not meet the Mandatory Conditions are deemed non-compliant, and will not proceed into Evaluation.

Mandatory Conditions

Tenders must pass all of the following requirements. Tenders that do not meet one or more of these conditions are deemed non-compliant and will not be considered.

Criterion	Complies Yes or No
1. Tender must be completed in the format contained in Attachment 2 of the RFT.	
2. Tenders must be deposited in the required form in the Tender Box and/or the Electronic Tender Account by the closing time specified in the RFT	
3. Proposal and related documentation must be in the English language or translated into English.	
4. Tenderers must tender to provide the whole of the works/goods/services specified in the RFT.	
5. Tenders must be presented in hard copy and/or electronic copy format as specified in this RFT only.	
6. All prices quoted must be landed inclusive of freight and relevant charges to final point of delivery.	
7. All prices must be in NZ dollars	

A Weighted Criteria methodology will apply to the evaluation of this RFT generally as follows:

Criteria	Weight %
<u>Non-Price Criteria</u>	
1. Locally established company or use of local resources <ul style="list-style-type: none"> • Local company/use of local resources (noted that the use of local resources is encouraged by international Tenderers undertaking works within the Cook Islands.) 	2.5
2. Acceptance of the Contract Terms	2.5
3. Management and Methodology <ul style="list-style-type: none"> • Proven ability to work with diverse stakeholders such as governments, development partners, general public and NGO’s • Availability of key personnel to effectively drive the proposed project • Proven ability to communicate in a clear and concise manner in writing and orally 	10

<ul style="list-style-type: none"> • Procedures and innovative methods the tenderer proposed in order to achieve key results <ul style="list-style-type: none"> I. Works program II. Community consultations III. Bridge Design IV. Project cost control V. Proven ability to meet strict deadlines 	
<p>4. Relevant Skills and key personnel</p> <ul style="list-style-type: none"> • Appropriate advanced educational qualifications and experience relating to the required Scope • Relevant skills in community consultations • Relevant skills of technical personnel employed on the project • An extensive knowledge of structural, geotech and civil works and design within the Pacific Islands 	10
<p>5. Experience and ability related to services</p> <ul style="list-style-type: none"> • Proven experience in undertaking cost estimates in the pacific and Cook Islands. • Detailed knowledge of the technical, engineering and technological systems bridge design • Demonstrated knowledge and experience of the impacts of Climate Change and sea level rise in Pacific Island Countries and Cook Islands. 	15
Total Non-Price Elements	40
Price	60
TOTAL WEIGHTING	100

Risk

The Evaluation Committee will conduct a Risk Assessment for each Tender submitted. This will identify the most significant risks presented by the Tender and consider the likelihood of the risk occurring; the consequence of that risk; and a risk mitigation strategy. In conclusion, the mitigated risk will be determined to form an overall measure of the risk represented by each Tender.

The risk mitigation strategy may include the inclusion of specific clauses in the executed contract. Therefore, a Tender considered to be high risk might still be selected subject to the Tenderer's willingness to accept the proposed contract amendments.

ATTACHMENT 4 –**CONTRACT FOR THE ENGAGEMENT OF A CONSULTANT****Schedule**

Government: Her Majesty the Queen in right of the government of the Cook Islands acting by and through the Secretary of Infrastructure Cook Islands

Signed: _____

Name:

Position:

Date:

Consultant: [Insert Consultant details]

Signed: _____

Name:

Position:

Date:

Project: Empire Bridge Replacement – Design Services

Location: Avarua, Rarotonga, Cook Islands

Scope and Nature of the Services: Undertaking of the design services relating to the Empire Bridge Replacement Project on behalf of the Cook Islands Government. Scope is as per the RFT and Terms of Reference.

Programme for the Services: It is anticipated that the required scope will be undertaken within a 12 Week programme, as per the Outputs section of the Terms of Reference: Empire Bridge Replacement – Design Services.

Fees and Timing of Payments:

The contract price is both time and milestone based. The Tenderer is required to include all professional fees; travel cost, per diems and other administrative costs to undertake the full scope of the works.

Payments will be made based on the milestones as detailed below:

Milestones	Description	Amount	% of Contract Fee
Milestone 1	Finalised concept design and costing.	TBA	20%
Milestone 2	70% Detailed design, design report and final NES EIA submission.	TBA	40%
Milestone 3	Detailed design and design report.	TBA	30%
Milestone 4	Completion of Tender and contract documentation.	TBA	10%
	Total	TBA	100%

Insurance:

The Consultant shall take out and maintain for the duration of the Services a policy of Professional Indemnity insurance for the minimum liability amount of \$5,000,000. The Consultant undertakes to use all reasonable endeavours to maintain a similar policy of insurance for six years after the completion of the Services.

The Consultant shall take out and maintain life, health, medical and travel insurance for the duration of the travel and Services within the Cook Islands.

The Consultant shall be responsible for meeting all costs relating to their staff and equipment during the undertaking of the Services.

Contact Person:

Government Contact: For correspondence concerning the undertaking of the contract works;

Gareth Clayton
 Manager Projects Unit
 Infrastructure Cook Islands
 Gareth.clayton@cookislands.gov.ck

Supplier Contact:

Name:
 Position:
 Company:
 Email:
 Phone:

Key Personnel:

Name:	
Position:	
Specialisation:	
Name:	
Position:	
Specialisation:	
Name:	
Position:	
Specialisation:	

Special Conditions: Upon request from the Principal, the consultant is to provide evidence that they have sufficient funds / cashflow to undertake the services required by the contract prior to the signing of the contract and any payment being made.

CONDITIONS OF ENGAGEMENT: CONSULTANT

The Government agrees to engage the Consultant and the Consultant agrees to provide the Services described in the Schedule.

1. **Services:** The Consultant shall perform the Services as described in the attached Schedule.
2. **Skill:** In providing the Services the Consultant shall exercise the degree of skill, care and diligence normally expected of a competent professional.
3. **Independent Judgment:** Where the Services require the Consultant to certify, decide or use discretion under a contract between the Government and a third party, the Consultant must act independently, and with professional skill and judgment, and according to the terms of the contract between the Government and the third party.
4. **Key Personnel:** The Key Personnel for the provision of the Services are as listed in the Schedule. Any change to the Key Personnel requires the written consent of the Government.
5. **Confidentiality:** The Consultant must keep confidential all information provided by the Government in relation to this Agreement and not disclose the same without the written consent of the Government.
6. **Public Statements:** The Consultant must not make any public statements about the Services or this Agreement without the Government's written approval.
7. **Delay:** If at any time the Consultant's performance falls behind the programme set out in the Schedule then the Consultant shall notify the Government and, where the delays are due to matters within the control of the Consultant, shall take all practicable steps to remedy such delay.
8. **Information:** The Government shall provide to the Consultant, as soon as practicable following any request for information, all information in his or her power to obtain which may relate to the Services. The Consultant shall not, without the Government's prior consent, use information provided by the Government for purposes unrelated to the Services.
9. **Variations:** The Government may order variations to the Services in writing or may request the Consultant to submit proposals for variation to the Services. Where the Consultant considers a direction from the Government or any other circumstance is a Variation the Consultant shall notify the Government as soon as practicable.
10. **Payment:** The Government shall pay the Consultant for the Services the fees and expenses at the times and in the manner set out in the Schedule and all amounts are payable in New Zealand dollars.
11. **Purchase of Goods:** Where Services are carried out on a time charge basis, the Consultant may purchase such incidental goods and/or services as are reasonably required for the Consultant to perform the Services. The cost of obtaining such incidental goods and/or services shall be payable by the Government provided that the Consultant first obtains the written consent of the Government.
The Consultant shall maintain records which clearly identify time and expenses incurred.
12. **Liability:** Where the Consultant breaches this Agreement, the Consultant is liable to the Government for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by the breach. Neither the Government nor the Consultant shall be liable to the other under this Agreement for indirect, consequential or special loss, or loss of profit, however arising, whether under contract, in tort or otherwise.

13. **Insurance:** The Consultant shall take out and maintain for the duration of the Services such insurances as are specified in the Schedule.
14. **Contribution to Loss:** If either Party is found liable to the other (whether in contract, tort or otherwise), and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party shall only be liable to the proportional extent of its own contribution.
15. **Intellectual Property:** Intellectual property prepared or created by the Consultant in carrying out the Services ("New Intellectual Property") shall be owned by the Government. Intellectual property owned by a Party prior to the commencement of this Agreement and intellectual property created by a Party independently of this Agreement remains the property of that Party. The ownership of data and factual information collected by the Consultant and paid for by the Government shall, after payment by the Government, lie with the Government.
16. **Termination:** The Government may suspend all or part of the Services by notice to the Consultant who shall immediately make arrangements to stop the Services and minimise further expenditure. The Consultant may, in the event the Government is in material default, terminate the Agreement by notice to the Government. Any suspension or termination shall not prejudice or affect the accrued rights or claims and liabilities of the parties.
17. **Jurisdiction:** This Agreement is governed by the Cook Islands law and the Cook Islands courts have jurisdiction in respect of this Agreement.
18. **Assignment:** The Consultant must not assign, transfer or subcontract all or part of its rights or obligations under this Agreement without the Government's written consent, such consent to be provided at the Government's absolute discretion.
19. **General Warranties:** The Consultant represents, warrants and undertakes that:
 - a. it has full power, capacity and authority to execute, deliver and perform its obligations under this Agreement;
 - b. it has and will continue to have, all necessary consents, permissions, licences and rights to enter into and perform its obligations under this Agreement;
 - c. there are no existing agreements, undertakings or arrangements which prevent it from entering into this Agreement or which would impede the performance of its obligations under this Agreement;
 - d. it has not offered any inducement in connection with the entering into or negotiation of this Agreement; and
 - e. it has not (nor is any of its representative directors or employees) a party to any litigation, proceedings or disputes which could adversely affect its ability to perform its obligations under this Agreement.
20. **Dispute Resolution:** In the event of a dispute arising between the parties in relation to this contract, the parties will negotiate a resolution in the first instance. If within five days of the dispute arising there is no resolution by negotiation, one party must give notice to the other party that the dispute is to be resolved by mediation. The parties will agree to an independent mediator being appointed to assist with resolving the dispute. If the dispute cannot be resolved by mediation or a mediator cannot be agreed by the parties within five days of the notice of mediation the parties may seek the appointment of a mediator by the Chief Justice of the Cook Islands. If the dispute remains unresolved the parties shall seek resolution under the Arbitration Act 2014.