

PART 1



Central Highlands
Regional Council

PART 1
INVITATION TO TENDER
TENDER CONDITIONS

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| Invitation to Tender: | House and Land 70 Wattle Street, Blackwater Lot 6903 CP B33776 |
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| Closing Time: | 8:00am – 11 June 2021 |
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| Tender Number: | 2021Q171E |
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1. Definitions

1.1 In this Invitation to Tender, except where the context otherwise requires:

‘Closing Time’ means 8:00am 11 June 2021 Australian Eastern Standard Time.

‘Confidential Information’ means any technical, commercial, or other information, ideas, concepts, know-how, data, drawings, specifications or designs of any kind:

- (a) owned by the Principal and supplied or made available by the Principal to the Respondent ; or
- (b) created by the Respondent, from the material supplied or made available to the Respondent by the Principal for the purposes of lodging the Tender.

‘Contact Person’ means

1. Kylie Hema, Housing Officer, Central Highlands Regional Council, khema@chrc.qld.gov.au or phone (07) 4986 8418
2. Lisa Conway, Housing Officer, Central Highlands Regional Council, lconway@chrc.qld.gov.au or phone (07) 4980 6310
3. Andrea Hewitt, Coordinator Property Services, Central Highlands Regional Council, ahewitt@chrc.qld.gov.au or phone (07) 4980 6372

‘Contract’ means the formal document which constitutes or evidences or, as the case may be, all the documents which constitute or evidence the final and concluded agreement between the Principal and the successful Respondent in the form, and on the terms and conditions, of the instrument set out in Part 4 – Draft Contract for Houses and Residential Land Draft Contract for Houses and Residential Land , and the variable information submitted by the successful Respondent in, and with, the successful Respondent’s Tender.

‘Council Offices’ means either:

- (a) 65 Egerton Street Emerald; or
- (b) 10 Mackenzie Street Blackwater; or
- (c) 4 Conran Street, Capella; or
- (d) 12 William Street, Duaringa; or
- (e) 29 Eclipse Street, Springsure.

‘Council’s Website’ refers to www.centralhighlands.qld.gov.au where Tenders will be located under ‘About Council, Working with Council, Council land and property for sale’.

‘Day’ means calendar day

‘GST’ means the goods and services tax under the GST Act.

‘GST Act’ means *A New Tax System (Goods and Services Tax) Act 1999* and includes other GST related legislation.

‘Invitation to Tender’ means all the Principal-issued documents mentioned in clause 4.1.

‘Local Government’ means a local government for a local government area described by regulation under the *Local Government Act 2009*.

‘Personal Information’ has the meaning given in the *Information Privacy Act 2009*.

‘Principal’ means Central Highlands Regional Council.

‘Property’ means any one or more of the dwellings and outbuildings (for example, a garden shed) located at 70 Wattle Street, Blackwater detailed in the Part 2 – Specifications.

‘Property Description’ means the document detailing the description of all the Property available for purchase comprising Part 2 of the Invitation to Tender, including any amendment or addition to the Property Description.

‘Relevant Person’ means a Respondent and each person engaged in the preparation of a Tender on behalf of a Respondent.

‘Respondent’ means a person who submits a Tender.

‘Respondent’s Tender Form’ means the Respondent’s Tender Form comprising Part 3 of the Invitation to Tender.

‘RTI Act’ means the *Right to Information Act 2009*.

‘Specification’ means the document comprising Part 2 of this tender, including any amendment or addition to the Specification.

‘Submission’ means the Respondent Submission Form comprising Part 3 of this tender, including any templates or attachments to be completed and included in the Submission, and lodged in response to this Tender.

‘Tender’ means a Respondent’s Tender Form duly completed by the Respondent, including any templates or attachments to be completed and included in the Tender, and lodged in response to this Invitation to Tender.

2. Interpretation

In this Tender:

- 2.1 The singular includes the plural and vice versa and a gender includes other genders.
- 2.2 A reference to a party is to be construed as a reference to a party to this Tender and includes successors and permitted assigns.
- 2.3 A reference to an item in a clause, schedule, annexure or appendix is a reference to an item in a clause of or schedule, annexure or appendix of this Tender and reference to this Tender includes its schedules and any annexures.
- 2.4 Where a word or phrase is given particular meaning, other parts of speech or grammatical forms of that word or phrase have corresponding meanings.
- 2.5 A reference to a document or agreement including this Tender includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time.
- 2.6 In this interpretation of this Tender, headings are to be disregarded.
- 2.7 A reference to legislation or to a provision of legislation (including subordinate legislation) is to the legislation as amended, re-enacted or replaced, and includes any subordinate legislation under it.
- 2.8 The words ‘including’ and ‘includes’ and any variants of those words, will be read as if followed by the words ‘without limitation’.

3. General

3.1 Introduction

- (a) The Principal is pleased to offer the opportunity to submit a Tender for the purchase of 70 Wattle Street, Blackwater Lot 6903 B 33776.
- (b) The Tender will be open for a minimum period of 21 days.

3.2 Timetable

The following timetable is indicative only and may be amended at any time in the absolute discretion of the Principal:

| Action | Time / Date |
|---|---------------------|
| Tender Release | 8:00am 11 May 2021 |
| Tender Closing Time | 8:00am 11 June 2021 |
| Finalisation of the evaluation process and notification to applicants | 25 June 2021 |

4. Structure of Invitation

4.1 The documents comprising the Invitation to Tender are, collectively:

- (a) Part 1 – Invitation to Tender/Tender Conditions (read and keep this part);
- (b) Part 2 – Specifications (read and keep this part);
- (c) Part 3 – Respondent Submission Form;
- (d) Part 4 – Draft Contract for Houses and Residential Land.

4.2 All parts of the Invitation to Tender must be read and construed together so that all parts are as far as possible consistent. Where the documents are inconsistent, the documents should be read and construed in the order of priority from document (a) to (c) as follows:

- (a) Invitation to Tender/Tender Conditions;
- (b) Specifications;
- (c) Draft Contract
- (d) Respondent Submission Form.

4.3 The Invitation to Tender is not an offer; it is an invitation to submit an offer for the purchase of the Property items in the Property Description.

5. Briefing / Site Inspection

5.1 A site inspection may be held by appointment only

5.2 Should a site inspection be requested, it can be done so by contacting the Contact Person.

5.3 A site inspection without raising a request through the Contact Person may be considered a non-compliance under this Tender.

6. Obtaining Information

- 6.1 The Principal will, via Council's Website, make the Invitation to Tender documents available to a Respondent.
- 6.2 Any additional information required by a Respondent may be obtained from the Contact Person, on Council's Website
- 6.3 Respondents must not direct requests for information to, or seek to discuss the tender process with, any Councillor or officer of the Principal other than the Contact Person.
- 6.4 The Principal will not be bound by any advice or information furnished by a Councillor or officer of the Principal with respect to the Invitation to Tender.
- 6.5 Information provided to a Respondent by or on behalf of the Principal:
- (a) will be for the convenience of the Respondent only, and, unless expressly incorporated into a Contract, will not form part of the Contract; and
 - (b) will carry no representation of accuracy, correctness, or adequacy.
- 6.6 If the Principal provides information to a Respondent, it may provide the information to all Respondents.
- 6.7 The Respondent authorises the Principal and its agents to contact any referee nominated by the Respondent.
- 6.8 The Principal may provide information to Respondents in electronic format.

7. Responsibilities of Respondent

- 7.1 Before submitting its Tender, a Respondent must:
- (a) carefully read and consider the Invitation to Tender and any other Tender related information made available by the Principal, including the process for responding to the Invitation to Tender; and
 - (b) read and consider all information relevant to the risks, contingencies and other circumstances relevant to the Invitation to Tender; and
 - (c) inform itself of the nature of the obligations it must discharge under the Invitation to Tender; and
 - (d) independently verify any information provided by or on behalf of the Principal, and satisfy itself that the information is adequate and accurate; and
 - (e) ensure that the information in its Tender is accurate and complete; and
 - (f) ensure that its Tender complies in all respects with the requirements of the Invitation to Tender.
- 7.2 In evaluating Tenders, the Principal will rely upon Respondents having complied with clause 7.1.
- 7.3 Failure to comply with clause 7.1 will not relieve a Respondent of responsibility to complete its purchase in accordance with its Contract.
- 7.4 The Principal will not reimburse any expenses or losses incurred by the Respondent in:
- (a) attending a briefing or site inspection; or
 - (b) preparing and submitting its Tender; or

- (c) participating in any post-Tender activities.
- 7.5 A Tender will not be considered if the Respondent or anybody on its behalf contacts, or offers, or gives anything to:
- (a) any Councillor of the Principal; or
 - (b) any officer or agent of the Principal,
- after the Principal publishes the Invitation to Tender.

8. Formal Requirements

- 8.1 The Respondent's Submission Form must be fully completed, and include all supporting documents and materials required by the Invitation to Tender and the Respondent's Submission Form.
- 8.2 In particular, the Respondent's Submission Form must contain the Respondent's:
- (a) full name; and
 - (b) Australian Business Number (if applicable); and
 - (c) street address, postal address (if different), email address and facsimile number for the service of notices.
- 8.3 If the Respondent operates as a firm, the Respondent's Submission Form must contain:
- (a) the full names and addresses of each member of the firm; and
 - (b) the business name under which the firm trades; and
 - (c) the firm's principal place of business address, postal address (if different), email address and facsimile number for the service of notices; and
 - (d) the firm's Australian Business Number; and
 - (e) the name and telephone number of a person authorised by the firm to represent it concerning the Tender.
- 8.4 If the Respondent is a corporation, the Respondent's Submission Form must contain details of the corporation's:
- (a) name; and
 - (b) business name (if applicable); and
 - (c) Australian Business Number; and
 - (d) registered office; and
 - (e) the principal place of business address, postal address (if different), email address and facsimile number for the service of notices; and
 - (f) the name and telephone number (if different from the address for service of notices) of a natural person who is authorised by the corporation to represent it concerning the Tender.
- 8.5 The Respondent's Submission Form must be duly executed in a manner that binds the Respondent.
- 8.6 The identity of a Respondent is fundamental to the Principal. For the purposes of a Tender, the Respondent is the person or persons named as the Respondent in the Respondent's Submission Form.

9. Conforming and Non-Conforming Tenders

- 9.1 A Tender will be treated as non-conforming if:
- (a) the Respondent has failed to supply any of the information required by, or has otherwise failed to comply with a requirement of, the Invitation to Tender; or
 - (b) the Tender has been expressed as subject to any condition or qualification, including any alteration to the Contract terms and conditions.
- 9.2 The Principal may decline to consider a Tender that is treated as non-conforming pursuant to clause 9.1.

10. Submission of Tender

- 10.1 Each Tender must be submitted:
- (a) by email to procurement@chrc.qld.gov.au and must include the tender number in the subject line; or
 - (b) by hand delivery to physical tender boxes at Council Offices and clearly marked with the tender number; and
 - (c) by the Closing Time.
- 10.2 The Principal may extend the Closing Time at its discretion.
- 10.3 A tender that is submitted after the Closing Time and/or otherwise than through procurement@chrc.qld.gov.au email or to a physical tender box will not be considered.
- 10.4 A Tender is irrevocable for 90 days after the Closing Time.

11. Opening of Tenders

- 11.1 Tenders will be opened after the Closing Time.

12. Tender Evaluation Process

- 12.1 Tenders will be evaluated by reference to the sound contracting principles in section 104 of the *Local Government Act 2009*, namely:
- (a) value for money; and
 - (b) open and effective competition; and
 - (c) the development of competitive local business and industry; and
 - (d) environmental protection; and
 - (e) ethical behaviour and fair dealing.
- 12.2 Each Tender will be evaluated using the information in and with the submitted Respondent's Submission Form.
- 12.3 If a respondent's Submission Form for a Tender is not fully completed or does not include all supporting documents and materials required by the Invitation to Tender and the Respondent's Submission Form, the Tender may be rejected.
- 12.4 If requested by the Principal, a Respondent must:
- (a) provide further information relating to its Tender; and

- (b) give a presentation at a time and place nominated by the Principal to demonstrate the Respondent's financial substance, technical capabilities, resources and other relevant capabilities.
- 12.5 In evaluating Tenders, the Principal may make its own assessment of the Respondent's ability to carry out the Contract obligations.
- 12.6 Respondents must give the Principal any cooperation and assistance reasonably requested to facilitate consideration of their Tenders.
- 12.7 In evaluating each Tender, the Principal will apply the following criteria:

| Description of Compliance Criteria | |
|---|----------|
| (a) Compliance with the terms and conditions of the Tender | Yes / No |
| (b) Compliance with lodgement of this Respondent's Submission Form through email to procurement@chrc.qld.gov.au or via lodgement in a physical tender box at a Council Office as identified in the Conditions. | Yes / No |

| Evaluation Criteria and Definitions | Information Required |
|--|--|
| Is the Tenderer intending to occupy the property after settlement if they are the successful Tenderer? | Yes./ No |
| Does the Tenderer currently own or have owned any other property? | Yes / No |
| Local Preference- <ol style="list-style-type: none"> 1. Currently resides in Blackwater. 2. Currently resides in the Central Highlands Regional Council area. 3. Currently resides outside the Central Highlands Regional Council area. | Currently reside in: Yes / No Yes / No Yes / No |
| Capability Acceptance of the sale terms and conditions as set out in Part 4 – Contract for Houses & Residential Land | Yes / No |
| Price and Value for Money Purchase price offered | Lump sum |

Submissions will be scored on the above between 0 and 10.

13. Clarifications and Variations

- 13.1 The Principal may issue to Respondents, through email and online at Council website before the Closing Time:
- (a) additional information; and
 - (b) information clarifying or correcting information previously provided.
- 13.2 After the Closing Time, the Principal may (without limiting its options), invite all Respondents to change their Tenders in response to an alteration to the Property Description or any of the terms and conditions of the Invitation to Tender.

14. Confidentiality

- 14.1 The Respondent:
- (a) acknowledges that the Confidential Information is sensitive and valuable, and will remain at all times the property of the Principal; and
 - (b) must not use the Confidential Information for any purpose other than preparing its Tender; and
 - (c) must not copy any material comprising or containing Confidential Information, other than where (and then only to the extent that) copying is necessary to enable it to prepare its Tender; and
 - (d) must allow access to the Confidential Information by Relevant Persons only to the extent necessary to enable the Tender to be prepared; and
 - (e) must obtain the Principal's written consent before disclosing Confidential Information to a person other than a Relevant Person.
- 14.2 The consent of the Principal to disclosure of the Confidential Information by the Respondent may be given conditionally or unconditionally or may be withheld with our without giving reasons.
- 14.3 The Respondent's obligation under this clause 14 continues after closure of Tenders and the award of the Contract (if any).
- 14.4 The Principal reserves the right to retrieve from a Relevant Person any Confidential Information held by that person, subject to the Principal having given written notice to the Respondent in writing that the Relevant Person is to be denied access to the Confidential Information.
- 14.5 Failure or delay by the Principal in enforcing strict compliance with this clause 14 or pursuing a remedy under this clause 14 will not constitute a waiver or implied variation of the entitlement or remedy.
- 14.6 This clause 14 will not apply to an item of Confidential Information where the Respondent can establish that:
- (a) the item has been transferred to the public domain through no fault of the Respondent; or
 - (b) the item was already in the Respondent's possession when it was supplied or made available by the Principal, and not acquired directly or indirectly from the Principal; or
 - (c) it has received from the Principal written notification that the Principal no longer requires the Respondent to keep the item confidential.

15. Right to Information and Disclosure

- 15.1 The RTI Act provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies (including Local Governments).
- 15.2 The RTI Act requires that documents be disclosed upon request, unless the documents are exempt or, on balance, disclosure is contrary to the public interest.
- 15.3 Information provided by the Respondent is potentially subject to disclosure to third parties pursuant to the RTI Act.
- 15.4 If disclosure under the RTI Act, or general disclosure of information provided by the Respondent, would be of substantial concern to the Respondent, because it would disclose trade secrets, information of commercial value, the purpose or results of research or other information of a confidential nature, including Personal Information, this should be indicated by the Respondent in its Tender. The Principal cannot guarantee that any information provided by the Respondent will be protected from disclosure under the RTI Act.
- 15.5 The Respondent must familiarise itself with the relevant provisions of the RTI Act dealing with the requirements for disclosure of information by agencies, and the grounds on which access to information may be refused.
- 15.6 The Principal accepts no responsibility for the accuracy or adequacy of any information it provides to Respondents concerning the content or effect of the RTI Act.

16. Ownership of Tender

- 16.1 Each submitted Respondent's Submission Form (including all supporting documentation and materials submitted by a Respondent as part of, or in support of, the Tender) becomes the property of the Principal upon submission and will not be returned to the Respondent.
- 16.2 However, the Respondent will retain copyright and other intellectual property rights in respect of the Tender material except to the extent specified in the Contract (if any).
- 16.3 The Principal may reproduce the Tender for the purposes of evaluation.

17. Information Privacy

- 17.1 The Principal is bound by the provisions of the *Information Privacy Act 2009*.
- 17.2 By submitting a Tender, the Respondent represents that it has obtained the consent of each individual whose Personal Information is included in the Tender for:
- (a) the inclusion of their Personal Information in the Tender; and
 - (b) the use of the Personal Information by the Principal for the purpose of evaluating the Tender; and
 - (c) the disclosure of the Personal Information to other parties (including professional advisors) as may be involved in assisting the Principal with the evaluation of the Tender.
- 17.3 The Respondent will indemnify the Principal against any loss and expense (including legal costs and expenses) that the Principal incurs as a consequence of the Respondent's falsity of a clause 17.2 representation.
- 17.4 Any Personal Information exchanged between the Respondent and the Principal must be dealt with in accordance with the *Information Privacy Act 2009*.

17.5 The Respondent must immediately notify the Principal upon becoming aware of any falsity of information under this clause 17.

18. Acceptance of Tender

18.1 The Principal will not be bound to accept the highest or any Tender.

18.2 The Principal may accept a Tender by giving written notice in the form of a letter of acceptance to the Respondent who submitted the Tender.

18.3 However, the Contract is not formed, and will not come into existence, until both the Principal and the Respondent have executed a formal written Contract.

18.4 Subject to clauses 18.5 and 18.6, the form, and the terms and conditions, of the Contract are as set out in Part 4 – Draft Contract for Houses and Residential Land.

18.5 To prepare the Contract for execution, the Principal must complete the Reference Schedule and special conditions of the Draft Contract for Houses and Residential Land, by inserting the details specific to the Property, including:

- (a) the name, address and electronic mail address of the Tenderer as the name, address and electronic mail address, of the Purchaser; and
- (b) the Property items sold; and
- (c) the amount of the Purchase Price; and
- (d) the dates for completion of the sale of the purchased Property.

18.6 The Principal will prepare the Contract for execution by the Respondent in accordance with clauses 18.4, 18.5 and 18.6, and send the prepared Contract to the Respondent for execution.

18.7 By no later than 3 business days after receiving the Contract for execution, the Respondent must execute the Contract, and return it to the Principal for execution.

18.8 Upon receiving the executed Contract documents from the Respondent, the Principal will promptly execute the documents and insert the Formation Date in the Reference Schedule, which date will be the date the Principal executed the Contract. The Principal will promptly provide a fully executed Contract to the successful Respondent for its records.

19. Due Diligence / Asbestos Management

19.1 Respondents are directed to the due diligence and asbestos management requirements in this Agreement, a reference to *asbestos* is to asbestos of any type (whether curly or straight) and in any form (whether friable or non-friable, bonded or unbonded).

19.2 The Vendor gives no assurance as to whether or not the Property contains asbestos.

19.3 Due to the age of the Dwelling, the Vendor considers it is probable that the Dwelling contains asbestos.

19.4 If the Property contains asbestos, the Purchaser must:

- (a) take all action that is necessary or prudent to stabilise, control and manage the asbestos risk.

20. Specifications

20.1 Part 2 – Specifications identifies the Property available for purchase.

- 20.2 The parties agree that Clause 7.6 of the Contract shall not apply regardless of any other provision in this agreement, the parties agree that the Buyer shall acquire the Property “as is” and in its physical condition at the date of this Contract, and the Buyer agrees to make no claim or objections for any nature whatsoever in respect of the Property’s physical condition.
- 20.3 Any fixtures, fittings, appliances and chattels included in this sale are sold “as is” with all faults and defects that exist as at the date of this Contract and no warranty is given as to their condition nor their fitness or suitability. Any implied conditions or warranties in this regard are expressly excluded from this Contract.

[End Part 1 – Tender Conditions]