

## **Tender Application Form**

**Ashburton District Council**

### **Expressions of Interest for Purchase of Accessory Buildings at Former Polytech Site**

*Please submit this Tender Application Form by the tender closing date, along with any supporting information (if required) to accompany your tender.*

#### **A. Tender Background**

The Ashburton District Council is seeking expressions of interest from community groups for the purchase and removal of the three prefabricated buildings located at the former Polytech site at 258 Cameron Street, Ashburton. Each prefabricated building is offered for sale for \$1 plus GST, on the basis that Council will assess the tenders received on the basis of the proposed benefit to the community.

Two buildings are attached and must be acquired together, while one may be purchased on its own. Tenderers may also choose to tender for all three prefabs.

The buildings each measure 89.37m<sup>2</sup> and have a covered connecting walkway.

The chattels following chattels are included: heat pumps, fixed floor coverings, blinds.



Tenderers can submit a tender for one or more of the buildings at their discretion.

If successful, the tenderer will be required to enter into a Building Sale and Removal Agreement with Council in the form attached, setting out the terms of the building purchase and removal and

having a settlement date of **18 December 2024**. The tenderer will be responsible for removing and transporting the building(s) at their cost (which will be in addition to any purchase price paid for the building) by **14 March 2025**.

The community benefit proposed by each tender will be assessed by Council at a full Council meeting on 4 December 2024 with tenderers advised shortly thereafter.

## **B. Tender Application**

### **1. Tenderer**

Full name(s) / Entity: \_\_\_\_\_

Address: \_\_\_\_\_

Phone numbers: \_\_\_\_\_

Email address: \_\_\_\_\_

### **2. Building**

You are invited to tender for the purchase and removal of one, or more of the buildings. Please state which building(s) you are interested in purchasing:

- |    |                 |     |                          |    |                          |
|----|-----------------|-----|--------------------------|----|--------------------------|
| a. | Single Building | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| b. | Double Building | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| c. | 3 x Buildings   | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

### **3. Purchase Price**

The applicable purchase price for the buildings is as follows:

- a. Single Building: \$1.00 plus GST (if any)
- b. Double Building: \$2.00 plus GST (if any)
- c. 3 x Buildings: \$3.00 plus GST (if any)

### **4. Intended Site**

Please advise where you would relocate the building(s) to, and whether you own the site:

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**5. Community Benefit**

Please outline your intended use of the building(s) and how your use will benefit the community. You may attach a covering letter containing this information if preferred.

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**6. The Tenderer's Solicitor is:** (Name) \_\_\_\_\_  
(Firm) \_\_\_\_\_

**7. Tenderer Acknowledgement**

The Tenderer hereby tenders for the purchase and removal of the building(s) and agrees to be bound by this Tender Application Form and Conditions of Tender contained in **Appendix 1:**

Executed by the **Tenderer** ) \_\_\_\_\_  
by two of its Authorised ) \_\_\_\_\_  
Signatories: ) \_\_\_\_\_  
) \_\_\_\_\_

## **Appendix 1: Conditions of Tender**

It shall be a condition of tender that the tenderer shall have read and accepted these conditions of tender and agree to the following:

### **Offer Evaluation**

1. The tenderer acknowledges the Council is not obliged to accept any tender and reserves the right to:
  - a. reject all or any tenders;
  - b. waive any irregularities or informalities in the tender process;
  - c. re-advertise this tender;
  - d. seek clarification of any offer at any time prior to the acceptance of any offers;
  - e. consider or reject any non-conforming offer, at the Council's sole discretion;
  - f. negotiate with any one, or more tenderer to the exclusion of any other tenderer or tenderers, at any time prior to the acceptance of any offers;
  - g. withdraw this tender offer before the closing of tender offers.
2. The tenderer further acknowledges that the assessment of community benefit undertaken by Council in selecting the successful tender or tenderers shall be determined by Council at its sole discretion. Council reserves the right to apply such parameters, criteria and weighting as it considers appropriate to evaluate the benefit, without limitation or obligation to follow any specific framework, and Council's decision shall be final and binding.

### **Building Removal Agreement**

3. If successful, the tenderer agrees to enter into a Building Sale and Removal Agreement with Council in the form attached setting out the terms of the building purchase and removal.
4. No binding contract will be formed until both the Council and the tenderer execute the Building Removal Agreement.
5. Once a binding contract has been entered into, the tenderer shall be obligated to pay the purchase price and remove the building(s) on the date specified in the Building Sale and Removal Agreement.

### **Tenderer's Acknowledgements**

6. The tenderer acknowledges and accepts the following:
  - a. The tenderer has thoroughly inspected the building(s) and its offer is made solely on its own judgement and not in reliance of any representation or warranty made by the Council. or any information provided by Council;
  - b. No error, mis-statement or mis-description in any advertisement by the Council shall give rise to cancellation of the tender nor entitle the tenderer to compensation;
  - c. The building(s) are sold on an 'as is, where is' basis and Council provides no warranty as to the condition of the building(s) or their suitability for removal, transport and relocation;
  - d. The Council gives no warranty in terms of the past, current or future performance or use of the buildings, nor the adequacy of the building(s) for the tenderer's proposed use;
  - e. Where required, the tenderer shall be responsible for disconnecting any utilities, water, wastewater and other service connections to the building(s);
  - f. The tenderer shall be responsible, at its cost, for obtaining any necessary building consent, resource consents or other regulatory permits or approvals, undertaking the

necessary service and utility disconnections, and removing, transporting and relocating the building(s);

- g. The tenderer shall be responsible for the removal and disposal of any unwanted parts of building and surrounds from the site including ground footings, piles, loose litter and debris, foundations, and ramps, and leaving the building site in a level, clean and tidy state; and
- h. The Building Sale and Removal Agreement (including the documents and instruments referred to) shall supersede all prior representations, arrangements, understandings and agreements between the parties relating to the building purchase and removal and shall constitute the entire complete and exclusive agreement and understanding between the parties.

### **Submitting Tender**

- 7. Tenders, including this Tender Application Form, must be received by Ashburton District Council on or before by **12pm** on **13 November 2024**. Tenders can either be:
  - a. Hand delivered in a sealed envelope labelled “ADC Polytech Prefabs Tender” to the Ashburton District Council, 2 Baring Square East, Ashburton; or
  - b. Posted to Council as follows:

*ADC Polytech Prefabs Tender  
Ashburton District Council  
PO BOX 94  
ASHBURTON 7740*

## BUILDING SALE AND REMOVAL AGREEMENT

THIS AGREEMENT made the

day of

2024

### PARTIES

(1) **ASHBURTON DISTRICT COUNCIL (Council)**

AND

(2) **[NAME OF PURCHASER] (Purchaser)**

### BACKGROUND

- A. The Council owns the [*description*] building at 258 Cameron Street, Ashburton as shown on the plan in Schedule 1.
- B. The Council has agreed to sell, and the Purchaser has agreed to purchase and remove, the Building on the terms and conditions set out in this Agreement.
- C. The Purchaser will be solely responsible for the removal and relocation of the Building from the Property on or before the Removal Date at the Purchaser's sole risk and cost in all respects.

### TERMS OF THIS AGREEMENT

#### 1. DEFINITIONS

- 1.1 Unless otherwise required by the context or subject matter, in this Agreement and the Background to this Agreement:

*Agreement* means this agreement including the Background and shall include any variations made in accordance with this Agreement;

*Building* means the [*description*] building situated on the Property and outlined in red on the plan attached at Schedule 1 of this Agreement;

*Property* means the property located at 258 Cameron Street, Ashburton which is owned by the Council;

*Purchase Price* means the sum of \$[*purchase price*] plus GST;

*Removal Date* means 14 March 2024; and

*Settlement Date* means 18 December 2024, or such other date that the parties may agree in writing.

## **2. SALE AND PURCHASE OF BUILDING**

2.1 **Agreement:** The Council agrees to sell, and the Purchaser agrees to purchase and remove, the Building for the Purchase Price on the terms and conditions set out in this Agreement.

2.2 **Removal:** The Purchaser will carry out all necessary actions to remove the Building on the Property by the Removal Date. The removal of the Building from the Property is at the Purchaser's sole risk and cost in all respects. Council shall have no liability whatsoever to the Purchaser in respect of the Purchaser's removal of the Building from the Property.

### **2.3 Ownership of Building**

- a. The Purchaser shall take ownership of the Building on the Settlement Date.
- b. On the Settlement Date, the Council shall transfer the Building into the possession and control of the Purchaser by delivering the keys to the Purchaser.

## **3. REMOVAL AND RELOCATION OF BUILDING**

### **3.1 Removal and Relocation of the Building:**

- a. On and from the Settlement Date, the Purchaser is responsible (at the Purchaser's sole cost) for removing the Building from the Property and for arranging for the relocation of the Building. Removal of the Building by the Purchaser must be completed as soon as possible after the Settlement Date and no later than the Removal Date.
- b. The Purchaser shall be responsible for obtaining all necessary permits and approvals to remove the Building.
- c. The Purchaser shall, in preparing and carrying out the removal of the Building from the Property, request consent from the Council for access to the Property. Such consent shall not be unreasonably withheld by the Council.
- d. The Purchaser will be responsible for the disconnection of all water and sewer connections to the Building.
- e. The Purchaser will be responsible for the disconnection of all utilities for telephone and power to the closest junction or connection pole/box of the Building by suitably qualified and experienced tradespersons.
- f. The Purchaser will be responsible for the removal and disposal of all remaining parts of the Building and surrounds identified within the area marked on the aerial image annexed as Schedule 1 from the site including ground footings, piles, loose litter and debris, foundations, ramps and auxiliary buildings leaving the building site in a level, clean and tidy condition. If the Purchaser does not remove the entire Building and/or fails to leave the sites in a level, clean and tidy condition, Council will undertake such works as it sees necessary and recover any associated costs from the Purchaser.

- 3.2 **Damage:** The Purchaser shall take all reasonable endeavors to cause as little damage to the Property during removal of the Building. Where the Purchaser has caused damage to the Property, footpaths, road or any public property in removing the Building, the Purchaser shall be responsible, at its cost, for remedying any damage caused as a result of the removal. If the Purchaser fails to rectify the damage in a timely manner, the Council shall rectify the damage at the Purchaser's cost.
- 3.3 **Risk to Public:** The Purchaser shall ensure that the public are adequately protected from any hazards related to the relocation/demolition activity on the Property.
- 3.4 **Health and Safety Obligations:** In removing the Building from the Property and relocating the Building, the Purchaser will, and will ensure its employees and contractors will, when removing the Building from the Property:
- a. Consult with and cooperate with the Council to the extent required by the Council in any instructions, policies and rules to ensure all parties comply with their respective obligations under the Health and Safety at Work Act 2015; and
  - b. Report any health and safety incident, injury or near miss to the Council.

#### **4. RISK**

- 4.1 **On or After Settlement Date:** The Building will be at the sole risk of the Purchaser on and from Settlement Date.
- 4.2 **Damage Prior to Settlement Date:** Should the Building be damaged by fire, earthquake or other event prior to the Settlement Date the Council shall be entitled to cancel this Agreement by notice in writing to the Purchaser.
- 4.3 **Damage On or After Settlement Date, but Prior to Removal:** If the Building is lost, destroyed or damaged between Settlement Date and the Building being removed from the Property, then the Purchaser shall remove the Buildings from Property as soon as reasonably practicable, at its sole cost.

#### **5. PURCHASER ACKNOWLEDGEMENTS, WARRANTIES AND INDEMNITY**

- 5.1 **Purchaser Acknowledgements:** The Purchaser acknowledges and agrees that:
- a. In entering into this Agreement, the Purchaser does not rely on any statement, representation, warranty, condition, or other statement by or on behalf of the Council, in relation to the Building;
  - b. It has had the opportunity to make and has made adequate enquiries and investigations in relation to the Building (including undertaking its own due diligence enquiries with regard to the Building) and the risks, contingencies and other circumstances which could affect its decision to enter into this Agreement;
  - c. It has received, or waived its ability to receive, independent professional advice in



relation to the purchase of the Building (including legal advice), has satisfied itself about anything arising from that advice and is able to evaluate the risks and merits of purchasing the Building; and

- d. The Purchaser is purchasing the Building on an 'as is, where is' basis and no warranty or representation is given by or on behalf of the Council with respect to the condition, standard or quality of the Building, or whether the Building is fit for the Purchaser's proposed use.
- e. The Council makes no warranty as to the ability of the Building to be successfully removed from the Property and transported without the occurrence of damage and/or defects. Any damage and/or defects caused to the Building during removal is at the sole risk and cost of the Purchaser. Any damage and/or defects to the Building does not remove or negate the Purchaser's obligation to remove the Building from the Property by the Removal Date.

5.2 **Purchaser Warranties and Representations:** The Purchaser warrants and represents to the Council that each of the following statements is correct as at the date of this Agreement:

- a. It has the power to enter into and perform its obligations under this Agreement;
- b. Its obligations under this Agreement are valid and binding and enforceable against it in accordance with their terms.

5.3 **Indemnity:** The Purchaser personally indemnifies the Council and shall keep fully indemnified the Council on demand against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, penalties, interest, costs (including legal costs) and any other expenses whatsoever suffered or incurred by the Vendor as a result of the Purchaser's breach or non-performance of his obligations under this Agreement.

## 6. TERMINATION

6.1 Council may provide the Purchaser written notice that it is terminating this Agreement:

- a. Immediately if the Purchaser breaches a term or condition in this Agreement; or
- b. If the Purchaser fails to fully remove the Buildings and level and tidy the site by the Removal Date.

6.2 If Council terminates the Agreement under clause 6.1:

- a. The Purchaser no longer has any rights to remove the Building from the date of termination;
- b. No compensation shall be payable to the Purchaser and the Purchase Price (if paid) shall be forfeited; and
- c. Council may choose to undertake any works to remove any partially demolished Building, level and tidy the site, and recover any associated costs from the Purchaser.

## 7. **Dispute Resolution**

- 7.1 If either party has any dispute with the other in connection with this Agreement:
- a. that party must, by notice, promptly give full particulars of the dispute to the other;
  - b. the parties must meet together as soon as reasonably possible and, in good faith, try to resolve the dispute; and
  - c. if the dispute is not resolved within fifteen (15) working days of the notice being given, the dispute must be referred to mediation. The parties may, however, agree to extend the 15-day period.
- 7.2 The mediation must be carried out by a mediator chosen by:
- a. the parties, or
  - b. the president of the Canterbury Westland Branch of the New Zealand Law Society (or the president's nominee) if the parties cannot agree.
- 7.3 If the dispute is not resolved by mediation, the parties must then refer the dispute to a single arbitrator:
- a. the single arbitrator will be chosen in the same way as the mediator; and
  - b. the arbitration will be conducted in accordance with the Rules in Schedules 1 and 2 of the Arbitration Act 1996.
- 7.4 The parties must always act in good faith and co-operate with each other to try to quickly resolve any dispute.
- 7.5 The procedures and time frames for any mediation or arbitration will be fixed by the mediator or arbitrator (as appropriate) if the parties cannot agree.
- 7.6 This clause will not apply to:
- a. a dispute arising in connection with any attempted negotiation of this Agreement, or
  - b. an application by either party for urgent interlocutory relief.

## 8. **MISCELLANEOUS**

- 8.1 **No Assignment:** The Purchaser shall not transfer or assign any of its rights or obligations under this Agreement.
- 8.2 **Variation:** This Agreement may be varied by written agreement signed by the Council and Purchaser.
- 8.3 **Execution:** This Agreement may be executed in any number of counterparts (including scanned and emailed PDF counterparts). Once the parties have executed the counterparts, and each party has received a copy of each signed counterpart which that party did not execute, each counterpart shall be deemed to be as valid and binding on the party executing

it as if it had been executed by all parties.

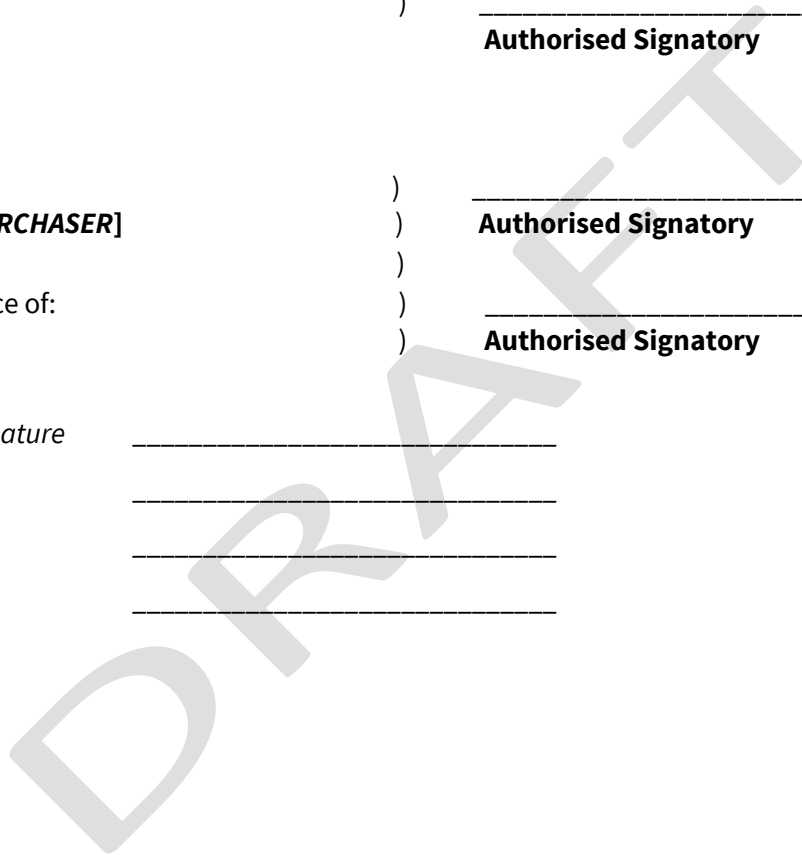
8.4 **Costs:** Except as may be otherwise provided in this Agreement, each party shall bear its own costs in relation to the negotiation, preparation, execution and performance of this Agreement.

**EXECUTED AS AN AGREEMENT**

**SIGNED** for and behalf of ) \_\_\_\_\_  
**ASHBURTON DISTRICT COUNCIL** ) **Authorised Signatory**  
as Vendor ) \_\_\_\_\_  
) \_\_\_\_\_  
) \_\_\_\_\_  
) **Authorised Signatory**

**SIGNED** by ) \_\_\_\_\_  
**[NAME OF PURCHASER]** ) **Authorised Signatory**  
as Purchaser ) \_\_\_\_\_  
in the presence of: ) \_\_\_\_\_  
) **Authorised Signatory**

*Witness's Signature* \_\_\_\_\_  
*Full name* \_\_\_\_\_  
*Occupation* \_\_\_\_\_  
*Address* \_\_\_\_\_



**Schedule 1: Site Plan**

[Description of Building] at 258 Cameron Street, Ashburton

[insert photo here]

DRAFT

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**ASHBURTON DISTRICT COUNCIL**

2 Baring Square East  
Ashburton

PO Box 94  
Ashburton 7740

P (03) 307 7700  
E info@adc.govt.nz

[www.ashburtondc.govt.nz](http://www.ashburtondc.govt.nz)