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**SAMPLE REQUEST FOR PROPOSAL
FOR TWO-STAGE BID PROCESS**

Municipal Public-Private Partnership Framework

10

Important Notes:

This Request for Proposals – Two Stages is provided only as a sample document. It must be adapted to fit the unique circumstances and needs of each particular Municipality and project for which its use is intended. National and local laws, regulations, policies and practices may prescribe a different approach to procuring project-level consulting services.



Notes

ADDITIONAL GUIDANCE MATERIAL

World Bank Group's Public-Private Partnership Legal Resource Center,
<https://ppp.worldbank.org/public-private-partnership/>

Sample Document, Adapt as Appropriate

[CONTRACTING AUTHORITY'S NAME]

Request for Proposal

for the

[Title of PPP Project]

Sample Document, Adapt as Appropriate

[DATE]

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Sample Document, Adapt as Appropriate

DISCLAIMERS

The information contained in this Request for Proposal (RFP) or subsequently provided to Bidders, whether verbally or in documentary or any other form by or on behalf of the Contracting Authority or any of its employees or advisors, is provided to Bidders on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by the Contracting Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide Bidders with information that may be useful to them in preparing and submitting their Bid pursuant to the Bidding Documents including this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Contracting Authority in relation to the PPP Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. The information contained in the Bidding Documents may not be appropriate for all persons, and it is not possible for the Contracting Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. Each Bidder should conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidders covers a wide range of topics, some of which depends upon interpretation of local laws & regulations. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. None of the Contracting Authority, its employees, nor advisors accept any responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein. The Contracting Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way by participating in this Bidding Process.

The Contracting Authority, its employees or advisors, likewise accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP. The Contracting Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP. The issuance of this RFP does not imply that the Contracting Authority is bound to select a Bidder or to appoint the Successful Bidder for the Project and the Contracting Authority reserves the right to reject all or any of the Bidders or Bids or otherwise discontinue the process without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Contracting Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Contracting Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

GLOSSARY

Addendum or Addenda means addendum or addenda to the RFP.

Bid means a proposal submitted by a Bidder for the Project.

Bidder means an interested single entity or Consortium which submits a Bid to the Contracting Authority in accordance with the provisions of this RFP.

Bidding Company means a single entity submitting a Bid pursuant to the RFP.

Bidding Documents means the RFP, the draft PPP Agreement, any Addenda or clarification issued by the Contracting Authority in accordance with the terms of this RFP, and any other documents provided by the Contracting Authority pursuant to this RFP, as such documents may be modified, altered, amended and clarified from time to time by the Contracting Authority.

Bidding Process means the single-stage bidding process being followed by the Contracting Authority to award the Project to the Selected Bidder, the terms of which are set out in this RFP.

Bid Parameter means the criteria which determines the best bid for the PPP Project.

Bid Security means an amount equivalent to [AMOUNT] to be provided by a Bidder as security for its Bid.

Bid Submission Deadline means the date specified in Schedule 2 as the last date for submission of Bids.

Availability Payments means the payments, if any, to be paid to the Service Provider by the Contracting Authority (CA) for the services or facility "available" for use by the CA, as provided under the PPP Project.

Conflict of Interest has the meaning ascribed to it in Clause 2.1.12.

Consortium means any combination of entities that have formed a consortium or association by fulfilling the requirements set out in this RFP, for the purpose of submitting a Bid and for implementing the Project, if such consortium or association is declared as the Selected Bidder.

Consortium Agreement means the binding consortium agreement to be executed between Consortium Members in the form set out in Schedule 11.

Contracting Authority means any local/municipal government authority public, statutory corporation or other subnational agency.

Control means, with respect to a corporation, the ownership, directly or indirectly, of more than 50% of the voting shares of a company or corporation or the power to appoint majority of the directors on the board of directors of such company or corporation and/or the power to direct the management and policies of such person by operation of law, agreement or otherwise and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law, agreement or otherwise.

Data Room means a virtual data room providing more detailed project information, records, and other background documents relevant to the PPP Project.

Eligible Project means a project demonstrating that a Bidder has the requisite technical capacity to implement the Project.

Financial Proposal means the Financial Proposal to be submitted by a Bidder for the development and implementation of the PPP Project as prescribed in Clause 2.13.5.

Government means the Government of ****.

Lead Member in the context of a Consortium, means the Consortium Member nominated by the Consortium Members as the lead member with the rights and obligations as set out in this RFP.

Letter of Award means the letter of award that will be issued by the Contracting Authority to the Selected Bidder in accordance with Clause 3.20.

Member means a member of a Consortium.

Net Worth means the difference between the sum of subscribed and paid up equity, reserves and the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity shareholders.

O&M means operation and maintenance.

PPP means public-private partnership.

PPP Agreement means the agreement to be executed between the Contracting Authority and the Selected Bidder to implement the PPP project, substantially in the format set out in Schedule 16.

Pre-Bid Conference means a conference that will be held by the Contracting Authority to answer queries or clarifications raised by Bidders and to provide information to Bidders on the Project.

Project Company means the special purpose company specifically formed and incorporated in [LOCATION] for the purpose of undertaking the Project pursuant to the PPP Agreement.

RFP or Request for Proposals means this request for proposal dated **** along with its Schedules, and Addenda, if issued.

Service Provider means the legal entity proposed by the Successful Bidder in its proposal to undertake the PPP Project in accordance with the PPP Agreement

Successful Bidder means the Bidder selected by the Contracting Authority to award the Project following the completion of the Bidding Process.

Technical Proposal has the meaning ascribed to it in Clause 2.13.4.

Tender Committee means the working group established by the Contracting Authority to carry out the PPP procurement.

Term means the period during which the Service Provider shall undertake the PPP Project in accordance with the PPP Agreement.

User Payment means a payment to be paid to the Service Provider by a user of the PPP Project

1. INTRODUCTION

A. Purpose of Issuing the RFP

- 1.1. The purpose of issuing the RFP is to enable the Contracting Authority to select the Successful Bidder for the PPP project, by evaluating which among the qualified Bidders presents the best Bid that offers the best value for money for the public in undertaking the PPP Project as set out in the technical and financial criteria in this RFP.
- 1.2. It is intended that the Bidding Process be conducted in a competitive and transparent manner in order to ensure that the Contracting Authority's objectives for initiating the PPP are achieved and value for money objectives met.

B. Project Background

- 1.3. The Contracting Authority is seeking private sector participation to improve [SERVICE] in the [LOCATION] through [DESCRIPTION OF FACILITIES] on a PPP basis.
- 1.4. The Service Provider shall undertake: [indicate scope – i.e. design, construction and maintenance of new facilities / operation and maintenance of existing facilities, etc].

C. PPP Agreement

- 1.5. The Contracting Authority shall enter into the PPP Agreement with the Service Provider.
- 1.6. The Term shall be **** years from [here insert start event or date].
- 1.7. At the end of this period, the Service Provider shall release or otherwise transfer the assets to the Contracting Authority free of charge and free of any liens or encumbrances. A draft of the PPP Agreement is set out in Schedule 16.

D. Financing assumptions

- 1.8. The Service Provider shall be responsible for financing the PPP Project.
- 1.9. [Describe any concessional financing or grant funding that was made available for the PPP Project]
- 1.10. [Indicate key financing assumptions]
- 1.11. In consideration, the Service Provider shall have access to the following types of revenue streams:
 - (a) User Payments from users of the PPP Project; or/and
 - (b) Availability Payments from Contracting Authority.

E. Brief Description of the Bidding Process

- 1.12. The Contracting Authority has adopted a two-envelope, two-stage process (collectively referred to as the "Bidding Process") for selection of the preferred bidder for award of the PPP Project.
- 1.13. The first stage (the "Qualification Stage") of the process is the qualification / shortlisting of interested

parties/consortia through their submission of an Application in accordance with the provisions of this RFQ (the "Applicant"). In this stage, Applicants are required to furnish the information specified in this RFQ. The Contracting Authority shall be entitled to disqualify an Applicant in accordance with the aforesaid documents at any stage of the Bidding Process. At the end of this stage, the Contracting Authority shall announce a short-list of prequalified Applicants who shall be eligible for participation in the second stage of the Bidding Process (the "Bid Stage") comprising Request for Proposals (the "Request for Proposals" or "RFP").

- 1.14. The second stage of the process is the bid proper or the Bid Stage. The shortlisted Applicants / Bidders will be called upon to submit their proposals (the "Bids") in respect of the project, in accordance with the RFP and other documents herein provided by the Contracting Authority. Bidders will be required to deposit, along with its Bid, a refundable bid security which will be specified in the RFP.
- 1.15. Bidders will be required to deposit, along with its Bid, a refundable bid security as specified in this RFP.
- 1.16. Bidders will be required to submit two envelopes – which together, comprises their Bid – containing the following: (1) the Technical Proposal and (2) the Financial Proposal.
- 1.17. The first envelope, which contains the Bidder's Technical Proposal, shall first be opened and evaluated. The Contracting Authority shall then announce the Bidders whose Technical Proposals meet its minimum requirements, as prescribed in this RFP. Only Bidders who satisfy the Contracting Authority's minimum technical specifications and requirements shall advance to the opening of the Financial Proposal. For those that do not qualify, their third envelopes shall be returned to them unopened.
- 1.18. The second envelope, containing the Bidder's Financial Proposal, shall be opened and evaluated. The Bidder who submits the best Financial Proposal based on the Contracting Authority's Bid Parameter shall be chosen as the Successful Bidder and shall be awarded the PPP Contract.
- 1.19. The timeline of the Bidding Process is included as Schedule 2 of this RFP. The Contracting Authority may, in its sole discretion and without prior notice to the Bidders, amend the timelines. Bidders shall not rely in any way whatsoever on the initial timeline and the Contracting Authority shall not incur any liability whatsoever arising out of amendments to the timelines. The Contracting Authority shall give notice of changes to the timelines, if any, by written addenda.

2. INSTRUCTIONS TO BIDDERS

A. General Requirements

2.1. Eligibility of Bidders

- 2.1.1. A Bidder shall submit only 1 (one) Bid for the PPP Project either individually or as a Member of a Consortium. A Bidder applying individually, or as a member of a Consortium, shall not be entitled to submit another Bid, either individually or as a member of any Consortium, as the case may be.
- 2.1.2. A Bidder may be a natural person, private entity, or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in this RFP.
- 2.1.3. The Bidders are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the Bidding Documents shall be binding on the Contracting Authority nor confer any right to the Bidders, and the Contracting Authority its employees and consultants shall have no liability whatsoever in relation to or arising out of any or all contents of the Bidding Documents.
- 2.1.4. Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft PPP Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the PPP Agreement.
- 2.1.5. The Bid should be furnished in the formats specified in this RFP and signed by the Bidder's authorized signatory. The Bidders should note that the formats specified in the RFP have been provided for the convenience of the Bidders and may not exhaustively enumerate or describe various information required to be provided by the Bidders under the Bidding Documents. The Bidders should ensure that all the information required to be provided by them under the Bidding Documents is included in their Bid whether or not a particular format specified herein makes provision for submission of such information and/or whether or not a format for submission of such information is incorporated in the Bidding Documents.
- 2.1.6. The Bidder shall submit as part of its Bid, a Bid Security in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security either as a demand draft or in the form of a bank guarantee, from a [*** rated] bank registered in [LOCATION] acceptable to the Contracting Authority, as per the format at Schedule 8.
- 2.1.7. The Bidder should submit a power of attorney as per the format in Schedule 9, authorizing the signatory of the Bid to commit the Bidder.
- 2.1.8. In case the Bidder is a Consortium, the Members thereof should furnish a power of attorney in favour of the Lead Member as per the format in Schedule 10.
- 2.1.9. Any condition or qualification or any other stipulation contained in the Bid which is inconsistent with the terms of the Bidding Documents may render the Bid liable to rejection as a non-responsive Bid.
- 2.1.10. The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in the English language. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language provided that they are accompanied by appropriate translations of the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials which are

not translated into English may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

- 2.1.11. The Bidding Documents, including this RFP and all attached or other documents, are and shall remain the property of the Contracting Authority and are transmitted to the Bidders solely for the purpose of preparation and submission of a Bid in accordance with the Bidding Documents. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparing and submitting their Bid. The Contracting Authority reserves the right to make Bids and element thereof public or otherwise transparent.
- 2.1.12. **Conflict of Interest:** A Bidder shall not have a Conflict of Interest that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Contracting Authority shall be entitled to forfeit and appropriate the Bid Security and/or Performance Security, as the case may be, without prejudice to any other right or remedy that may be available to the Contracting Authority under the Bidding Documents or otherwise. Determining the presence of Conflict of Interest shall be the prerogative of the Contracting Authority. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
- (a) the Bidder (or any constituent thereof) and any other Bidder (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this qualification shall not apply in cases where the direct or indirect shareholding of a Bidder (or any constituent thereof) is less than **** % of the paid up and subscribed capital of the other Bidder (or any constituent thereof) and it does not have Control of the Bidder; or
 - (b) a consortium member or any constituent of such Bidder is also a consortium member or constituent of another Bidder; or
 - (c) such Bidder (or any constituent thereof) receives or has received any direct or indirect subsidy from any other Bidder (or any constituent thereof), or has provided any such subsidy to any other Bidder (or any constituent thereof); or
 - (d) such Bidder (or any constituent thereof) thereof has the same legal representative for purposes of this Bid as any other Bidder (or any constituent thereof); or
 - (e) such Bidder (or any constituent thereof) has a relationship with another Bidder (or any constituent thereof), directly or through common third parties, that puts either or both of them in a position to have access to each other's' information about, or to influence the Bid of either or each other; or
 - (f) such Bidder (or any constituent thereof) has participated as a consultant to the Contracting Authority in the preparation of any documents, design or technical specifications of the PPP Project, or
 - (g) Any legal, financial or technical adviser of the Contracting Authority in relation to the PPP Project is engaged by the Bidder (or any constituent thereof) in any manner for matters related to or incidental to the PPP Project.
- 2.1.13. This RFP is not transferable and can only be used by the person to whom it has been issued.
- 2.1.14. Any award of the PPP Agreement pursuant to this RFP shall be subject to the terms of the Bidding Documents.
- 2.1.15. For a detailed list of documents and information to be provided with each envelop constituting a Bid, please refer to Clause 2.9.

2.2. Change in composition of the Consortium

- 2.2.1. Change in the composition of a Consortium will not be permitted by the Contracting Authority after the Bid Submission Deadline.
- 2.2.2. If a Bidder has changed the composition of its Consortium since the submission of Application, it is required to submitted an updated Consortium Member Information (Schedule 5), an updated Consortium Agreement (Schedule 9), and the Power of

Attorney for Lead Member of Consortium (Schedule 8) together with its Technical Proposal on or before the Bid Submission Deadline.

- 2.2.3. Notwithstanding a change in Consortium composition, the Bidder is required to maintain the minimum shareholding structure prescribed as follows:
- (a) The Lead Member of the Consortium shall hold at least **** % of the subscribed and paid up equity of the Project Company for **** years after the Completion Date, and at least **** % for the following **** years; and
 - (b) Each member of the Consortium shall hold at least **** % of the subscribed and paid up equity of the Project Company for **** years after the Completion Date, and at least **** % for the following **** years.

2.3. Cost of bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bid and their participation in the Bidding Process. The Contracting Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.4. Data Room

- 2.4.1. For the benefit of the prospective Bidders, the Contracting Authority has provided a virtual Data Room. The Bidding Documents can be downloaded from the Data Room.
- 2.4.2. The Data Room can be accessed by any prospective Bidder by submitting the relevant details to be provided on the website on the following link. [Insert url]

2.5. Site visit and Verification of Information by Bidders

- 2.5.1. Bidders are encouraged to submit their respective Bids after visiting the Project Site[s] and ascertaining for themselves the sites' conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to sites, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.
- 2.5.2. A site visit shall be organized by the Contracting Authority prior to the pre-bid conference for all Bidders. Further details regarding this site visit shall be given by the Contracting Authority to all Bidders in due course.
- 2.5.3. It shall be deemed that by submitting a Bid, the Bidder has:
- (a) made a complete and careful examination of the Bidding Documents;
 - (b) acknowledged accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Contracting Authority relating to any of the matters referred to in Clause 2.5.1;
 - (c) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
 - (d) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits, or a ground for termination of the PPP Agreement by the Service Provider; and
 - (e) acknowledged that it does not have a Conflict of Interest.
- 2.5.4. The Contracting Authority, its employees, and consultants shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter

or thing arising out of or concerning or relating to the RFP, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by or on behalf of the Contracting Authority.

2.6. Pre-Bid Conference

- 2.6.1. A pre-bid conference of the Bidders shall be convened at the designated date, time and place. Only duly authorized representatives of the Bidders shall be allowed to participate in the pre-bid conference.
- 2.6.2. During the course of the pre-bid conference, the Bidders will be free to seek clarifications and make suggestions for consideration of the Contracting Authority. The Contracting Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.
- 2.6.3. Questions lodged by, and answers obtained from, the Bidders, as well as any relevant responses from the Contracting Authority pursuant to these discussions will be made available to all Bidders through the Data Room. However, the identity of each respective Bidder who issued a question / provided a response, will be made anonymous.

2.7. Verification and Disqualification

- 2.7.1. The Contracting Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP or the Bidding Documents and the Bidder shall, when so required by the Contracting Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by the Contracting Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Contracting Authority thereunder.
- 2.7.2. The Contracting Authority reserves the right to reject any Bid and appropriate the Bid Security if:
- (a) at any time, a material misrepresentation is made or uncovered; or
 - (b) the Bidder does not provide, within the time specified by the Contracting Authority, the supplemental information sought by the Contracting Authority for evaluation of the Bid, or
 - (c) a Conflict of Interest as discussed in Clause 2.1.12 persists.
- 2.7.3. Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member shall be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Successful Bidder gets disqualified/ rejected, then the Contracting Authority reserves the right to select the Bidder which proposed the second best Bid as Successful Bidder or cancel the Bidding Process.

B. Documents

2.8. This RFP comprises the Disclaimer, the contents as listed below, and will additionally include any addendum issued in accordance with Clause 2.11 and any clarifications and interpretations issued in accordance with Clause 2.10.

Invitation for Bids		Schedules	
Section 1.	Introduction	Schedule 1.	Updated Project Information
Section 2.	Instructions to Bidders	Schedule 2.	Updated Bidding Process Timelines
Section 3.	Evaluation of Bids	Schedule 3.	Bid Letter
		Schedule 4.	Updated Bidder Information
		Schedule 5.	Updated Consortium Member Information
		Schedule 6.	Bank Guarantee for Bid Security
		Schedule 7.	Power of Attorney for Signing of Bid
		Schedule 8.	Power of Attorney for Lead Member of Consortium
		Schedule 9.	Updated Consortium Agreement
		Schedule 10.	Anti-Collusion Certificate
		Schedule 11.	Format for the Technical Proposal
		Schedule 12.	Format for the Financial Proposal
		Schedule 13.	Declaration of Undertaking
		Schedule 14.	Draft PPP Agreement

2.9. Clarifications

- 2.9.1. Bidders requiring any clarification on the Bidding Documents may notify the Contracting Authority by e-mail at the following e-mail address: ****
- 2.9.2. Queries must be received by the Contracting Authority on or before the last date for receipt of clarifications mentioned in Schedule 2.
- 2.9.3. The Contracting Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders within fifteen (15) days of receipt of such questions or clarifications. The Contracting Authority will notify Bidders by e-mail that queries and its responses have been posted in the website / data room.
- 2.9.4. The Contracting Authority will organize the clarification response procedure. The queries and its responses will be updated in the website of the Contracting Authority. The Contracting Authority may notify Bidders by e-mail that responses to queries have been posted at the Contracting Authority's website.
- 2.9.5. The Contracting Authority may also on its own initiative, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Contracting Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by the Contracting Authority

or its employees or representatives shall not be binding on the Contracting Authority.

- 2.9.6. Should the Contracting Authority deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure in Clause 2.10 below.

2.11. Amendment

- 2.10.1. At any time prior to the Bid Submission Deadline, the Contracting Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of addenda.
- 2.10.2. Any addendum issued hereunder will be uploaded in the website of the Contracting Authority. The Contracting Authority may notify Bidders about the issuance of an Addendum by e-mail.
- 2.10.3. In order to afford the Bidders a reasonable time for taking an addendum into account, or for any other reason, the Contracting Authority may, at its sole discretion, extend the Bid Submission Deadline.

C. Preparation and Submission of Bid

2.11. Format and Signing of Bid

- 2.11.1. The Bidder shall provide in its Bid all the information sought under the Bidding Documents. The Contracting Authority will evaluate only those Bids that are received in the required formats and complete in all respects. Incomplete and /or conditional Application shall be rejected.
- 2.11.2. The Bidder shall prepare one original set of its Bid (comprising of the two envelopes mentioned in Clause 2.12.1 together with originals/copies of documents required to be submitted along therewith) clearly marked "ORIGINAL". In addition, the Bidder shall submit one copy of its Bid clearly marked "COPY". In the event of any discrepancy between the original and the copy, the original shall prevail.
- 2.11.3. The Bid shall be signed by the authorized signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person signing the Bid. The Bid shall contain page numbers.

2.12. Contents of the Bid

- 2.12.1. The "Bid" shall be comprised of two envelopes: (1) the Technical Proposal, and (2) the Financial Proposal.
- 2.12.2. Both envelopes shall be marked as follows:
"BID FOR THE [NAME OF PROJECT]
ENVELOPE [•of 2]"
and shall clearly indicate the number of the envelope and the name and address of the Bidder. Each envelope shall be individually sealed.
- 2.12.3. **Envelope 1: Technical Proposal:** This envelope should clearly be marked as "Envelope 2: Technical Proposal" and shall contain the following attachments to Technical Proposal (Schedule 11):
(a) The Bid Letter (Schedule 3);
(b) If necessary, the Updated Bidder Information (Schedule 4) including attachments;

- (c) If Bidder underwent change in consortium composition, the Updated Consortium Member Information to be accomplished by each member of the consortium (Schedule 5) including attachments;
- (d) The Bank Guarantee for Bid Security (Schedule 6);
- (e) The Power of Attorney for Signing of Bid (Schedule 7);
- (f) If Bidder underwent change in consortium composition, the Power of Attorney for Lead Member of Consortium (Schedule 8);
- (g) If Bidder underwent change in consortium composition, the Consortium Agreement (Schedule 11);
- (h) The Anti-Collusion Certificate (Schedule 10); and
- (i) The Declaration of Undertaking (Schedule 13).

2.12.4. The Technical Proposal itself (Schedule 11), must contain the following elements:

- (a) Conceptual Engineering Design;
- (b) Technical Plan for Construction/Rehabilitation;
- (c) Operation and Maintenance Plan; and
- (d) Organization and Staffing.

2.12.5. **Envelope 2: Financial Proposal:** This envelope should clearly be marked as "Envelope 3: Financial Proposal" and shall contain the Financial Proposal (Schedule 14), supported by the following documents:

- (a) Cost estimates for the design, construction, operation and maintenance components;
- (b) A financial model consistent with the above cost estimates and the technical proposal, and which includes a short explanatory memorandum; and
- (c) A project financing plan showing positively showing that the same can adequately meet the cost requirements of the PPP Project, which may include the amount of equity to be infused, debt to be obtained for the Project, and sources of financing.

2.13. Bid Security

2.13.1. The Bidder shall furnish as part of its Bid a Bid Security.

2.13.2. The Bid Security may be in the form of an irrevocable, unconditional and first demand bank guarantee issued by a bank registered in [LOCATION] acceptable to the Contracting Authority in favour of the Contracting Authority in the format prescribed in Schedule 6; or an on-demand bond issued by a bank registered in [LOCATION], drawn in favour of the Contracting Authority and payable at [LOCATION].

2.13.3. The Bid Security shall have a validity period of not less than ** days¹ from the Bid Submission Deadline.

2.13.4. Any Bid not accompanied by a Bid Security shall be summarily rejected by the Contracting Authority as non-responsive.

2.13.5. The Bid Security of unsuccessful Bidders (which term shall exclude the first and second best bidders) will be returned by the Contracting Authority, without any interest, as promptly as possible after execution of the PPP Agreement with the Service Provider or when the Bidding Process is cancelled by the Contracting Authority.

2.13.6. The Successful Bidder's Bid Security will be returned, without any interest, upon the Service Provider signing the PPP Agreement and, if required, providing the Performance Security in the form required by the PPP Agreement.

2.13.7. The Contracting Authority shall be entitled to forfeit and appropriate the Bid Security, without prejudice to any other right or remedy that may be available to the Contracting Authority under the RFP, under the following conditions:

- (a) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 2.22 of this RFP;
- (b) If a Bidder modifies or substitutes (without the prior written approval of the Contracting Authority) or withdraws its Bid during the period of Bid validity as

¹ Period should be equal to the period for the bid to be extant plus a margin to allow for delays in making a call where appropriate.

specified in this RFP;

- (c) In the case of a Successful Bidder, if within the specified time:
 - (i) it fails to incorporate a Project Company or such Project Company fails or refuses to sign the PPP Agreement; or
 - (ii) the Project Company fails to provide the Performance Security in accordance with the Bidding Documents; or
 - (iii) Successful Bidder fails to transmit the project development fee to the Contracting Authority.

2.14. Sealing and Marking of Bid

- 2.14.1. Each of the three (3) aforementioned envelopes shall be placed in an outer envelope, which shall be sealed and shall be marked as follows: "BID FOR THE [NAME OF PROJECT]"
- 2.14.2. The Bids shall be addressed to:
ATTENTION: [Name of Head of Contracting Authority's Tender Committee]
ADDRESS: [Address of Contracting Authority]
- 2.14.3. If the envelopes are not sealed and marked as instructed above, the Contracting Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted and consequent losses, if any, suffered by the Bidder.
- 2.14.4. Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected².

2.15. Bid Submission

- 2.15.1. Bids must be received by the Contracting Authority at the address specified in Schedule 2 no later than the Bid Submission Deadline.
- 2.15.2. The Bid must be hand-delivered as prescribed by the Contracting Authority. The Contracting Authority shall, on request, provide the Bidder with a receipt showing the date and time when the Bid was received.
- 2.15.3. The Contracting Authority may, at its discretion, extend the Bid Submission Deadline by issuing an addendum in accordance with Clause 2.11 uniformly for all Bidders.
- 2.15.4. Bids received by the Contracting Authority after the specified Bid Submission Deadline shall be declared late and shall not be eligible for consideration and shall be summarily rejected.

2.16. Modifications / Substitution / Withdrawal of Bid

- 2.16.1. The Bidder may modify, substitute or withdraw its Bid after submission, provided that the written notice of the modification, substitution or withdrawal is received by the Contracting Authority prior to the Bid Submission Deadline. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Submission Deadline.
- 2.16.2. The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.15, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

2.17. Rejection of Bids

- 2.17.1. Notwithstanding anything contained in this RFP, the Contracting Authority reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore.

² Option for online submission of bids using secure software and procedures may be provided.

- 2.17.2. In the event that the Tender Committee rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids under this RFP.

2.18. Validity of Bids

- 2.18.1. The Bids shall be valid for a period of not less than **** days from the Bid Submission Deadline.
- 2.18.2. The validity of Bids may be extended by mutual consent of the respective Bidders and the Tender Committee.

2.19. Confidentiality

- 2.19.1. Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the Bidding Process or is not a retained professional advisor advising the Contracting Authority in relation to or matters arising out of, or concerning the Bidding Process.
- 2.19.2. The Contracting Authority will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence.
- 2.19.3. The Contracting Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or the Contracting Authority.

2.20. Correspondence with the Bidder

Save and except as provided in this RFP, the Tender Committee shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

2.21. Fraudulent and Corrupt Practices

- 2.21.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the Letter of Award and during the subsistence of the PPP Agreement.
- 2.21.2. The Tender Committee may reject a Bid, withdraw the Letter of Award, or terminate the PPP Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or the Service Provider, as the case may be, if it determines that the Bidder or Service Provider, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 2.21.3. In such an event, the Tender Committee shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, without prejudice to any other right or remedy that may be available to the Contracting Authority under the Bidding Documents and/or the PPP Agreement or otherwise.
- 2.21.4. In pursuit of this policy, the Government defines, for the purposes of this provision, the terms set forth below as follows:
- (a) "corrupt practice" means the offering, giving, receiving, or soliciting, of anything of value to influence the action of a public official in the Bidding Process (for the avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Contracting Authority who is or has been associated in any manner with the Bidding Process, at any time during the Bidding Process and within one year from the date of the conclusion of such process, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process), and includes inter alia, bribery, extortion or

- coercion, which involves threats of injury to person, property or reputation;
- (b) "fraudulent practice" means a misrepresentation, omission, or suppression of facts, or disclosure of incomplete facts, in order to influence the Bidding Process;
 - (c) "coercive practice" means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process; and
 - (d) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Contracting Authority or member of the Tender Committee with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest.

- 2.21.5. Government reserves the right, where the Applicant has been found by a national or international entity to have engaged in corrupt or fraudulent practices, to declare such Applicant ineligible, for a period of ten years, to be awarded a PPP contract or any publicly funded contract.

Sample Document, Adapt as Appropriate

3. EVALUATION OF BIDS

A. Opening and Evaluation of Technical Proposals

- 3.1. The Tender Committee shall open Envelope 1 of the Bids exactly one hour after the Bid Submission Deadline, at the place specified in Schedule 2 and in the presence of the Bidders who choose to attend.
- 3.2. Bids for which a notice of withdrawal has been submitted shall not be opened.
- 3.3. Upon the opening of first envelopes, the Tender Committee shall determine whether each envelope is responsive to the requirements of the RFP. A submission shall be considered responsive only if it:
 - (a) contains all the documents required to be submitted by Clause 2.12.3 of this RFP;
 - (b) is received on or before the Bid Submission Deadline, including any extension thereof;
 - (c) is signed, sealed and marked as stipulated in this RFP; and
 - (d) does not contain any condition or qualification.
- 3.4. Only applications that are deemed to be responsive will be evaluated.
- 3.5. The Tender Committee reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Tender Committee in respect of such Bid.
- 3.6. Only Bids with responsive Technical Proposals that fulfil the following may be considered for opening of the Financial Proposal:
 - (a) Contains all the required elements/content stipulated in Clause 2.12.4 of this RFP; and
 - (b) Demonstrates the feasibility of its proposed technical approach and methodology for implementing the PPP project based on the minimum criteria indicated in Schedule 11 of this RFP.
- 3.7. The Contracting Authority reserves the right to reject any Bid which is non-responsive. If necessary, the Contracting Authority may ask the Bidders for clarifications. In this case, the Tender Committee will make a request for supplementary information or documentation from the Bidder, provided that this request may only be made to clarify information already provided by a Bidder or to request a document that should have been included. Whenever a supplementary request is made, the Bidder must respond to the Tender Committee within the time period set by the Committee in its request. If the Bidder does not respond to a supplementary request within such time period or does not provide the information or documentation requested, the Tender Committee may consider the Bid non-responsive and reject it.
- 3.8. After the evaluation of Technical Proposals, the Tender Committee will announce the technical scores of all the bidders. Bidders who have received less than [70%]³ will not be eligible for evaluation of their respective Financial Proposals. The Financial Proposals of such bidders would be returned unopened.

OR

After the evaluation of Technical Proposals, the Tender Committee will announce the technical scores of all the bidders. The scores from evaluation of the Technical Proposals will be used for calculation of the combined score for Technical and Financial Proposals based on the weighted average of the respective scores.⁴

³ Suggested threshold, can be modified based on the technical intensity of the project, capacity of the market and the possible number of bidders.

⁴ The Municipality will have to select one of the two paragraphs above based on the approach used for evaluation of bids. The first paragraph will be used if the Municipality is using the pass-fail criteria for technical evaluation, to identify the bidders whose financial proposal would be opened. In such case the final selection of the best Bid would be based on the evaluation of the financial proposal only. The second paragraph will be selected if the Municipality intends to use the weighted average of the scores from Technical and Financial Evaluations for the selection of the financial proposal.

B. Opening and Evaluation of Financial Proposals

- 3.9. The Tender Committee shall schedule the opening of Financial Proposals, which shall be no later than five (5) days after the announcement of qualified Bidders from Clause 3.8.
- 3.10. The best Financial Proposal is the one that offers the most value-for-money for Government, based on the Bid Parameter as follows: [DEFINITION OF BID PARAMETER]



Notes

Examples of Financial Bid Parameters for PPP projects and guidance on their use

1. PPP projects (based on User Pays PPP models) where it is expected that the Municipality will have to provide capital grant, the financial bid parameter would be the least capital grant quoted.
2. PPP projects (based on User Pays PPP models) where the maximum tariff for the service is not regulated and will be driven by market forces, will have the minimum tariff quoted as the financial bid parameter.
3. PPP projects based on annuity/ availability payment model will have the least amount of periodic annuity or per unit availability payment quoted as the financial bid parameter
4. PPP projects that are expected to have reasonably high financial returns, without support from the Municipality, may have the highest revenue share or profit share or lease premium as the financial bid parameter

- 3.11. Financial Proposals will be evaluated using the following methodology⁵.

$$\text{Score (in \% for Financial Proposal of Bidder 'N')} = \frac{\text{Financial Bid of Bidder N}}{\text{Highest Financial Bid among all Bidders}} \times 100$$

OR

$$\text{Score (in \% for Financial Proposal of Bidder 'N')} = \frac{\text{Lowest Financial Bid among all Bidders}}{\text{Financial Bid of Bidder N}} \times 100.$$

- 3.12. The best Bid will be identified based on the highest score from the evaluation of Financial Proposal. (from Clause 3.11).

OR

The best Bid will be identified based on the highest weighted average combined score from the evaluation of the Financial Proposal (from Clause 3.11) and Technical Proposal (as described in Schedule 11), as indicated below:

$$\begin{aligned} \text{weighted average score of Bidder 'N'} = & \\ & (\text{weight for technical score in \%} \times \text{aggregate technical score}) \\ & + (\text{weight for financial score in \%} \times \text{financial score}) \end{aligned}$$

where:

technical score= score from the evaluation of the Technical Proposal;
financial score= score from the evaluation of the Financial Proposal;
weight for technical score= weight assigned by Municipality
(can be in the range of 70%-80%);
weight for financial score= (1- weight for technical score).

- 3.13. The best Bid, based on the Bid Value submitted, may only be considered indicative until the Tender Committee confirms that such Financial Bid fulfils the following:
- (a) It is supported by the documents/attachments required to be included in the Financial Proposal

⁵ The first option is selected if a higher Financial Bid would deliver higher value for the Municipality (like revenue share or lease premium), the second option is selected if a lower Financial Bid would deliver higher value for the Municipality (like viability gap grant or annuity).

according to Schedule 14 of this RFP;

- (b) It is signed, sealed and marked as stipulated in this RFP; and
- (c) It does not contain any condition or qualification.

- 3.14. The Contracting Authority reserves the right to entertain the next best Bid if the indicative best Bid fails to fulfil the requirements indicated in Clause 3.13. If necessary, the Tender Committee may ask the Bidder/s for clarifications following the procedure stipulated in Clause 3.7 of this RFP.
- 3.15. The Bidder whose Bid is declared to be the best Bid and complies with the requirements of Clause 3.13, or if two or more Bidders have offered exactly the same Bid Value, then the Bidder that has the better Financial based on the Qualification Documents submitted during prequalification, shall be declared as the Successful Bidder.

C. Award and Execution of the PPP Agreement

- 3.16. A letter of award ("Letter of Award") shall be issued to the Successful Bidder by the Contracting Authority. Within seven (7) days from the date of issue of the Letter of Award, the Successful Bidder shall send an acknowledgement agreeing to comply with the conditions set out therein and to execute the PPP Agreement.
- 3.17. The Tender Committee will promptly notify other Bidders that they have been unsuccessful and their Bid Security shall be returned within 30 days, without interest, of the signing of the PPP Agreement with the Service Provider.

3.18. Special Purpose Company

- 3.18.1. The Successful Bidder shall incorporate a special purpose company specifically formed and incorporated in [LOCATION] solely for the purpose of undertaking the Project pursuant to the PPP Agreement ("Project Company"). The Successful Bidder shall ensure that the Project Company is incorporated and capitalised within 30 days from the date of issue of the Letter of Award and promptly upon such incorporation and capitalisation provide evidence thereof to the Contracting Authority.
- 3.18.2. The Successful Bidder shall ensure that the Project Company is incorporated and capitalised within 30 days from the date of issue of the Letter of Award and promptly upon such incorporation and capitalisation provide evidence thereof to the Contracting Authority.
- 3.18.3. Subject to the terms of the PPP Agreement, in the event that the Successful Bidder is a single entity, the shareholding of the Project Company shall be fully owned by such entity. In the event that the Successful Bidder is a Consortium, the shareholding of the Project Company shall be owned by the Members in accordance with the terms of the Bidding Documents and the Consortium Agreement.
- 3.18.4. The Project Company shall execute the PPP Agreement within 45 days from the date of issue of the Letter of Award. On the date of signing of the PPP Agreement, the Service Provider shall provide the Contracting Authority with a Performance Security as defined in the PPP Agreement. In the event the PPP Agreement is not signed within 45 days, the Contracting Authority may commence discussions with the next best Bidder and so on, on the same terms.

3.19. Bid Development Fee

- 3.19.1. The Successful Bidder is required to pay, within ten (10) days from the issuance of the Letter of Award, the bid development fee, in consideration of the transaction costs and efforts expended in the tender of the PPP Project.
- 3.19.2. The payment of the Bid Development Fee shall be made in immediately available funds in an account to be specified for this purpose.

D. Miscellaneous

- 3.20. The Bidding Process shall be governed by, and construed in accordance with, the laws of [LOCATION] and the Courts of [LOCATION] shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Bidding Documents and/or the Bidding Process.
- 3.21. The Contracting Authority, in its sole discretion and without incurring any obligation or liability or assigning any reason, reserves the right, at any time, to:
- (a) suspend, withdraw and/or cancel the Bidding Process and/or amend and/or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) retain any information and/or evidence submitted to the Contracting Authority by, on behalf of, and/or in relation to any Bidder;
 - (d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder;
 - (e) amend, modify or reissue the Bidding Documents or any part thereof; and/or
 - (f) accept or reject any or all of the Bids.
- 3.22. It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Contracting Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

Schedule 1: Updated Project Information⁶

- 1.1. The Contracting Authority has, as part of its **[insert development strategy]**⁷, identified the PPP opportunity at **[insert location]**.
- 1.2. It is intended that by the Contracting Authority entering into the PPP with a private party, the Contracting Authority may be able to **[insert the purpose for entering into PPP]**. It is intended that the project will be implemented by the private party in compliance with any terms and conditions stipulated in the PPP Agreement.
- 1.3. The Contracting Authority embarked on the project after conducting feasibility studies in order to determine whether it could proceed with the project and whether the project may be viable.
- 1.4. Under the project, the private partner will build an asset by using its own funds or funds it has raised, transfer the possession as specified in the PPP Agreement, and transfer it to local ownership upon the expiration of the PPP Agreement. The payment to the private partner will comprise of [user payments from users of the PPP project]; [and/or] [availability payments from the Contracting Authority].
- 1.5. [DESCRIPTION OF THE ASSET]⁸
- 1.6. [SITE REVIEW]⁹

⁶ All numbered footnotes in Schedule 1 are for guidance of the Contracting Authority and should be omitted prior to issue of the RFQ.

⁷ All project specific provisions have been enclosed in square parenthesis and may be modified, as necessary, before issuing the RFQ for the project. The square parenthesis should be removed after carrying out the required modifications.

⁸ The Contracting Authority must provide relevant details regarding the asset and the possible product or service categories which could be provided through the use of the asset. The Contracting Authority will be heavily guided by its feasibility study as to what information is relevant. The Contracting Authority must provide sufficient information so as to allow interested parties to consider whether they would wish to be involved in the PPP.

⁹ The Contracting Authority must provide a summary on the site information and on issues that were identified during the feasibility phases, such as: legal, environmental, stakeholders, personnel and human resources, infrastructure, equipment, performance standards, transfer of risk and other information identified as being relevant through the inception and feasibility phases.

Schedule 2: Updated Bidding Process Timelines

The Contracting Authority shall endeavor to adhere to the following timelines:

Event Description	Estimated Date, Time, and Location (if applicable)
Last date for receipt of queries	
Pre-bid conference	
Contracting Authority's response to queries	
Bid Submission Deadline	
Opening of Envelope Technical Proposal	
Announcement of Technical Proposal Short List	
Opening of Envelope Financial Proposal	
Selection and Announcement of Successful Bidder	
Approval of Successful Bidder	
Finalization of matters to permit signing of PPP Agreement	

Sample Document, Adapt as Appropriate

Schedule 3: Bid Letter

[On the letterhead of the Bidder / Lead Member]

Original or Copy number:

Date:

To: [Contracting Authority's Name]

[Insert Contracting Authority's Address]

Re: Submission of Bid for the [name of project]

Dear Madam/Sir,

With reference to your RFP dated [DATE], I/we, having examined the document and understood its contents, hereby submit my/our Bid for the aforesaid Project. We hereby confirm that we/our members in the Consortium satisfy the terms and conditions laid out in the Bidding Documents. We have agreed that _____ [insert member's name] will act as the Lead Member of our consortium, and that _____ [insert individual's name] will act as our representative/ will act as the representative of the consortium on its behalf* and has been duly authorized to submit the Bid.¹⁰

The Bid is being submitted for the express purpose of qualifying as a Successful Bidder for the aforesaid Project. The Bid is unconditional and unqualified.

I/We hereby certify/declare that:

1. all the required accompanying documents are complete and are all included in this Bid;
2. all information provided in the Bid are true and correct;
3. nothing has been omitted which renders such information misleading;
4. all documents accompanying such Bid are true copies of their respective originals;
5. I/we shall make available to the Contracting Authority any additional information it may find necessary or require to supplement or authenticate the submissions;
6. I/we will abide by all the terms and conditions of the RFP;
7. I/We have examined and have no reservations to the Bidding Documents, including any addendum issued by the Contracting Authority;
8. in the last 3 years, I/we/any of the Members have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach by [us/any of the Members];
9. I/we are not barred by the Government, or any public agencies from participating in similar projects as of [Bid Submission Deadline];
10. I/We do not have any Conflict of Interest;
11. I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in this RFP, in respect of any tender or request for proposal issued by or any agreement entered into with the Contracting Authority or any other public sector enterprise or any government, at central or state level;
12. I/we have taken steps to ensure that in conformity with the provisions of this RFP, no person acting for me/us or on my/our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice;
13. you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive, without incurring any liability to the Bidders;

¹⁰ Please strike out if not applicable.

14. I/we/any Member, am/are not a member of a/any other Consortium applying for the Project;
15. I/we or any Member of our consortium have not been convicted by a court of law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community;
16. in regard to matters relating to security and integrity of the country, I/we have not been charged by any government agency or convicted by a court of law;
17. no investigation by a regulatory authority is pending either against me/us/any Member or against our chief executive officer or any of my/our directors/managers/employees;

I/We believe that I/we satisfy(s) and meet(s) all the requirements as specified in the RFP and are/is qualified to submit a Bid.

I/We understand that the Successful Bidder shall be required to incorporate and capitalize a Project Company in accordance with the Bidding Documents prior to execution of the PPP Agreement.

I/We agree and undertake to be jointly and severally liable for all our obligations under the PPP Agreement as per the provisions set out therein.

Yours faithfully,

(Name, designation, and signature of the authorised representative)

For and on behalf of: (name and seal of the Bidder / Lead Member of the Consortium)

Sample Document, Adapt as Appropriate

Schedule 4: Updated Bidder Information¹¹

Bidder Information

Applicant's legal name	
In case of Consortium, legal name of each member	
Applicant's actual or intended country of constitution	
Applicant's actual or intended year of constitution	
Applicant's legal address in country of constitution	
Applicant's authorized representative information (name, designation, address, Telephone/ Fax numbers, E-mail)	

¹¹ This section must be completed by the authorized consortium representative, or if the applicant is a sole organization, by that organization.

Attached are copies of original documents of:

- 1. Notarized documents of constitution of the legal entity named above
- 2. Letter of authorization to represent the applicant
- 3. Letter of intent to form Consortium or Consortium agreement.

Sample Document, Adapt as Appropriate

Schedule 5: Updated Consortium Member Information¹²

Consortium Member Information	
Consortium member's legal name	
Consortium member's actual or intended country of constitution	
Consortium member's actual or intended year of constitution	
Consortium member's legal address in country of constitution	
Consortium member's authorized representative information (name, designation, address, Telephone/ Fax numbers, E-mail)	

Attached are copies of original documents of:

- 1. Notarized documents of constitution of the legal entity named above
- 2. Letter of authorization to represent the applicant
- 3. Letter of intent to form Consortium or Consortium agreement.

¹²This section is to be completed by each consortium member.

Sample Document, Adapt as Appropriate

Schedule 6: Bank Guarantee for Bid Security

Address of the guarantor bank: [•]

Address of the beneficiary: [•]

We, the undersigned [•] (the "Guarantor"), in order to enable [Name of Bidder] to bid for the [Name of the Project], hereby irrevocably and independently guarantee to pay to you an amount up to a total of [•] waiving all objections and defences.

We shall effect payments under this guarantee on your first written demand, which must be accompanied by your confirmation that you have accepted the above-mentioned bid and that the firm [Name of Bidder] is no longer prepared to abide by this bid.

This guarantee shall remain in full force for a period of 180 days from the Bid Submission Deadline (as defined in the RFP).

By this date we must have received any claims for payment by letter or encoded telecommunication.

It is understood that you will return this guarantee to us on expiry or after payment of the total amount to be claimed hereunder.

This guarantee is governed by the laws of [LOCATION] and shall be subject to the exclusive jurisdiction of the Courts of [LOCATION].

Date

Guarantor

Sample Document, Adapt as Appropriate

Schedule 7: Power of Attorney for Signing of Bid

I (name of the company) incorporated under applicable laws and having its registered office at [____] "Company", do hereby irrevocably constitute, nominate, appoint and authorize Mr. /Ms (name), presently residing at [indicate business address], who is presently employed with us and holding the position of [designated position], as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds, matters and things as are necessary or required in connection with or incidental to submission of our Bid and for our selection as Successful Bidder for the [Title of Project] (the 'Project') proposed or being developed by the Contracting Authority including but not limited to signing and submission of our Bid and other documents and writings, participate in pre-bid conferences and other conferences and providing information/responses to the Contracting Authority, representing us in all matters before the Contracting Authority, signing and execution of all contracts including the PPP Agreement and undertakings consequent to acceptance of our Bid, and generally dealing with the Contracting Authority in all matters in connection with or relating to or arising out of our Bid for the said Project and/or upon award thereof to us and/or till the entering into of the PPP Agreement with the Contracting Authority.

We hereby agree to ratify and confirm all acts, deed, matters and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

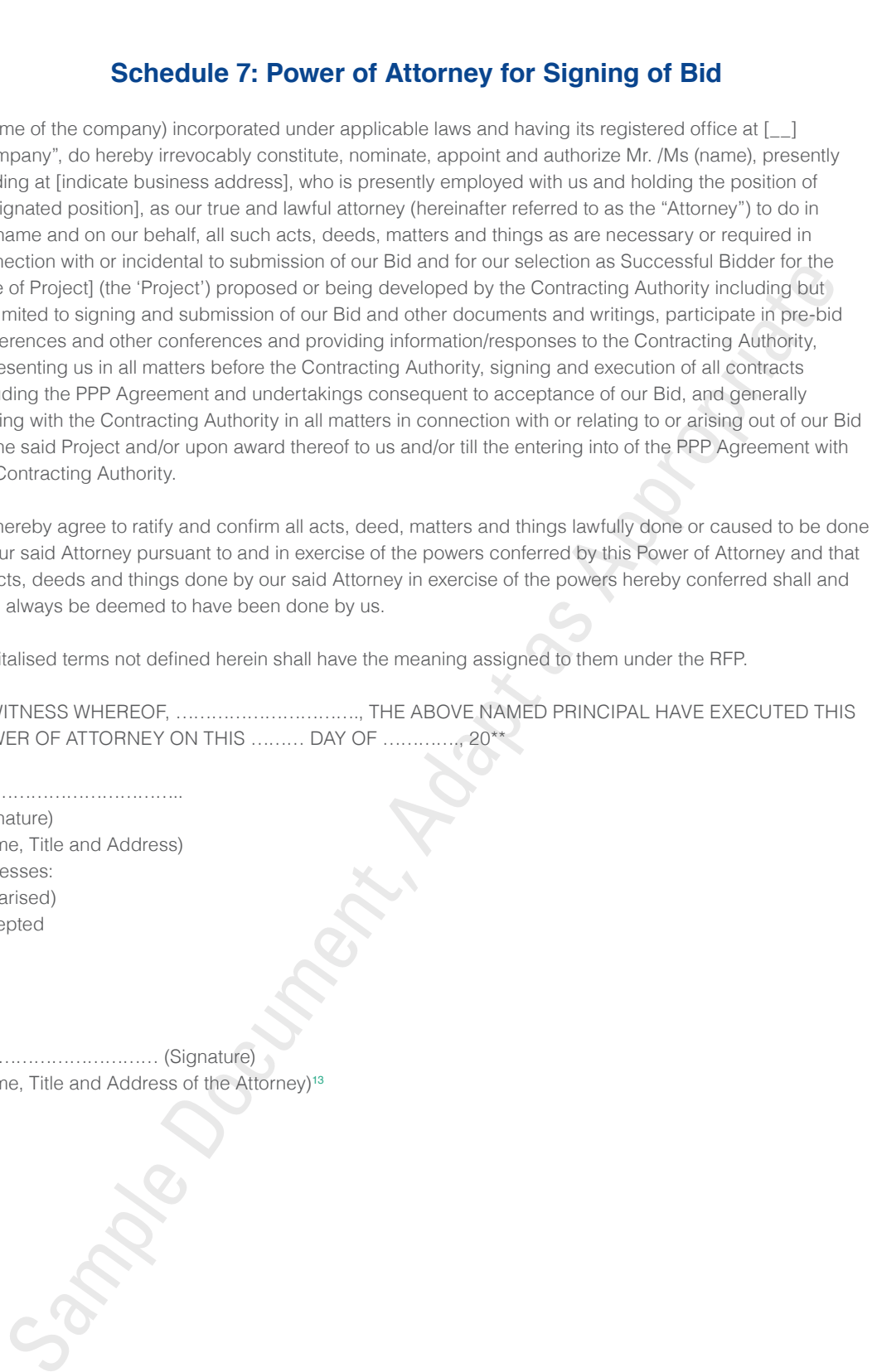
Capitalised terms not defined herein shall have the meaning assigned to them under the RFP.

IN WITNESS WHEREOF, _____, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____, 20**

For _____
(Signature)
(Name, Title and Address)
Witnesses:
(Notarised)
Accepted

_____ (Signature)
(Name, Title and Address of the Attorney)¹³

¹³The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure. Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.



Schedule 8: Power of Attorney for Lead Member of Consortium

Whereas, the members of the Consortium are interested in bidding for the Project and implementing the [Title of Project] (the 'Project') in accordance with the terms and conditions of the Bidding Documents and other connected documents in respect of the Project.

Whereas, it is necessary for the members of the Consortium to designate the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution. who, acting jointly, would have all necessary power and authority to do all acts, deeds and things on behalf of the Consortium, as may be necessary in connection with the Consortium's bid for the Project.

NOW THIS POWER OF ATTORNEY WITNESSETH THAT;

¹⁴The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable Law and the charter documents of the executors and when it is so required the same should be under common seal affixed in accordance with the required procedure. Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.

We, M/s. _____ (Lead Member) and M/s _____ (the respective names and addresses of the registered office) do hereby designate M/s. _____ being one of the members of the Consortium, as the Lead Member of the Consortium, to do on behalf of the Consortium, all or any of the acts, deeds or things necessary or incidental to the Consortium's bid and submission of its proposal for the Project, including but not limited to signing and submission of relevant documents and writings, participating in pre-bid and other conferences, responding to queries, and generally to represent the Consortium in all its dealings with the Contracting Authority or any person in connection with the Project until the PPP Agreement is entered into between the Concessionaire and the Contracting Authority.

We hereby agree to ratify all acts, deeds and things lawfully done by Lead Member, our said attorney pursuant to this Power of Attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us/Consortium.

Dated this the _____ day of _____, 20**

(Executors)¹⁴

Sample Document, Account Proprietary

Schedule 9: Updated Consortium Agreement

THIS CONSORTIUM AGREEMENT is entered into on this [•] day of [•] 20[•] (the "Agreement") AMONGST

1. [Name of entity], a company incorporated under [legislation] and having its registered office at [business address] (hereinafter referred to as the "First Part" which expression shall, unless repugnant to the context include its successors and permitted assigns);
AND
2. [Name of entity], a company incorporated under [legislation] and having its registered office at [business address] (hereinafter referred to as the "Second Part" which expression shall, unless repugnant to the context include its successors and permitted assigns);
AND
3. [Name of entity], a company incorporated under [legislation] and having its registered office at [business address] (hereinafter referred to as the "Third Part" which expression shall, unless repugnant to the context include its successors and permitted assigns).

The above mentioned parties of the FIRST, SECOND and, THIRD PART are collectively referred to as the "Parties" and each is individually referred to as a "Party".

WHEREAS,

1. The Contracting Authority has invited Bids by its Request for Proposal No. [•] dated [•] (the "RFP") for selecting the Successful Bidder for the [Title of the Project] through Public Private Partnership;
2. The Parties are interested in jointly bidding for the Project as members of a Consortium (as defined below) and in accordance with the terms and conditions of the Bidding Documents including this RFP; and
3. It is a necessary condition under the RFP that the members of the Consortium shall enter into a concession agreement and furnish a copy thereof with the Bid.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium

- 2.1 The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/or through any other consortium constituted for the Project, either directly or indirectly.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the Successful Bidder and awarded the Project, it shall incorporate the Project Company under [legislation] as required by and in accordance with the Bidding Documents for performing all its obligations as the Concessionaire in terms of the PPP Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below.
Party of the First Part shall be the Lead Member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process;
{Party of the Second Part shall be [•]; and}
{Party of the Third Part shall be [•]}

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project in accordance with the terms of the RFP, and for the performance of the Service Providers obligations under the PPP Agreement.

6. Shareholding in the Project Company

The Parties agree that the proportion of shareholding among the Parties in the Project Company shall be as follows:

First Party:

Second Party:

Third Party:

Subject to the terms of the PPP Agreement, the Lead Member shall for [•] years hold equity share capital not less than **% (** percent) of the subscribed, paid up and voting equity share capital of the Project Company; and

Each member of the Consortium shall hold at least ** % of the subscribed and paid up equity of the Project Company for [•] years after the Completion Date, and at least ** % for the following [•] years.

The Parties undertake that they shall comply with all equity lock-in requirements set forth in the PPP Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- 7.1 such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- 7.2 the execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Member of Consortium is annexed to this Agreement, and will not, to the best of its knowledge;
- 7.3 require any consent or approval not already obtained;
- 7.4 violate any applicable law presently in effect and having applicability to it;
- 7.5 violate the memorandum of association and articles of association, by-laws or other applicable organizational documents thereof;
- 7.6 violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; and
- 7.7 create or impose any liens, mortgages, pledges, claims, security interests, charges or any other encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- 7.8 this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- 7.9 there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect till the full and final satisfaction of all obligations under the PPP Agreement in accordance with the terms thereof, in case the Project is awarded to the Consortium. However, in case the Consortium is either not qualified for the Project or does not get selected for award of the Project as the Successful Bidder, the Agreement will stand terminated, in accordance with the mutual agreement of the Parties.

9. Miscellaneous

This Consortium Agreement shall be governed by laws of ****.

The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Contracting Authority.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of SECOND PART

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of THIRD PART

(Signature)

(Name)

(Designation)

(Address)

Sample Document, Adapt as Appropriate

Schedule 10: Anti-Collusion Certificate¹⁵

We undertake that, in competing for (and, if the award is made to us, in executing) the Project, we will strictly observe the laws against fraud and corruption in force in [LOCATION].

We hereby certify and confirm that in the preparation and submission of our Bid, we have not acted in concert or in collusion with any other Bidder or other person(s) and also not done any act, deed or thing which is or could be regarded as anti-competitive.

We further confirm that we have not offered nor will offer any illegal gratification in cash or kind to any person or agency in connection with this Bid.

Dated thisday of, 20**

.....
(Name of the Bidder)

.....
(Signature of the Bidder / Authorised Person)

¹⁵To be executed on stamp paper of appropriate value.

.....
(Name of the Authorised Person)

Sample Document, Adapt as Appropriate

Schedule 11: Format and Evaluation of Technical Proposal

The Bidders shall prepare a Technical Proposal based on the requirements given in the RFP, setting out the proposed plan for implementation of the PPP Project. The Technical Proposal shall comprise the technical approach and methodology for implementing the Project, implementation schedule and timelines, manpower deployment, etc. The Technical Proposal shall be in adherence to Laws and the requirements set out in the draft PPP Agreement.

The Bidders shall submit their Technical Proposal in line with the contents provided in the table below. The Technical Proposals shall be evaluated against the criteria outlined for each of the parameters in the table below, with Bidder receiving marks for each parameter based on the predefined scoring scale.

Parameter ¹⁶	Criteria for Evaluation	Marking Scale
<p>Conceptual Engineering Design:</p> <ul style="list-style-type: none"> - Architectural analysis of the Project Location and its peripheral areas - Details key design/engineering concepts considered in the design of the facility - Conceptual layout of the facility, illustrating technical specifications of key components of the facility. 	<ul style="list-style-type: none"> - The conceptual engineering design must conform to the output specifications prescribed in the Bidding Documents - The engineering surveys, plans, and estimates should be doable within +/- **% of the final quantities 	To be defined based on the needs and characteristics of each individual project
<p>Technical Plan for Construction/ Rehabilitation:</p> <ul style="list-style-type: none"> - Methodology statement outlining appreciation of the project - Implementation Plan – present a detailed activity schedule along with milestones in line with the requirements set out in the PPP Agreement. This should also outline the timeline envisaged for obtaining various Government/Local Government approvals 	<ul style="list-style-type: none"> - <i>Time planning and procedures for the construction of the completed facility must be well-defined, shown to be feasible at the municipal context, allow a completion, commissioning, and handover of the PPP Project on time</i> - <i>Must be in line with output specifications</i> 	To be defined based on the needs and characteristics of each individual project
<p>Operation & Maintenance Plan:</p> <ul style="list-style-type: none"> - Process Flow Chart and Material Balance Statement setting out the activities and the outputs at each stage - Methodology for operations. - Timelines and frequency for carrying out and completion of various activities. - Resource Utilization Statement indicating the proposed organizational structure, employee deployment, equipment procurement and utilization, contracting activities, utilization of office and other facilities. - The maintenance (regular & emergency) schedules should also be indicated over the Term 	<ul style="list-style-type: none"> - System/methodology for the O&M of the completed facility must be well-defined, shown to be feasible and practicable at the municipal context, - Must show that key performance indicators are achievable by the proposed O&M system 	To be defined based on the needs and characteristics of each individual project
<p>Organization & Staffing:</p> <p>Bidders should present the calculations for manpower requirement for the Project. Proposed organization structure and composition of the project and operational team to be presented, including staff deployment plan, number of shifts per day of operations and roles and responsibilities Bidders should indicate the number of staff to be sourced locally.</p>	<ul style="list-style-type: none"> - Adequacy of proposed organization - Well defined roles & responsibility that facilitates the implementation of the proposed Technical and O&M Plans - Local staffing in line with public sector expectations 	To be defined based on the needs and characteristics of each individual project

¹⁶ May vary based on the requirements of the PPP Project.

The marks would be summed up for all evaluation parameters for each individual bidder. The score for evaluation of the Technical Proposal will be calculated as follows:

$$\text{Score (in \%)} \text{ for evaluation of Technical Proposal of Bidder 'N'} \\ = (\text{total marks from evaluation for Bidder N} / \text{highest total marks among all Bidders}) \times 100$$

Bidders receiving less than 70% score would not be eligible for the evaluation of their financial proposals. Financial proposals of all such bidders would be returned unopened.¹⁷

OR

The scores from evaluation of the Technical Proposal would be used for calculation of the weighted average score, along with the score from the evaluation of the Financial Proposal, as described in Section 3.8 of this document.

¹⁷ The Municipality will have to select one of the two paragraphs above based on the approach used for evaluation of bids. The first paragraph will be used if the Municipality is using the pass-fail criteria for technical evaluation, to identify the bidders whose financial proposal would be opened. In such case the final selection of the best Bid would be based on the evaluation of the financial proposal only. The second paragraph will be selected if the Municipality intends to use the weighted average of the scores from Technical and Financial Evaluations for the selection of the financial proposal.

Sample Document, Adapt as Appropriate

Schedule 12: Format of Financial Proposal

[On the letterhead of the Applicant / Lead Member]

Original or Copy number:

Date:

To: [Contracting Authority's Name]

[Insert Contracting Authority's Address]

Re: Financial Proposal for the [Title of the PPP Project]

Dear Madam/Sir,

Please find below our Financial Proposal for the [Title of the Project] (the "Project") in response to the Request for Proposal ("RFP") issued by [the Name of the Contracting Authority] ("the Contracting Authority") on [DATE].

We hereby confirm the following:

- This Financial Proposal is being submitted by [name of Bidder] in accordance with the conditions stipulated in the RFP;
- We have examined in detail and understand and agree to abide by all terms and conditions stipulated in the Bidding Documents issued by the Contracting Authority, as amended, and in any subsequent communication sent by the Contracting Authority;
- Our Financial Proposal is consistent with all requirements of submission stated in the RFP and in any subsequent communication sent by the Contracting Authority;
- It is adequately supported by the following documents as attachments:
 - (a) Supporting cost estimates for the design, construction, operation and maintenance components;
 - (b) A financial model consistent with the above cost estimates and the technical proposal, and which includes a short explanatory memorandum; and
 - (c) A project financing plan showing positively showing that the same can adequately meet the cost requirements of the PPP Project, which may include the amount of equity to be infused, debt to be obtained for the Project, and sources of financing.

Our Bid Value is as follows:

[Grant/ Fee]	[amount in [CURRENCY]/ percentage]
--------------	------------------------------------

We are solely responsible for any errors or omissions in our Financial Proposal.

Respectfully,

(Name, designation, and signature of the authorised representative)

For and on behalf of: (name and seal of the Applicant / Lead Member of the Consortium)

Schedule 13: Declaration of Undertaking

We underscore the importance of a free, fair and competitive procurement process that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our Application, nor will we offer or grant or accept any such incentives or conditions in this Bidding Process or, in the event that we are awarded the contract, in the subsequent execution of the contract.

We also declare that our company/all members of the consortium has/have not been included in the list of sanctions of the United Nations nor in any other list of sanctions and affirm that our company/all members of the consortium will immediately inform the client if this situation should occur at a later stage.

We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding for the client, the client is entitled to exclude our company/ the consortium from the Bidding Process and, if the contract is awarded to our company/ the consortium, to terminate the contract immediately if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion occurs after the Declaration of Undertaking has been issued.

.....
Place, date

.....
Authorized Representative of the Bidder

Sample Document, Adapt as Appropriate

Schedule 14: Draft PPP Agreement

Sample Document, Adapt as Appropriate

