

INDORE SMART CITY DEVELOPMENT LIMITED, INDORE



REQUEST FOR PROPOSAL

For

**Appointment of
Project Development and Management Consultant
for Area-Based Development Project
for Indore Smart City Development Limited
(Revised)**

RFP NOTICE NO. 12/ISCDL/16-17

25 July 2016

Disclaimer

The information contained in this Request for Proposals document (“RFP”) or subsequently provided to Applicants, whether verbally or in documentary or any other form by or on behalf of the Indore Smart City Development Limited (“the Authority”) or any of its employees or advisers, is provided to Applicants 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 or an offer by the Authority to the prospective Applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Applicants may be on a wide range of matters, some of which may depend upon interpretation of law. 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. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

The Authority, its employees and advisers make no representation or warranty and shall have no liability to any person including any Applicant 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, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in anyway in this Selection Process.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise, howsoever caused, arising from reliance of any Applicant upon the statements contained in this RFP.

The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select an Applicant or to appoint the Selected Applicant, as the case may be, for the Consultancy and the Authority reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

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

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Agreement	As defined in Schedule-2
Agreement Value	As defined in Clause 6.1.2 of Schedule-2
Applicable Laws	As defined in Schedule-2
Applicant	As defined in Clause 2.1.1
Associate	As defined in Clause 2.3.3
Authorised Representative	As defined in Clause 2.13.3
Authority	As defined in Clause 1.1.1
Bid Security	As defined in Clause 2.20.1
Conditions of Eligibility	As defined in Clause 2.2.1
Conflict of Interest	As defined in Clause 2.3.1
Consultancy	As defined in Clause 1.2
Consultancy Team	As defined in [Paragraph 4] of Schedule-1
Consultant	As defined in Clause 1.2
CV	Curriculum Vitae
Deliverables	As defined in Paragraph 5 of Schedule-1
Documents	As defined in Clause 2.12
Effective Date	As defined in Clause 2.1 of Schedule-2
Eligible Assignments	As defined in Clause 3.1.4
Financial Proposal	As defined in Clause 2.15.1
Form of Agreement	Form of Agreement as in Schedule-2
INR, Re, Rs.	Indian Rupee(s)
Inception Report	As specified in [Paragraph 3] of Schedule-1
Key Personnel	As defined in Clause 2.1.4
Lead Member	As defined in Clause 2.1.1
LOA	Letter of Award
Member	As defined in Clause 2.3.3 (a)
Official Website	As defined in Clause 1.11.2
Personnel	As defined in Clause 1.1.1(n) of Schedule-2
PPP	Public Private Partnership
Professional Personnel	As defined in Clause 2.14.6
Prohibited Practices	As defined in Clause 4.1
Project	As defined in Clause 1.1.1
Project Manager	As defined in Clause 4.6 of Schedule-2

Proposal	As defined in Clause 1.2
Proposal Due Date or PDD	As defined in Clauses 1.5 and 1.8
Resident Personnel	As defined in Clause 1.1.1(o) of Schedule-2
RFP	As defined in Disclaimer
Selected Applicant	As defined in Clause 1.6
Selection Process	As defined in Clause 1.6
Services	As defined in Clause 1.1.1(q) of Schedule-2
Sole Firm	As defined in Clause 2.1.1
Statement of Expenses	As defined in Note 4, Form-2 of Appendix-II
Statutory Auditor	An Auditor appointed under Applicable Laws
Sub-Consultant	As defined in Clause 1.1.1(r) of Schedule-2
Support Personnel	As defined in Clause 2.14.6
Team Leader	As defined in Clause 2.1.4
Technical Proposal	As defined in Clause 2.14.1
TOR	As defined in Clause 1.1.3
US\$	United States Dollar

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

1. INTRODUCTION

1.1. Background

- 1.1.1 Indore Smart City Proposal (SCP) has been selected, to implement the Area-Based Development (ABD) and Pan-city proposals, by the Government of India (GoI) under Smart City Mission (SCM), wherein 98 cities in India competed for first 20 positions. The Indore ABD proposal spreads across a contiguous land parcel, comprising of a total area of 742 acres, having a population of 1.2 Lakhs which is almost 5.5% of the total population of Indore city. The 742 acres, earmarked area is proposed to be retrofitted with smart features/infrastructure wherein out of total proposed area, 164 acres of land will be redeveloped with smart features/infrastructure in accordance with SCP and SCM guidelines.

The project cost of all the projects as per the SCP to be taken up for implementation is estimated as Rs. 5099.60 Crore, that includes redevelopment of 164 acre area on PPP basis costing approximately Rs. 2991.0 Crore, for which ISCDL appointed consultancy firm M/s Eptisa Servicios De Ingenieria S.L., as a technical and administrative support unit. Similarly, Consultant has been appointed for water supply, sewerage, water recycling & reuse for the ABD area under AMRUT scheme and consultants are also being appointed for pan-city ICT solutions and Housing for All. The consultant appointed for ABD shall coordinate with appointed consultants to insure seamless coordination in planning and implementation of the projects. The project cost of ABD component for purpose of this assignment is considered as Rs. 1500.00 Crore under Indore Smart City Proposal. This is only a preliminary estimate. The selected ABD consultant will need to prepare DPRs and detailed cost estimates.

For the purpose of implementing the Smart Cities project, Indore Smart City Development Limited (ISCDL) (the “Authority”), a Special Purpose Vehicle (SPV) for Indore Smart City Project has been incorporated as a public limited company, under the Indian Companies Act, 2013. District Collector is Chairman and Municipal Commissioner is Executive Director of the Company. ISCDL has received funds from Government of India and Government of Madhya Pradesh (GoMP) for the development of Indore as smart city. ISCDL intends to apply part of this fund for the said consultancy services. Pursuant to above, ISCDL is inviting the eligible global consulting entity, to provide consultancy services for preparation of Area Based Development Master Plan/ detailed layout plan for earmarked area, preparation of detailed project reports for various packages and project management consultancy support.

- 1.1.2 In pursuance of the above, the Authority has decided to carry out the process for selection of Project Development and Management consultant for Area Based Development Project for Indore Smart City. The Consultant shall perform the activities in accordance with the Terms of Reference specified in Schedule-1 (the “TOR”).

1.2 Request for Proposals

The Authority invites proposals (the “Proposals”) for selection of project development and management consultant (the “consultant”) for planning, designing, implementing and monitoring of Area Based Development for Indore Smart City in conformity with the TOR (collectively the “Consultancy”) and Smart City Mission.

The Authority intends to select the Consultant through an open competitive bidding process in accordance with the procedure set out herein.

1.3 Due diligence by Applicants

Applicants are encouraged to familiarize themselves fully about the assignment and the local conditions before submitting the Proposal by paying a visit to the Authority and the Project site, sending written queries to the Authority, and attending a Pre-Proposal Conference on the date and time specified in Clause 1.10, and any other means.

1.4 Sale of RFP Document

RFP document can be downloaded from the website of www.mpeproc.gov.in. However, the bids of only those Applicant shall be considered for evaluation who have made online payment of Rs 10,000/- (Rs Ten thousand only) for the RFP document including service & gateway charges, without which bids will not be accepted. The RFP Fee of Rs 10,000/- (Rs. Ten thousand only) is to be submitted by bidder by making online payment only against this RFP.

1.5 Validity of the Proposal

The Proposal shall be valid for a period of not less than 120 days from the Proposal Due Date (the “PDD”).

1.6 Brief description of the Selection Process

The Authority has adopted a two stage selection process (collectively the “**Selection Process**”) for evaluating the Proposals comprising of technical bids and financial bids to be submitted by the Applicant. For avoidance of doubt, the technical proposal shall be submitted in hard copy to the Authority Address and in soft copy online through e-procurement portal and the financial proposal shall be submitted only online through e-procurement. In the first stage, a technical evaluation will be carried out as specified in Clause 3.1. Based on this technical evaluation, a list of short-listed applicants shall be prepared as specified in Clause 3.2. In the second stage, a financial evaluation will be carried out as specified in Clause 3.3. Proposals will finally be ranked according to their combined technical and financial scores as specified in Clause 3.4. The first ranked Applicant (the “**Selected Applicant**”) shall be called for negotiation, if necessary, while the second ranked Applicant will be kept in reserve.

1.7 Currency conversion rate and payment

- 1.7.1 For the purposes of technical evaluation of Applicants, [Rs. 67 (Rupees sixty seven)] per US\$ shall be considered as the applicable currency conversion rate. In case of any other currency, the same shall first be converted to US\$ as on the date 60 (sixty) days prior to the Proposal Due Date, and the amount so derived in US\$ shall be converted into INR at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.
- 1.7.2 All payments to the Consultant shall be made in INR in accordance with the provisions of this RFP. The Consultant may convert INR into any foreign currency as per Applicable Laws and the exchange risk, if any, shall be borne by the Consultant.

1.8 Schedule of Selection Process

The Authority would endeavour to adhere to the following schedule:

	Event Description	Date & Time
1.	Publication of Request for Proposal	16.06.2016
2.	Last date for receiving queries/clarifications	17.07.2016 till 1730 Hours
3.	Pre-Proposal Conference	18-07-2016 at 1500 Hours
4.	Authority response to queries	25.07.2016
5.	Last date for purchase of RFP document	22.08.2016
6.	Proposal Due Date or PDD (online submission of Technical Proposal and Financial Proposal on e-procurement portal)	24.08.2016 till 1500 Hours
7.	Submission of hard copy of Technical Proposal	26.08.2016 till 1500 Hours
8.	Opening of Technical Proposals	26.08.2016 at 1530 Hours
9.	Opening of Financial Proposals	To be intimated to the successful bidders as per clause 3.2
10.	Letter of Award (LOA)	Within 15 days of Opening of Financial Proposals
11.	Signing of Agreement	Within 10 days of LOA
12.	Validity of Applications	As mentioned in clause 1.5

1.9 Pre-Proposal visit to the Site and inspection of data

Prospective Applicants may visit the Site and review the available data at any time prior to PDD. For this purpose, they will provide at least two days' notice to the nodal officer specified below:

**Chief Executive Officer,
Indore Smart City Development Limited**

1.10 Pre-Proposal Conference

The date, time and venue of Pre-Proposal Conference shall be:

Date and Time: As mentioned in clause 1.8

1.11.1 All communications including the submission of Proposal should be addressed to:

**Chief Executive Officer,
Indore Smart City Development Limited
107-109, Palika Plaza, Phase-II, MTH Compound,
Indore (M.P.) 452001
Phone: 0731-2535572
Email: smartcityindore16@gmail.com**

1.11.2 The **Official Website** of the Authority is:

<http://www.mpeproc.gov.in>

1.11.3 All communications, including the envelopes, should contain the following information, to be marked at the top in bold letters:

RFP NOTICE NO. 12/ISCDL/16-17 for Appointment of Project Development and Management Consultant for Area Based Development project for Indore Smart City Development Limited.

2. INSTRUCTIONS TO APPLICANTS

A. GENERAL

2.1 Scope of Proposal

- 2.1.1 Detailed description of the objectives, scope of services, Deliverables and other requirements relating to this Consultancy are specified in this RFP. In case an applicant firm possesses the requisite experience and capabilities required for undertaking the Consultancy, it may participate in the Selection Process either individually (the “**Sole Firm**”) or as lead member of a consortium of firms (the “**Lead Member**”) in response to this invitation. The term applicant (the “**Applicant**”) means the Sole Firm or the Lead Member, as the case may be. A maximum of two members including Lead Member shall be allowed in a consortium. The manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RFP.
- 2.1.2 Applicants are advised that the selection of Consultant shall be on the basis of an evaluation by the Authority through the Selection Process specified in this RFP. Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that the Authority’s decisions are without any right of appeal whatsoever.
- 2.1.3 The Applicant shall submit its Proposal in the form and manner specified in this Part-2 of the RFP. The Technical proposal shall be submitted in the form at Appendix-I. Upon selection, the Applicant shall be required to enter into an agreement with the Authority in the form specified at Schedule-2.
- 2.1.4 **Key Personnel**

The Consultancy Team shall consist of the following key personnel (the “**Key Personnel**”) as specified below:

S. No.	Key Personnel
1.	Team Leader and Urban Planner
2.	Deputy Team Leader and Project Manager
3.	Senior Architect
4.	Senior Civil Engineer
5.	Senior Procurement Specialist
6.	Infrastructure Finance and PPP Expert

2.2 Conditions of Eligibility of Applicants

- 2.2.1 Applicants must read carefully the minimum conditions of eligibility (the “**Conditions of Eligibility**”) provided herein. Proposals of only those Applicants who satisfy the Conditions of Eligibility will be considered for evaluation.
- 2.2.2 To be eligible for evaluation of its Proposal, the Applicant shall fulfil the following:

(A) Basic Eligibility criteria

The Applicant shall be a private company incorporated in India under the (Indian) Companies Act 1956/2013 or a company incorporated under equivalent law abroad or Limited Liability Partnership (LLP) incorporated under the Limited Liability Partnership Act 2008 or equivalent act/law abroad. The Applicant shall be required to submit a true copy of its Incorporation Certificate along with Technical Proposal.

Note: In case of consortium, all members shall meet the above condition.

(B) Technical Capacity: The Applicant shall have, in the last seven years preceding the Proposal Due Date, completed or currently executing, as the case may be, at least one assignment in each of the following category: (*Bidder shall submit proof of such works, such as, Work Order / Contract Copy / Completion Certificate / Payment Certificate etc.*)

- a) Category 1: experience in preparation of detailed layout master plan for an area not less than 50 acres for any urban sector.
- b) Category 2: experience in preparation of detailed project reports for any fields i.e. water supply/ sewerage/ electricity distribution systems/ urban roads/utility ducts/ parking/ river front development etc.
- c) Category 3: experience in project management for township / infrastructure projects.

Provided that :

1. the Applicant firm claiming credit for an Assignment which falls under category 1, 2 and 3 shall have, prior to PDD, received professional fees of at least Rs. 1.00 (One) Crore for such assignment.
2. The Applicant firm shall submit a certificate of satisfactory performance of services from the respective client for each assignment.
3. In case of consortium, all members shall jointly meet the above condition.
4. If a Project fulfils the scope of work of more than one category, the said project will be acceptable for both categories.

(C) Financial Capacity: The Applicant should have received an average of Rs. 100 Crores (or equivalent in other currencies) per annum as professional fees during each of the last 3 (three) financial years preceding the PDD as per clause 1.8. For the avoidance of doubt, professional fees hereunder refer to fees received by the Applicant for providing advisory or consultancy services to its clients. In case of consortium, the Financial Capacity of the Applicant shall be assessed jointly. Further, the Lead member and the other consortium member shall have received a minimum professional consultancy fee of Rs. 70 Crores and Rs. 30 Crores respectively.

(D) Availability of Key Personnel: The Applicant shall offer and make available all Key Personnel meeting the requirements specified in Sub-clause (E) below.

(E) Conditions of Eligibility for Key Personnel: Each of the Key Personnel must fulfil the Conditions of Eligibility specified below:

Sr. No	Key Personnel	Qualifications and Skills	Minimum experience in years	Experience required
1.	Team Leader and Urban Planner	Post Graduate in urban/ regional planning or urban design and Graduate in Architecture	12 Years	Relevant experience in formulating detailed master plan, development control regulations, preparing master plan assignments of similar magnitude and nature
2.	Deputy Team Leader and Project Manager	BE / B Tech in Civil Engg with PG in relevant field or MBA in relevant field	10 years	Relevant experience in project development and project management in urban sector. Experience in smart cities would be an advantage. Should also have hands on experience in operating project management applications and software.
3.	Senior Architect	Graduate in Architecture	10 years	Relevant experience in large scale affordable housing design, township design and preparing detail project report of assignments of similar magnitude and nature.
4.	Senior Civil Engineer	Graduate in Civil Engineering	10 years	He should have worked as a municipal / design engineer for urban infrastructure projects like water supply, sewerage, solid waste management, urban transport, parking building, drainage, affordable housing, etc.
5.	Senior Procurement Expert	Graduate in Civil Engineering/ Law or MBA/CA/ CFA	10 years	He should have worked as a procurement expert / contract management expert / PPP expert for Infrastructure Projects in sectors like urban infrastructure, roads, airports, highways, railways, ports, telecom and power etc
6.	Senior Infrastructure Finance and PPP Expert	MBA (Finance) /CA/ CFA	10 years	Relevant experience in area development projects, infrastructure development projects, financial analysis, revenue generation mechanisms, project modeling in area development projects, infrastructure development projects of similar magnitude and nature.

CVs of the key personnel mentioned above shall be evaluated for Technical score in technical evaluation.

In addition, as and when required the consultant shall bring in non-key experts related to various aspects of area based proposal for project development, implementation and monitoring. This will include but not limited to the following non-key experts:

1. Water Supply Engineer
2. Sewerage Engineer
3. Solid Waste Management Expert
4. Electrical Engineer
5. Mechanical Engineer
6. Structural Engineer
7. Billing Engineer
8. Construction Manager
9. Contract Management Expert
10. Quality Control Expert
11. Architect
12. Urban Designer
13. Landscape Architect
14. Conservation Architect
15. GIS Engineer
16. Project Management Expert
17. Environmental Engineer
18. Social Development Expert
19. Transport Planner
20. Road Design Engineer
21. Lighting Designer
22. ICT Expert
23. Legal expert
24. Surveyor
25. Draughtsmen

The minimum experience requirement for non-key experts is 7 years. Non-key experts shall have minimum graduate degree and relevant experience as sector expert. **CVs of non-key experts need not be submitted with the bid, but their CVs shall be approved by ISCDL at the time of appointment.**

The Consultant shall setup a project office with deployment of Deputy Team Leader (Project Manager) and support staff team as per table below for day to day coordination. The Deputy Team Leader and team mentioned below shall be deployed on site during the entire duration of the project. **CVs of support staff need not be submitted with the bid, but their CVs shall be approved by ISCDL at the time of appointment.**

Sr. No	Resident Team	Qualifications and Skills	Minimum experience in years	Experience required
1.	Urban Planner	Graduate / PG in planning	5 Years	Relevant experience in urban planning, CDP preparation, SCP preparation, master planning, feasibility studies, research, urban infrastructure project development.

Sr. No	Resident Team	Qualifications and Skills	Minimum experience in years	Experience required
2.	Civil Engineer	Graduate in Civil Engineering	5 years	Relevant experience in land surveys and construction management of Urban Service delivery (Water Supply/ Sewerage/Drainage/ Transportation/Solid Waste Management/ Utility Ducts etc.)
3.	Procurement Expert	Graduate in Engineering or MBA or Planning or Law	5 years	Relevant experience in preparation of bid documents and bid process management for Infrastructure Projects in sectors like urban infrastructure, roads, airports, highways, railways, ports, telecom and power etc
4.	Architect	Degree in Architecture	5 years	Relevant experience in design of public spaces, landscaping, buildings' retrofitting works etc.
5.	Draftsman	Diploma in Architecture or Civil Engineering	5 years	Proficiency in AutoCAD and MS Office, experience in building / utility infrastructure / road projects, experience in GIS will be preferred.

- 2.2.3 The Applicant shall enclose with its Proposal, certificate(s) from its Statutory Auditors alongwith Audited Balance Sheets stating its total revenues from professional fees during each of the 3 (three) financial years preceding the PDD (as per Form 5) and the fee received in respect of each of the Assignments specified in the Proposal (as per Form 9). In the event that the Applicant does not have a statutory auditor, it shall provide the requisite certificate(s) from the firm of Chartered Accountants that ordinarily audits the annual accounts of the Applicant.
- 2.2.4 The Applicant should submit Power of Attorney executed in the name of authorised signatory; however, that such Power of Attorney would not be required if the Application is signed by a partner of the Applicant, in case the Applicant is a limited liability partnership.
- 2.2.5 Any entity which has been barred by the Central Government, any State Government, a statutory authority or a public sector undertaking, as the case may be, from participating in any project, and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal either by itself or through its Associate.
- 2.2.6 An Applicant or its Associate should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant or its Associate, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Applicant or its Associate.

2.2.7 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

2.3 Conflict of Interest

2.3.1 An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”). Any Applicant found to have a Conflict of Interest shall be disqualified.

2.3.2 The Authority requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Authority’s interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.

2.3.3 Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in the Guidance Note at Schedule-3. Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:

- (a) the Applicant, its consortium member (the “**Member**”) or Associate (or any constituent thereof) and any other Applicant, its consortium member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its consortium member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes of this Clause 2.3.3(a), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or

- (b) a constituent of such Applicant is also a constituent of another Applicant; or
- (c) such Applicant or its Associate receives or has received any direct or indirect subsidy or grant from any other Applicant or its Associate; or
- (d) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
- (e) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each other's information about, or to influence the Application of either or each of the other Applicant; or
- (f) there is a conflict among this and other consulting assignments of the Applicant (including its personnel and Sub-consultant) and any subsidiaries or entities controlled by such Applicant or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or
- (g) a firm which has been engaged by the Authority to provide goods or works or services for a project, and its Associates, will be disqualified from providing consulting services for the same project save and except as provided in Clause 2.3.4; conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project; or
- (h) the Applicant, its Member or Associate (or any constituent thereof), and the bidder or Concessionaire, if any, for the Project, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be,) in the bidder or Concessionaire, if any, or its contractor(s) or sub-contractor(s) is less than 5% (five per cent) of the paid up and subscribed share capital of such Concessionaire or its contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to ownership by a bank, insurance company, pension fund or a Public Financial Institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes of this sub-clause (h), indirect shareholding shall be computed in accordance with the provisions of sub-clause (a) above.

For purposes of this RFP, Associate means, in relation to the Applicant, a person who controls, is controlled by, or is under the common control with such

Applicant (the “**Associate**”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, 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 or by contract.

- 2.3.4 An Applicant eventually appointed to provide Consultancy for this Project, and its Associates, shall be disqualified from subsequently providing goods or works or services related to the construction and operation of the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 5 (five) years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services performed for the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant’s firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof.

2.4 Number of Proposals

No Applicant or its Associate shall submit more than one Application for the Consultancy. An Applicant applying individually or as an Associate shall not be entitled to submit another application either individually or as a member of any consortium, as the case may be.

2.5 Cost of Proposal

The Applicants shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Selection Process including subsequent negotiation, visits to the Authority, Project site etc. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.6 Site visit and verification of information

Applicants are encouraged to submit their respective Proposals after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, access to the site, availability of drawings and other data with the Authority, Applicable Laws and regulations or any other matter considered relevant by them.

2.7 Acknowledgement by Applicant

2.7.1 It shall be deemed that by submitting the Proposal, the Applicant has:

- (a) made a complete and careful examination of the RFP;
- (b) received all relevant information requested from the Authority;
- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.6 above;
- (d) satisfied itself about all matters, things and information, including matters referred to in Clause 2.6 herein above, necessary and required for submitting an informed Application and performance of all of its obligations thereunder;
- (e) acknowledged that it does not have a Conflict of Interest; and
- (f) agreed to be bound by the undertaking provided by it under and in terms hereof.

2.7.2 The Authority shall not be liable for any omission, mistake or error on the part of the Applicant in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by the Authority.

2.8 Right to reject any or all Proposals

2.8.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.8.2 Without prejudice to the generality of Clause 2.8.1, the Authority reserves the right to reject any Proposal if:

- (a) at any time, a material misrepresentation is made or discovered, or
- (b) the Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.

Misrepresentation/ improper response by the Applicant may lead to the disqualification of the Applicant. If the Applicant is the Lead Member of a consortium, then the entire consortium may be disqualified / rejected. If such disqualification / rejection occurs after the Proposals have been opened and the highest ranking Applicant gets disqualified / rejected, then the Authority reserves the right to consider the next best Applicant, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

B. DOCUMENTS

2.9 Contents of the RFP

This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.11:

Request for Proposal

- 1 Introduction
- 2 Instructions to Applicants
- 3 Criteria for Evaluation
- 4 Fraud and corrupt practices
- 5 Pre-Proposal Conference
- 6 Miscellaneous

Schedules

1 Terms of Reference

2 Form of Agreement

Annex-1: Terms of Reference

Annex-2: Deployment of Personnel

Annex-3: Deleted

Annex-4: Approved Sub-Consultant(s)

Annex-5: Cost of Services

Annex-6: Payment Schedule

Annex-7: Bank Guarantee for Performance Security

3 Guidance Note on Conflict of Interest

4 Appendices

Appendix-I: Technical Proposal

Form 1: Letter of Proposal

Form 2: Particulars of the Applicant

Form 3: Statement of Legal Capacity

Form 4: Power of Attorney

Form 5: Financial Capacity of the Applicant

Form 6: Description of Approach, Methodology, and Work plan

Form 7: Team Composition, Assignment and Key Expert's Inputs

Form 8: Particulars of Key Personnel

Form 9: Abstract of Assignments of the Applicant

- Form 10: Assignments of Applicant
- Form 11: CVs of Professional Personnel
- Form 12: Proposal for Sub-consultant(s)

Appendix – II: Financial Proposal

- Form 1: Covering Letter
- Form 2: Financial Proposal

2.10 Clarifications

- 2.10.1 Applicants requiring any clarification on the RFP may send their queries to the Authority in writing by speed post/ courier/ special messenger or by e-mail so as to reach before the date mentioned in the Schedule of Selection Process at Clause 1.8. The envelopes shall clearly bear the following identification:

"Queries concerning RFP for Appointment of Project Development and Management Consultant for Area Based Development project for Indore Smart City Development Limited."

The Authority shall endeavour to respond to the queries within the period specified therein but not later than 7 (seven) days prior to the Proposal Due Date. The responses will be sent by e-mail. The Authority will post the reply to all such queries on the Official Website and copies thereof will also be circulated to all Applicants who have purchased the RFP document without identifying the source of queries.

- 2.10.2 The Authority reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this Clause 2.10 shall be construed as obliging the Authority to respond to any question or to provide any clarification.

2.11 Amendment of RFP

- 2.11.1 At any time prior to the deadline for submission of Proposal, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFP document by the issuance of Addendum/ Amendment and posting it on the Official Website and by conveying the same to the prospective Applicants (who have purchased the RFP document) by e-mail.

- 2.11.2 All such amendments will be notified through e-mail to all Applicants who have purchased the RFP document. The amendments will also be posted on the Official Website along with the revised RFP containing the amendments and will be binding on all Applicants.

- 2.11.3 In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, the Authority may, in its sole discretion, extend the Proposal Due Date.

C. PREPARATION AND SUBMISSION OF PROPOSAL

2.12 Language

The Proposal with all accompanying documents (the “**Documents**”) and all communications in relation to or concerning the Selection Process shall be in English language and strictly on the forms provided in this RFP. No supporting document or printed literature shall be submitted with the Proposal unless specifically asked for and in case any of these Documents is in another language, it must be accompanied by an accurate translation of the relevant passages in English, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

2.13 Format and signing of Proposal

2.13.1 The Applicant shall provide all the information sought under this RFP. The Authority would evaluate only those Proposals that are received in the specified forms and complete in all respects. The proposals shall be submitted online as well as physically.

2.13.2 The Applicant shall prepare one original set of the Proposal (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFP). In the event of any discrepancy between the online submission and physically submitted version, the online submission shall prevail.

2.13.3 The Proposal shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant who shall initial each page. In case of printed and published Documents also each pages shall be initialled. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialled by the person(s) signing the Proposal. The Proposals must be properly signed by the authorised representative (the “**Authorised Representative**”)as detailed below:

- (a) by the proprietor, in case of a proprietary firm; or
- (b) by a partner, in case of a partnership firm and/or a limited liability partnership; or
- (c) by a duly authorised person holding the Power of Attorney, in case of a Limited Company or a corporation; or
- (d) by the authorised representative of the Lead Member, in case of consortium.

A copy of the Power of Attorney certified by a notary public in the form specified in Appendix-I (Form-4) shall accompany the Proposal (if required).

2.13.4 Applicants should note the PDD, as specified in Clause 1.8, for submission of Proposals. Except as specifically provided in this RFP, no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents submitted online by the closing time of PDD as specified in Clause 2.17.1. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected.

2.14 Technical Proposal

2.14.1 Applicants shall submit the digitally signed technical proposal online at www.mpeproc.gov.in in the formats at Appendix-I (the “Technical Proposal”) and shall also submit the proposal in physical form at the address mentioned in clause 1.11.1 in original on or before the date and time mentioned in clause 1.8.

2.14.2 While submitting the Technical Proposal, the Applicant shall, in particular, ensure that:

- (a) The Bid Security is provided as per the provisions laid down at clause 2.20;
- (b) all forms are submitted in the prescribed formats and signed by the prescribed signatories;
- (c) power of attorney, if applicable, is executed as per Applicable Laws;
- (d) CVs of all Key Personnel and non key-expert have been included;
- (e) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.2.2 (E) of the RFP;
- (f) no alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- (g) The CVs have been countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected;
- (h) Key Personnel proposed have good working knowledge of English and Hindi language;
- (i) Key Personnel would be available for the period indicated in the TOR;
- (j) no Key Personnel should have attained the age of 70 years at the time of submitting the proposal; and
- (k) the proposal is responsive in terms of Clause 2.21.3.

2.14.3 Failure to comply with the requirements spelt out in this Clause 2.14 shall make the Proposal liable to be rejected.

2.14.4 If an individual Key Personnel makes a false averment regarding his qualification, experience or other particulars, he shall be liable to be debarred for any future assignment of the Authority for a period of 3 (three) years. The award of this Consultancy to the Applicant may also be liable to cancellation in such an event.

2.14.5 The Technical Proposal shall not include any financial information relating to the Financial Proposal.

2.14.6 The proposed team shall include experts and specialists (the “**Professional Personnel**”) in their respective areas of expertise such that the Consultant should be able to complete the Consultancy within the specified time schedule. The Key

Personnel specified in Clause 2.1.4 shall be included in the proposed team of Professional Personnel. The team shall comprise other competent and experienced professional personnel in the relevant areas of expertise (where applicable) as required for successful completion of this Consultancy. The CV of each such professional personnel, if any, should also be submitted in the format at Form-11 of Appendix-I.

- 2.14.7 An Applicant may, from time to time, if it considers necessary, propose suitable Sub-Consultants in specific areas of expertise (where applicable). Credentials of such Sub-Consultants should be submitted by the Applicant in Form-12 of Appendix-I. A Sub-Consultant, however, shall not be a substitute for any Key Personnel.
- 2.14.8 The Authority reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Any such verification or the lack of such verification by the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority hereunder.
- 2.14.9 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Selected Applicant has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority without the Authority being liable in any manner whatsoever to the Selected Applicant or Consultant, as the case may be.

In such an event, the Authority shall forfeit and appropriate the Performance Security, if available, as mutually agreed pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

2.15 Financial Proposal

- 2.15.1 The Financial Proposal shall be submitted online only and digitally signed. In the event of any difference between figures and words, the amount indicated in words shall prevail. In the event of a difference between the arithmetic total and the total shown in the Financial Proposal, the lower of the two shall prevail.
- 2.15.2 While submitting the Financial Proposal, the Applicant shall ensure the following:
- (i) All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office etc), accommodation, air fare, equipment, printing of documents, etc. The total amount indicated in the Financial

Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.

- (ii) The Financial Proposal shall take into account all expenses and tax liabilities. For the avoidance of doubt, it is clarified that all taxes, except service tax and cess, shall be deemed to be included in the costs shown under different items of the Financial Proposal. Further, all payments shall be subject to deduction of taxes at source as per Applicable Laws.
- (iii) Costs (including break down of costs) shall be expressed in INR.

2.16 Submission of Proposal

2.16.1 The Applicants shall submit the Technical Proposal online as well as in physical form as per date and time mentioned in Clause 1.8. However, the Financial Proposal shall be submitted online only as mentioned in clause 2.15.1. The applicants shall submit the Technical Proposal in hardbound or spiral bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be initialled by the Authorised Representative of the Applicant as per the terms of this RFP. In case the Proposals are submitted online and the Applicants are unable to submit the hard copy on or before the date and time mentioned in Clause 1.8 then the Bids shall be liable for rejection. Only those physically submitted documents regarding Technical Proposals will be acceptable and considered, if, same are uploaded in the website along with the Financial Proposal.

2.16.2 The Proposal will be sealed in an outer envelope which will bear the address of the Authority, RFP Notice number, Consultancy name as indicated at Clause 1.11.1 and 1.11.3 and the name and address of the Applicant. It shall bear on top, the following:

“Do not open, except in presence of the Authorised Person of the Authority”

If the envelope is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted and consequent losses, if any, suffered by the Applicant.

2.16.3 **Hard Copy Submission:** The original copy of the ‘Technical Proposal’ shall be placed in a sealed envelope clearly marked ‘Technical Proposal’. The envelope marked ‘Technical Proposal’ shall contain the Application in the prescribed format (Form 1 of Appendix-I) along with Forms 2 to 12 of Appendix-I and supporting documents along with Bid Security as mentioned in Clause 2.20.1.

Online Submission: Digitally Signed scanned copy of “Technical Proposal” shall be uploaded in the prescribed format (Form 1 of Appendix-I) along with Forms 2 to 12 of Appendix-I and supporting documents along with Bid Security as mentioned in Clause 2.20.1. The ‘Financial Proposal’ shall be digitally signed and submitted online only.

- 2.16.4 The Technical Proposal shall be typed or written in indelible ink and signed by the Authorised Representative of the Applicant. All pages of the original Technical Proposal must be numbered and initialled by the person or persons or Authorised Signatory signing the Proposal.
- 2.16.5 The completed Proposal must be submitted online on or before the specified time on PDD. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained. Technical Proposal shall be submitted in Physical form in original and the scanned copy in PDF shall be uploaded on the www.mpeproc.gov.in duly digitally signed. The financial Proposal shall be submitted online only and shall be signed digitally.
- 2.16.6 The Proposal shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents. No separate documents like printed annual statements, firm profiles, copy of contracts etc. will be entertained.
- 2.16.7 The rates quoted shall be firm throughout the period of performance of the assignment up to and including discharge of all obligations of the Consultant under the Agreement.

2.17 Proposal Due Date

- 2.17.1 Proposal should be submitted on or before the Proposal Due Date specified in Clause 1.8 at the address provided in Clause 1.11.1 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified therein.
- 2.17.2 The Authority may, in its sole discretion, extend the PDD by issuing an Addendum in accordance with Clause 2.11 uniformly for all Applicants.

2.18 Late Proposals

Proposals received by the Authority after the specified time on Proposal Due Date shall not be eligible for consideration and shall be summarily rejected.

2.19 Modification/ substitution/ withdrawal of Proposals

- 2.19.1 The Applicant may withdraw its Proposal after it has been submitted by sending a written Withdrawal Notice, duly signed by an authorised representative, and including a copy of the authorisation document. The Withdrawal Notice must be:
- a) submitted in accordance with Clause 2.16 and the respective envelopes shall be clearly marked 'WITHDRAWAL'; and
 - b) received by the Authority prior to the deadline prescribed by the Authority for submission of Proposals.
- 2.19.2 Proposals that are withdrawn in accordance with Clause 2.19.1 shall be returned unopened to the Consultant.
- 2.19.3 No Proposal shall be withdrawn in the interval between the deadline for submission of Proposals and the expiration of the period of Proposal validity

specified in the Data Sheet or any extension thereof, except in the case of a request by the Authority to extend the Proposal validity.

2.20 Bid Security

- 2.20.1 The Applicant shall furnish as part of its Proposal, a bid security of Rs. 5,00,000 (Rupees Five lakh) in the form of a Demand Draft/FDR issued by one of the Nationalised/ Scheduled Banks in India in favour of the Executive Director, Indore Smart City Development Limited payable at Indore (the “**Bid Security**”), returnable not later than 60 (sixty) days from PDD except in case of the two highest ranked Applicants as required in Clause 2.25.1. The Bid Security of requisite amount stated can also be made by making online payment on the Authority’s website. If Bid security has been submitted through Demand draft, the scanned copy of the Demand Draft to be submitted online; or if bid security has been submitted by making online payment on the Authority’s web portal, the copy of the proof of submission of bid security online to be submitted in hard copy.
- 2.20.2 In the event that the first ranked Applicant commences the assignment as required in Clause 2.30, the second ranked Applicant, who has been kept in reserve, shall be returned its Bid Security forthwith, but in no case not later than 120 (one hundred and twenty) days from PDD. The Selected Applicant’s Bid Security shall be returned, upon the Applicant signing the Agreement and completing the Deliverables assigned to it for the first 2 (two) months of the Consultancy in accordance with the provisions thereof.
- 2.20.3 Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non-responsive.
- 2.20.4 The Authority shall not be liable to pay any interest on the Bid Security and the same shall be interest free.
- 2.20.5 The Applicant, by submitting its Application pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority’s any other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damage payable to the Authority for, inter alia, the time, cost and effort of the Authority in regard to the RFP including the consideration and evaluation of the Proposal under the following conditions:
- (a) If an Applicant engages in any of the Prohibited Practices specified in Section 4 of this RFP;
 - (b) If an Applicant withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Applicant from time to time;
 - (c) In the case of the Selected Applicant, if the Applicant fails to reconfirm its commitments during negotiations as required vide Clause 2.25.1;
 - (d) In the case of a Selected Applicant, if the Applicant fails to sign the Agreement or commence the assignment as specified in Clauses 2.29 and 2.30 respectively; or

- (e) If the Applicant is found to have a Conflict of Interest as specified in Clause 2.3.

2.21 Performance Security

2.21.1 The Applicant, by submitting its Application pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority's any other right or remedy hereunder or in law or otherwise, its Performance Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damages payable to the Authority for, *inter alia*, the time, cost and effort of the Authority in regard to the RFP, including the consideration and evaluation of the Proposal, under the following conditions:

- (a) If an Applicant engages in any of the Prohibited Practices specified in Clause 4.1 of this RFP;
- (b) if the Applicant is found to have a Conflict of Interest as specified in Clause 2.3; and
- (c) if the Selected Applicant commits a breach of the Agreement.

2.21.2 An amount equal to 5% (five per cent) of the Agreement Value shall be deemed to be the Performance Security for the purposes of this Clause 2.21, which shall be furnished at the time of agreement in the form of bank guarantee as per Annex - 7 of the agreement, which may be forfeited and appropriated in accordance with the provisions hereof.

D. EVALUATION PROCESS

2.22 Evaluation of Proposals

2.22.1 The Authority shall open the Proposals on the PDD as specified in clause 1.8, at the place specified in Clause 1.11.1 and in the presence of the Applicants who choose to attend. The envelopes marked "Technical Proposal" shall be opened first.

2.22.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.19 shall not be opened.

2.22.3 Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:

- (a) the Technical Proposal is received in the form specified at Appendix-I;
- (b) it is received by the PDD including any extension thereof pursuant to Clause 2.17;
- (c) it is signed, sealed, bound together in hard cover or spiral bound and marked as stipulated in Clauses 2.13 and 2.16;
- (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.4;
- (e) it contains all the information (complete in all respects) as requested in the RFP;

(f) it does not contain any condition or qualification; and

(g) it is not non-responsive in terms hereof.

2.22.4 The Authority reserves the right to reject any Proposal, which is non-responsive, and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Proposals.

2.22.5 The Authority shall subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.6 and the criteria set out in Section 3 of this RFP.

2.22.6 After the technical evaluation, the Authority shall prepare a list of pre-qualified Applicants in terms of Clause 3.2 for opening of their Financial Proposals. A date, time and venue will be notified to all Applicants for announcing the result of evaluation and opening of Financial Proposals. Before opening of the Financial Proposals, the list of pre-qualified Applicants along with their Technical Scores will be read out. The opening of Financial Proposals shall be done in presence of respective representatives of Applicants who choose to be present. The Authority will not entertain any query or clarification from Applicants who fail to qualify at any stage of the Selection Process. The financial evaluation and final ranking of the Proposals shall be carried out in terms of Clauses 3.3 and 3.4.

2.22.7 Applicants are advised that Selection shall be entirely at the discretion of the Authority. Applicants shall be deemed to have understood and agreed that the Authority shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.

2.22.8 Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if the Consultancy is subsequently awarded to it.

2.23 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the Authority in relation to matters arising out of, or concerning the Selection Process. The Authority shall treat all information, submitted as part of the Proposal, in confidence and shall require all those who have access to such material to treat the same in confidence. The 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 Authority or as may be required by law or in connection with any legal process.

2.24 Clarifications

2.24.1 To facilitate evaluation of Proposals, the Authority may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any

request for clarification(s) and all clarification(s) in response thereto shall be in writing.

- 2.24.2 If an Applicant does not provide clarifications sought under Clause 2.24.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

E. APPOINTMENT OF CONSULTANT

2.25 Negotiations

- 2.25.1 The Selected Applicant may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Proposal, but will be for re-confirming the obligations of the Consultant under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan shall be discussed during negotiations. A Key Personnel who did not score 60% (Sixty per cent) marks as required under Clause 3.1.2 shall be replaced by the Applicant with a better candidate to the satisfaction of the Authority. In case the Selected Applicant fails to reconfirm its commitment, the Authority reserves the right to designate the next ranked Applicant as the Selected Applicant and invite it for negotiations.

- 2.25.2 The Authority will examine the CVs of all other Professional Personnel and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.

- 2.25.3 The Authority will examine the credentials of all Sub-Consultants proposed for this Consultancy and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.

2.26 Substitution of Key Personnel

- 2.26.1 The Authority will not normally consider any request of the Selected Applicant for substitution of Key Personnel as the ranking of the Applicant is based on the evaluation of Key Personnel and any change therein may upset the ranking. Substitution will, however, be permitted if the Key Personnel is not available for reasons of any incapacity or due to health or employee leaving the organisation, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.

- 2.26.2 The Authority expects all the Key Personnel to be available during implementation of the Agreement. The Authority will not consider substitution of Key Personnel except for reasons of any incapacity or due to health or employee leaving the organisation. Such substitution shall be subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. As a condition to such substitution, the rate of remuneration shall be same as the proposed rate of the substituted person. If it seems to the employer that the personnel is changed without any justified reason and reasons well within control

of the applicant a sum equal to maximum 0.25% (Zero point Two five per cent) of the contract amount shall be deducted from the payments due to the Consultant.

2.27 Indemnity

The Consultant shall, subject to the provisions of the Agreement, indemnify the Authority, for an amount not exceeding the value of the Agreement, for any direct loss or damage that is caused due to any deficiency in Services.

2.28 Award of Consultancy

After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Selected Applicant and the Selected Applicant shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Applicant is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Applicant as mutually agreed genuine pre-estimated loss and damage suffered by the Authority on account of failure of the Selected Applicant to acknowledge the LOA, and the next highest ranking Applicant may be considered.

2.29 Execution of Agreement

After acknowledgement of the LOA as aforesaid by the Selected Applicant, it shall execute the Agreement along with Performance Security within the period prescribed in Clause 1.8. The Selected Applicant shall not be entitled to seek any deviation in the Agreement.

2.30 Commencement of assignment

The Consultant shall commence the Services at the Project site within 14 (fourteen) days of the date of the Agreement or such other date as may be mutually agreed. If the Consultant fails to either sign the Agreement as specified in Clause 2.29 or commence the assignment as specified herein, the Authority may invite the second ranked Applicant for negotiations. In such an event, the Bid Security of the first ranked Applicant shall be forfeited and appropriated in accordance with the provisions of Clause 2.20.5.

2.31 Proprietary data

Subject to the provisions of Clause 2.23, all documents and other information provided by the Authority or submitted by an Applicant to the Authority shall remain or become the property of the Authority. Applicants and the Consultant, as the case may be, are to treat all information as strictly confidential. The Authority will not return any Proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Consultant to the Authority in relation to the Consultancy shall be the property of the Authority.

3. CRITERIA FOR EVALUATION

3.1 Evaluation of Technical Proposals

3.1.1 In the first stage, the Technical Proposal will be evaluated on the basis of Applicant's experience, its understanding of TOR, proposed methodology and Work Plan, and the experience of Key Personnel. Only those Applicants whose Technical Proposals get a score of 60 (sixty) marks or more out of 100 (one hundred) shall qualify for further consideration, and shall be ranked from highest to the lowest on the basis of their technical score (S_T).

3.1.2 **Each Key Personnel must score a minimum of 60% (sixty per cent) marks except as provided herein. A Proposal shall be rejected if the Team Leader scores less than 60% (sixty per cent) marks or any two of the remaining Key Personnel score less than 60% (sixty per cent) marks. In case the Selected Applicant has one Key Personnel, other than the Team Leader, who scores less than 60% marks, he would have to be replaced during negotiations, with a better candidate who, in the opinion of the Authority, would score 60% (sixty per cent) or above.**

3.1.3 The scoring criteria to be used for evaluation shall be as follows.

Item Code	Criteria	Marks	Criteria
1.	Relevant Experience of the Applicant	40	<p>a) Category 1: experience in preparation of master plan or site plan for an area not less than 50 acres- 10 marks</p> <p>1. Minimum eligible assignments: 40% of allocated marks for one assignment.</p> <p>2. Additional eligible assignments (upto 3): 20% of allocated marks for each assignment</p> <p>b) Category 2: experience in preparation of detailed project reports for water supply, sewerage, electricity distribution systems, urban roads, utility ducts etc- 15 marks</p> <p>1. Minimum eligible assignments: 40% of allocated marks for one assignment</p> <p>2. Additional eligible assignments (upto 3): 20% of allocated marks for each assignment</p> <p>b) Category 3: experience in project management for infrastructure projects- 15 marks</p> <p>1. Minimum eligible assignments: 40% of allocated marks for one assignment.</p> <p>2. Additional eligible assignments under each category (upto 3): 20% of allocated marks for each assignment.</p>

Item Code	Criteria	Marks	Criteria	
2.	Proposed methodology and work Plan	20	Evaluation will be based on the quality of submissions, understanding of project requirements and relevance to terms of reference	
4.	Relevant Experience of the Key Personnel	40	a) Educational Qualification	15%
			i) Meets minimum qualification	10%
			ii) Additional relevant qualification (only additional post graduate degree or doctorate)	5%
			b) Number of years of experience	15%
			i) Meets minimum number of years of experience	10%
			ii) Any additional number of years of experience maximum upto 5 years (1% marks for each year)	5%
			c) Experience relevant to requirements under terms of reference	70% (14%) for each eligible assignment)
4.1	Team Leader and Urban Planner	10		
4.2	Deputy Team Leader and Project Manager	6		
4.3	Senior Architect	6		
4.4	Senior Civil Engineer	8		
4.5	Senior Procurement Specialist	6		
4.6	Senior Infrastructure Finance and PPP Expert	4		

Note:

- In case of JV or consortium in eligible assignment, 100% points will be awarded if applicant is lead member and 75% will be awarded if applicant is other than lead member.
- In case of JV or consortium, combined technical experience would be considered.
- Sub-consultancy will not be considered as eligible experience.

3.1.4 Deleted

3.2 Short-listing of Applicants

Of the Applicants ranked as aforesaid, not more than 5 (five) shall be pre-qualified and short-listed for financial evaluation in the second stage. However, if the number of such pre-qualified Applicants is less than two, the Authority may, in its sole discretion, pre-qualify the Applicant(s) whose technical score is less than 60 (sixty) points even if such Applicant(s) do (es) not qualify in terms of Clause 3.1.2; provided that in such an event, the total number of pre-qualified and short-listed Applicants shall not exceed two.

3.3 Evaluation of Financial Proposal

3.3.1 In the second stage, the financial evaluation will be carried out as per this Clause 3.3. Each Financial Proposal will be assigned a financial score (S_F).

3.3.2 For financial evaluation, the total percentage indicated in the Financial Proposal in Form 2, Appendix II will be considered.

3.3.3 The Authority will determine whether the Financial Proposals are complete, unqualified and unconditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the firm to be compensated and the liability to fulfil its obligations as per the TOR within the total quoted price shall be that of the Consultant. The lowest Financial Proposal (F_M) will be given a financial score (S_F) of 100 points. The financial scores of other Proposals will be computed as follows:

$$S_F = 100 \times F_M/F$$

(F = amount of Financial Proposal)

3.4 Combined and final evaluation

3.4.1 Proposals will finally be ranked according to their combined technical (S_T) and financial (S_F) scores as follows:

$$S = S_T \times T_w + S_F \times F_w$$

Where S is the combined score, and T_w and F_w are weights assigned to Technical Proposal and Financial Proposal, which shall be 0.80 and 0.20 respectively.

3.4.2 The Selected Applicant shall be the first ranked Applicant (having the highest combined score). The second ranked Applicant shall be kept in reserve and may be invited for negotiations in case the first ranked Applicant withdraws, or fails to comply with the requirements specified in Clauses 2.25, 2.29 and 2.30, as the case may be.

4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Authority shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”) in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, *inter alia*, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Applicant’s Proposal.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Applicant or Consultant, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Consultant shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Applicant or Consultant, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of the Authority in relation to any matter concerning the Project;

- (b) **“fraudulent practice”** means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) **“coercive practice”** means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
- (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

5. PRE-PROPOSAL CONFERENCE

- 5.1 Pre-Proposal Conference of the Applicants shall be convened at the designated date, time and place. Only those Applicants, who have purchased the RFP document or downloaded the same from the Official Website of the Authority, shall be allowed to participate in the Pre-Proposal Conference. A maximum of two representatives of each Applicant shall be allowed to participate on production of an authority letter from the Applicant.
- 5.2 During the course of Pre-Proposal Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Authority. The 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 Selection Process.

6. MISCELLANEOUS

- 6.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
- (a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Applicant in order to receive clarification or further information;
 - (c) retain any information and/or evidence submitted to the Authority by, on behalf of and/or in relation to any Applicant; and/or
 - (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 Applicant.
- 6.3 It shall be deemed that by submitting the Proposal, the Applicant agrees and releases the 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.
- 6.4 All documents and other information supplied by the Authority or submitted by an Applicant shall remain or become, as the case may be, the property of the Authority. The Authority will not return any submissions made hereunder. Applicants are required to treat all such documents and information as strictly confidential.
- 6.5 The Authority reserves the right to make inquiries with any of the clients listed by the Applicants in their previous experience record.

SCHEDULES

SCHEDULE-1
(See Clause 1.1.3)

**Appointment of Project Development and Management
Consultant for Area Based Development Project for
Indore Smart City Development Limited**

Terms of Reference (TOR)

for

TECHNICAL CONSULTANT

Terms of Reference (TOR)

1. Background

Indore Smart City Proposal (SCP) has been selected, to implement the Area-Based Development (ABD) and Pan-city proposals, by the Government of India (GoI) under Smart City Mission (SCM), wherein 98 cities in India competed for first 20 positions. The Indore ABD proposal spreads across a contiguous land parcel, comprising of a total area of 742 acres, having a population of 1.2 Lakhs which is almost 5.5% of the total population of Indore city. The 742 acres, earmarked area is proposed to be retrofitted with smart features/infrastructure wherein out of total proposed area, 164 acres of land will be redeveloped with smart features/infrastructure in accordance with SCP and SCM guidelines.

The project cost of all the projects as per the SCP to be taken up for implementation is estimated as Rs. 5099.60 Crore, that includes redevelopment of 164 acre area on PPP basis costing approximately Rs. 2991.0 Crore, for which ISCDL appointed consultancy firm M/s Eptisa Servicios De Ingenieria S.L., as a technical and administrative support unit. Similarly, Consultant has been appointed for water supply, sewerage, water recycling & reuse for the ABD area under AMRUT scheme and consultants are also being appointed for pan-city ICT solutions and Housing for All. The consultant appointed for ABD shall coordinate with appointed consultants to insure seamless coordination in planning and implementation of the projects. The project cost of ABD component for purpose of this assignment is considered as Rs. 1500.00 Crore under per Indore Smart City Proposal. This is only a preliminary estimate. The selected ABD consultant will need to prepare DPRs and detailed cost estimates.

For the purpose of implementing the Smart Cities project, Indore Smart City Development Limited (ISCDL) (the “Authority”), a Special Purpose Vehicle (SPV) for Indore Smart City Project has been incorporated as a public limited company, under the Indian Companies Act, 2013. District Collector is Chairman and Municipal Commissioner is Executive Director of the Company. ISCDL has received funds from Government of India and Government of Madhya Pradesh (GoMP) for the development of Indore as smart city. ISCDL intends to apply part of this fund for the said consultancy services. Pursuant to above, ISCDL is inviting the eligible global consulting entity, to provide consultancy services for preparation of Area Based Development Master Plan/ detailed layout plan for earmarked area, preparation of detailed project reports for various packages and project management consultancy support.

2. Objective(s) of the Assignment

The objective of this assignment is to provide consultancy services to support Client in planning, designing, managing, implementing and monitoring Area Based Development Project under the Indore Smart City Proposal.

3. Scope of Services

The overall scope of work for the appointed consultant shall include but not limited to following:

3.1 Phase 1: Project Development Phase

The project development phase would include but not limited to baseline mapping, existing situation assessment, market assessment, project identification, project cost estimation, project prioritization and phasing, identifying and packaging projects, preparing capital investment plan, implementation roadmap, conducting feasibility study, preparing detailed project reports and tender documents and providing entire bid process management support in selection of implementing agencies.

3.1.1 Inception Stage

The Consultant shall mobilize the entire project team and have a kick-off meeting with the Client and Client representatives to understand expectations from the project. During the kick-off meeting, the Consultant shall present and discuss approach, methodology, key activities, outputs, deliverables, timelines, project team and consultants profile and personnel deployment schedule to meet the requirements stated under the terms of reference with the Client. The Consultant shall also discuss the data to be collected from various sources, surveys to be undertaken, analysis to be undertaken, key stakeholders to be consulted, way forward and support required from the Client. The Consultant shall review the **Smart City Proposal** and identify the projects for which pre-feasibility study/ Detailed Project reports are to be prepared. The Consultant shall also finalise the timelines in discussion with the Authority and shall adhere to follow the timelines.

The Consultant shall review the **Smart City Proposal** and identify schematic high level components, and sub-components. Based on the review, the Consultant shall identify potential fast track projects that can be taken up early for implementation. The Consultant shall discuss the potential fast track projects with Client. The project development and implementation activities for such identified fast track projects shall start at inception phase and run in parallel with other activities. It is expected that Consultant shall carry out feasibility study, prepare detailed project reports (DPRs), prepare tender documents and provide necessary support during tendering process for a fast track project.

Based on Client feedback, the Consultant shall revise above and incorporate Client suggestions and submit an inception report.

OUTPUT 1: Inception Report

The Inception Report shall include project background, project overview, project scope, project organizations, project structure and roles, project deliverables, project development and implementation timelines, project team and consultant profile and personnel deployment schedule, minutes of kick-off meeting, data requirements, identification of relevant stakeholders, surveys to be conducted and its schedule, project governance structure, reporting structure, way forward and support required from the client, change management structure, quality assurance plan, risk management plan etc..

3.1.2 Planning Stage

a) Base map preparation

The Consultant shall prepare a geo-referenced base-map for the study area at a scale suitable for local area planning and utilities planning based on industry standards. It shall include but not limited to, geo-referencing of available satellite image and earmarking of study area boundary, detailed physical and topographical surveys, land use surveys and building use surveys, plotting of available secondary information for the study area.

Base layer of satellite image: A high resolution satellite image shall be provided to the Consultant by ISCDL.

Topographic survey: The Consultant shall carry out a detailed topographic survey of the study area using total station. The survey shall capture all the physical and topographical features visible on or above surface including but not limited to buildings, permanent structures and temporary structures, number of building floors, building footprints, plot boundaries, vacant lands, roads, streets, trees, manholes, bore wells, water supply valves, sewage pumping station, water pumping station, public buildings, open spaces, gardens, culverts, light poles, electric poles, sub-stations, footpath, medians, fences, compound walls, bus stands, metro stations, Parking lots water bodies, drains, canals, rivers, etc. The Consultant shall also map spot levels at regular intervals covering the entire site and its surroundings areas to generate contours with 0.5 meter interval. The Consultant shall define the unique IDs for each point, line and polygon feature in a systematic manner.

Engineering surveys: Consultant shall carry out all the required engineering surveys and investigations (total station survey, 3d-mapping, geotechnical investigation, soil survey, construction material survey, ground water investigation i.e. hydro-geological investigations, identification of underground utilities and their mapping using GPR or similar instrument, etc.) including sufficient off-site information to allow relationship with possibly useable off-site infrastructure to be established.

b) Baseline study

The Consultant shall review the **Smart City Proposal** in detail and study the area based development proposals in terms of proposed modules, components and sub-components, technical specifications, block cost estimates and implementation schedules. The Consultant shall review and analyse all relevant existing and proposed plans, including existing Indore development plan, city development plan, zonal plan, local area plans, development control regulations (DCRs), environmental regulations etc. influencing the Study Area and analyse the provision and restrictions that may influence the development in the study area and can affect the preparation of retrofit-redevelopment ABD Master Plan. The consultant shall also study the guidelines of other Central and State Government Programmes and Schemes and detailed project reports of the infrastructure and services improvements of the project area and its immediate surroundings, for e.g., Housing for All Plan of Action (HFAPoA), AMRUT Service Level Improvement Plans (SLIPs), Integrated Power Development Scheme (IPDS) DPRs, Digital India DPRs etc. for convergence.

Further, the Consultant shall collect data, reports, maps etc. from various primary and secondary sources and establish a base line for infrastructure and services required to support the proposed solutions. This would include but not limited to primary and secondary data collection from Indore Municipal Corporation and other government agencies like town and country planning, development authority, housing board, district administration, industries department, urban development department, etc., interviews of key stakeholders, field investigations and physical surveys. The data may include information related to physical infrastructure and utilities (existing and proposed) within the study area including but not limited to water supply, sewerage, storm water, solid waste management, electricity supply, street lights, roads, traffic & transportation, fire-fighting etc. The Consultant shall analyse the data and assess the existing condition and capacity of infrastructure and services available to support proposed solutions. The base line may be established along technical, financial and human resource aspects amongst others. The base line shall also be benchmarked with Indian and International industry standards.

Note:

- 1) IMC has already appointed consultants for preparation of DPRs for water supply, sewerage, water recycling and reuse under AMRUT. The Consultant shall coordinate with appointed consultant to ensure seamless coordination in planning and implementation of the projects.

c) Infrastructure Gap Assessment

The Consultant shall project the demand and assess current and future infrastructure requirements with a time horizon of 5-10 years considering population projections. The infrastructure requirements shall be compared to current level of infrastructure and services and relevant benchmarks and accordingly, infrastructure gap shall be assessed.

d) Physical Planning

Based on review of SCP, the consultants shall formulate development strategy, planning principles and guidelines to develop overarching framework for preparation of retrofit-redevelopment plan. The plan shall include all components and sub-components in accordance with SCP and SCM guidelines. The overarching principles is to achieve retrofitting or re-development of land; conservation of buildings, physical features; providing improvements in the physical layout, making infrastructure and amenities available and managing the area to enhance health and safety of the occupants to support economic development as well as to enhance the quality of living, environment, and preparation of area specific regulatory parameters for the area covered. Based on above, the Consultant shall prepare existing and proposed land use breakup, proposed density, etc. Further, the Consultant shall prepare alternate planning interventions. The Consultant shall evaluate each of the alternate plans and discuss with Client to finalize the retrofit-redevelopment plan.

The retrofit-redevelopment plan shall clearly identify various zones in the area based on the character, uses and activities envisioned in each zone. It shall also identify overall framework of existing and proposed street network, pedestrian and bicycle network, green space network, physical and social infrastructure, etc. The retrofit-redevelopment

plan shall also provide clear concept level understanding of viable smart strategies related to water supply, waste water management, solid waste management, power and energy conservation, rain water harvesting, etc.

The retrofit-redevelopment plans shall be prepared to comply with the Government Policies (such as State urban housing, hi-tech township, rainwater harvesting, energy, disaster management, industrial and service sector investment, barrier-free environment for physically disabled, information technology, tourism & other policies).

Based on retrofit-redevelopment plan, the Consultant shall prepare a detailed layout ABD master plan including following but not limited to:

Detailed Layout Plan : The consultant shall prepare a detailed layout plan of whole ABD area by which there would be clear identification of plots for residential, commercial, mixed use , heritage area, parking, river front development areas and other related developments along with permissible FSI and ground coverage. This layout plan will be the **Master Plan** of the area. It shall be compatible with local development control regulations.

Transport network plan: The Consultant shall develop a comprehensive network of ‘complete streets’ that would create a well-connected, walkable development within the area, and enhance connectivity with the city. Proposals for improving public transport connectivity and encouraging use of other NMT modes such as bicycles shall also be included in the plan. Detailed Infrastructure Plans for all components identified in the SCP, including water, electricity, waste collection, storm-water, sewerage network, high-speed communication, ICT Infrastructure, ITS network etc. shall be integrated with transport network.

Utilities and facilities plan: Based on infrastructure gap assessment, the Consultant shall include detailed proposals for spatial distribution, location of utilities, proposed technology and carrying capacity for various networks such as water supply, sewerage, storm-water drainage, solid waste management, electricity, telecommunication, etc. The master plan shall also detail out smart strategies related to water supply, waste water management, solid waste management, power and energy conservation, rain water harvesting, etc.

Landscape plan: The Consultant shall prepare a landscape plan including details related to tree plantation, softscape and hardscape elements, lighting, street furniture, signage, etc.

Urban form and built form: The detailed layout plan shall identify the overall urban form based reflecting the scale, character and urban environment envisioned for various zones and areas of the plan.

Development control regulations and urban design guidelines: In order to implement the desired urban character and urban form identified in the master plan, the Consultants shall prepare a set of clear, unambiguous development regulations for each zone. The DCRs shall clearly identify permissible uses, densities, FSI, permissible building height, setbacks, etc. for various zones.

The Consultant shall present detailed layout plan in 2d, 3d and walkthrough video formats to be used for marketing of the ABD project.

e) Project Identification and Project Cost Estimation

Based on detailed ABD master plan, the Consultant shall identify the projects to meet the desired levels of benchmarks. The proposed projects shall be well integrated with the fast track project. The consultant shall undertake options analysis while identifying the projects such that various technology options are assessed for every sub-sector and most optimal technology is suggested keeping in perspective project lifecycle costs and benefits. The consultant shall also review international case studies and bring in relevant learnings in project context for identification of projects. Further, based on refined area based development proposal, the Consultant shall prepare block cost estimates for each identified project.

f) Infrastructure and Investment Plan

The Consultant shall prepare an infrastructure development plan along with timeline for project development and implementation, preferably using a log frame approach. Based on project timelines, the block cost estimate of all projects shall be clubbed together and quarter wise project expenditure cum investment requirement shall be estimated.

The Consultant shall prioritize the projects and develop an investment outlay for various projects considering interdependencies of various projects and stages in which funding may become available. The consultant shall also develop a resource mobilization plan by studying the financing available through various sources and suggest ways to leverage them through mechanisms such as development charges, chargeable FSI, monetisation of land etc. depending on their applicability and suitability to various projects.

OUTPUT 2 & 3: Detailed Base Map & ABD Master Plan

3.1.3 Design Stage

a) Feasibility Study(ies)

For each project identified under the ABD Master Plan, the Consultant shall carry out a techno-economic feasibility study. The feasibility study shall focus on developing an optimal project structure which is amenable to investment.

The Consultant shall assess the scalability and load requirements based on current demand and future projections, study similar projects implemented elsewhere, study various technology options, carry out cost benefit analysis of each option over project lifecycle and develop concept plan and preliminary design based on most optimal project structure with respect to economic, environmental, social and technical aspects. The design shall meet all infrastructure requirements as per ABD master plan. Above

project structure shall be based on comparative analysis of various options considering lifetime costs. Sub-criteria may include life of technology, cost of replacement, capital and operations and maintenance costs, modularity, replicability, ease of installation and up gradation etc. The Consultant shall carryout a market survey for the identification of the prospective implementing agencies and suppliers of recommended equipment.

The Consultant shall develop a business model for the proposed project structure including but not limited to identifying lifetime project costs including capital & operational and maintenance costs, practically possible revenue streams (tariff, energy savings, cess, subscription fee, advertisement fee etc.) and financial viability over project lifecycle. The Consultant shall clearly highlight whether the project is amenable to public private partnership (PPP) model.

OUTPUT 4: Feasibility Study(ies)

The indicative contents of feasibility report may include project area description, need for the project, benefits of the project, demand assessment, market assessment, options analysis, concept plan, preliminary design and project cost estimates, financial feasibility, institutional capacity, impact assessment, risk management framework, and recommendations.

3.1.4 Project Packaging and Implementation Structuring

Based on the feasibility study of various projects and their amenability to PPPs, the Consultant shall develop packages for implementation. The packages shall be determined based on its interlinkages of the projects and each package may contain one or more projects. While formulating packages, it shall be assessed whether several inter-linked projects could be clubbed together in a single package and merits and de-merits of such packaging. Each package shall be structured in such a manner that a single and unified tender document could be prepared for that particular package covering all projects and components in the respective package. The packaging options along with justifications shall be discussed with the Client. Accordingly, Consultant shall develop the final packages for implementation based on Client requirements and suggestions.

For each package, the Consultant shall determine the implementation structure, whether to be implemented on PPP mode or engineering, procurement and construction (EPC) mode. The implementation structure shall be proposed after considering various options, their merits and de-merits and based on discussion with Client. Further, the Consultant shall detail out the implementation model such as BOOT, BOO, DBO, DBFOT, turn-key contracts etc. While developing implementation structure, the Consultant shall clearly define the roles and responsibility of each stakeholder in implementation of package, bidding process to be adopted and bidding parameters.

3.1.5 Implementation Road Map

The Consultant shall prepare an implementation road map clearly indicating the activities, resources and timelines for implementation of each package. It shall

clearly identify the key actions and decisions to be taken by the Client at various points of time. The activity timeline shall be presented in form of Gantt chart prepared using techniques like program evaluation and review technique (PERT), critical path method (CPM) etc. The Consultant shall identify key indicators and develop formats for monitoring of the packages. The timelines for roadmap may broadly include stages such as project development, procurement, design, installation, operations and maintenance for each package.

OUTPUT 5: Implementation Roadmap

The indicative contents of Implementation Roadmap may include Activities and sub-activities, Start and End Dates, resources for implementation of each package, dependencies on any activities or sub-activities, pre-requisites, if any etc.

3.1.6 Detailed Project Report(s)

Based on implementation structure, the Consultant shall prepare detailed project reports for the relevant packages. DPR may broadly include following contents:

Existing situation analysis: The Consultant shall collect primary and secondary data, carryout field investigations, and surveys for existing situation assessment. The consultant shall also study the existing and proposed DPR applicable to area. The consultant shall undertake demand projections to assess current and future requirements. The consultant shall also highlight if there is any need for any policy level changes for the proposed project to be implemented.

Detailed design: The design activities for the proposed project shall include detailed engineering analysis, architectural designs, engineering drawings, works specifications, bills of quantities, and cost estimates (engineer's cost) based on schedule of rates (SOR) followed by State Government and/or market rate analysis. The consultant shall also identify risk factors impacting implementation of the projects.

Cost estimates: The consultant shall prepare the cost estimate of the project with recurring and non-recurring expense for entire project lifecycle. The consultant shall develop financial models and carryout cost benefit analysis. To ensure sustainability, the consultant shall also identify sources of funding. The Consultant shall conduct a detailed assessment of the ongoing and proposed initiatives/schemes/ projects for each component to determine the availability of funds for creation of new infrastructure/facilities which can be converged and outlaid with already existing schemes.

Phasing: The consultant shall prepare phasing plan for implementation of the project. The phasing may be based on technical, geographical, financial, functions parameters amongst others.

Statutory clearances: The Consultant shall undertake the social and environmental impact assessment of the projects. The Consultant shall assess utility shifting requirements and its costs, identify all statutory clearances and approvals required. The Consultant shall assist provide technical and administrative support to the Client in obtaining all such clearances. The consultants shall also prepare initial environmental

impact examination (IEE) as may be required and prepare Environmental Management Plan (EMP) and mitigation measures. The consultants shall also prepare and implement resettlement plans, where required, based on the applicable laws and regulations.

Note: The Consultant shall also coordinate with ICT consultants and ICT solutions implementing agencies. The PDMC support for physical infrastructure works related to ICT components shall be provided by the appointed consultant.

OUTPUT 6: Detailed Project Reports

Each detailed project report may include project overview, existing situation analysis, project cost, sources of funding, implementation model, service levels, infrastructure requirements, options analysis, statutory clearances, risk management, and workplan.

3.1.7 Procurement Stage

a) Preparation of Project Information Memorandum (PIM)/Project Concept Note (PCN)

Packaging of each project/sub-project to prepare “Terms of Reference” for each identified projects. For each identified project, the Consultant will prepare a concept note that will provide with project brief, background, objectives, input required, output desired, activities schedules, benefits and impacts, project monitoring and evaluation plan and estimated budget with broad component wise details.

b) Preparation of Bid Documents

The Consultants shall prepare the bid documents for selection of implementing agency for each package. The bid documents shall include but not limited to project objectives, scope of work and deliverables, timelines, contractual terms and conditions, payment terms and service levels. The tender documents shall include but not limited to expression of interest, request for qualification, request for proposal, notice inviting tender, corrigendum, addendum, contract, service level agreement (SLA) etc. The Consultants shall also be responsible for developing standard templates for tender documents for all projects.

c) Selection of Implementing Agencies

The Consultant shall support the Client in managing the entire bid processes. This would include but not limited to advertising notices and tender documents, technical support for pre-bid meetings, drafting responses to pre-bid queries, appropriate modifications in tender documents, feasibility studies and detailed project reports, bid evaluation, preparation of bid evaluation reports, issuance of letter of award, negotiations and contract execution etc.

OUTPUT 7: Tender Documents for Selection of Implementing Agency

The tender documents would include PIM/PCN, NIT, EOI, RFQ, RFP, Concession Agreement, Service Level Agreements, and Contracts etc.

3.2 Phase 2: Implementation and Monitoring Phase

3.2.1 Project Management Planning Stage

The Consultants shall provide project management support to the Client for all implementation packages. In early stages of project management, the Consultant shall update and refine the implementation roadmap clearly indicating milestones, schedules, cost estimates and resource requirements and develop a project management plan. The project management plan shall set up the controls and mechanisms for monitoring the project progress and include templates and formats for project reporting and monitoring.

3.2.2 Project Monitoring and Control Stage

Based on discussion with Client and project requirements, the Consultant shall procure and install an open standard project management application software with capability to track and monitor project activities. The application shall allow various levels of users to input the project information and extract MIS reports with different level of authorization from remote locations using a secure network. The users would include the Client, Consultants and Contractors. The costs of the application software shall be borne by the Client and original licenses shall be issued in name of the Client. The Consultant shall regularly update and review the project activities using the application. The Consultant shall be responsible for overall all quality assurance and review and validation of the project outputs and deliverables submitted by the implementing agencies, independent engineers and supervision and quality control consultants. The consultant will update Investment and Business plan on quarterly basis and submit and discuss with authority.

Without limiting the scope, the consultant shall also be responsible for following tasks:

- a) Contract administration and Management of the packages during design and implementation phase.
- b) Scrutinize the implementing agency's detailed work program and guide implementing agency in preparation of supervision schedule/work plan for each package
- c) Supervise and monitor construction work of each contracted package
- d) Scrutinize construction methods proposed by implementing agency including environmental, safety, personnel and public issues
- e) Assess the adequacy of the contractors' inputs in material, labor and construction methodology and provide advisory whenever required
- f) Formulate a rehabilitation & resettlement framework as per requirement and monitor implementation of social safeguards & environmental standards, if any.
- g) Carry out necessary quality control activities and inform authority if the quality of works conforms to the specifications and drawings
- h) Record the work measurement and assist authority in completing the compliances required to certify the contractor's bill and recommend Smart City/SPV on way forward.
- i) Assist the Smart City/SPV in interim and final certification of the bills of payment;

- j) Furnish the detailed construction drawings as necessary during continuance of the contract or checking and recommendation of drawings for approval as required;
- k) Assist for resolution of all contractual issues including examining the contractor's claims for variations/ extensions or additional compensations etc and prepare recommendations for approval by the Smart City/SPV;
- l) Assist during the third party inspection of work carried out by implementation agency(ies), if necessary, as decided by Smart City/SPV;
- m) Assist Smart City/ SPV in obtaining all necessary permissions and complying with statutory requirements as required prior to construction, such as permissions from line departments viz. Railway, Road Transport, Highways, Department of Archaeology, Department of Forests and National Parks etc.
- n) Review and issuance for execution of contractors' design and drawings with approval of SPV for lump sum turnkey contracts and review the project documents and give recommendations as required for PPP projects.
- o) Review and finalize the "as built" drawings submitted by Contractor.
- p) Assist the Smart City/SPV in issue of completion certificates.
- q) Inspect the works at appropriate intervals during defect liability period and certification issue.
- r) Prepare on behalf of Smart City/ SPV monthly project progress reports describing the physical and financial progress of each subproject, highlighting impediments to the quality and progress of the works and remedial actions, to be submitted to Smart City/SPV.
- s) Develop and implement procedure for timely payments to the implementing agency (ies) and monitor for compliance.
- t) Support Smart City/SPV in overall project management and coordination with implementing agencies, government agencies, private players, technology service providers and others.
- u) Support Smart City/SPV to meet compliance requirements as and when required, in documentation and presentation of outputs.
- v) Prepare capacity building plan and change management plan.
- w) Monitor and maintain issue tracker and keep on updating the status of all risks and issues on timely basis.

3.2.3 Project Closure Stage

The Consultant shall ensure that completion certificate is obtained by the implementing agencies after project has been successfully completed. The Consultant shall verify and certify that the project is implemented as per the detailed project reports, drawings and approved variations.

The Consultant shall transfer the knowledge and assets to the Client at the end of contract period. This would include but not limited to handover hardcopy and softcopy of project data and related documents, master files with brief description of each document in an indexed manner and project closure report stating project planning and implementation process, key milestones and achievements, key learnings and challenges, improvements suggested and way forward.

The Consultants shall submit progress reports on monthly basis to the Client to keep track of the project activities during the entire implementation phase. The consultant will also submit a report on Key learnings and lessons learned and a way forward

4. Deliverables and Payments

Based on Smart City Proposal, ISCDL intends to take up multiple projects under Area Based Development proposal amounting to Rs 1500.00 Crores (approximately) (may be more or less during construction). The payment structure is linked to project development, management, implementation and closure.

The bidder is expected to quote a percentage of total project cost (for ABD) as professional fee. The quoted percentage will be applicable to all projects under the ABD proposal.

Consultant shall be paid an amount of Rs. 75.00 Lakhs of following deliverables in addition to percentage rate quoted by the consultant in the following manner:

S. No.	Deliverable / Approval Milestone	As % of total	Timelines*
1	Inception Report	10%	T + 21 Days
2	Detailed Base Map	40%	T + 75 Days
3	ABD Master Plan (Draft)	40%	T + 120 Days
4	Final ABD Master Plan	10%	T + 150 Days
	Total	100%	

*-including draft submittals, review and final submittals.

Note:

1. With prior consultation with the client, the consultant may take up DPR preparation works for early-bird projects.
2. With prior consultation with the client, the consultant may undertake some primary / secondary data collection works as preparatory works for DPR.
3. Priority projects and their scope will be defined in the Master Plan which will define the duration for DPR preparation. In general, each DPR should be ready early enough to undertake bid process followed by execution as per the timelines defined by MoUD.
4. In any case, all DPRs shall be ready in T+650 days.

Total project duration under this consultancy assignment shall be 4 years (48 months).

The payments to the consultant would be made project wise in following manner:

List of deliverables and payments for Consultant

Sl . No	Deliverables	Payments
1	Preparation of Feasibility Study / DPR including surveys & investigations	25%
2	Tender Document Preparation and Bid Process Management	5%
3	Project Management & allied activity (linked to financial progress of the project)	65%
4	Successful completion of project	5%

(A) Preparation of Feasibility Study / DPR including surveys & investigations – 25%

Sr. No	Particulars	Percentage to be released of total amount
1	On approval of Existing Situation Report with Primary & Secondary Data Collection, Survey & Investigations, Data Analysis, Feasibility Study, Design Options, Plans / Drawings.	40%
2	On approval of Draft DPR with Plans, Drawings, BOQ, Cost Estimates etc. AND providing all necessary documentation for statutory clearances as applicable	35%
3	On approval of Final DPR	25%

Note: Statutory clearances will be obtained by the client and no payment of the consultant will be withheld pending such clearances.

(B) Tender Document Preparation and Bid Process Management: 5%

Sr. No	Particulars	Percentage to be released of total amount
1	Bid documents On submission of bid documents On approval of bid documents On publication of NIT of bid documents	60% (Total) 40% 10% 10%
2	Technical Bid evaluation report On submission bid evaluation report On approval of evaluation report	20 % (Total) 10% 10%
3	Financial Bid evaluation report On submission bid evaluation report On approval of evaluation report	10 % (Total) 5% 5%
4	On award of contract On issue of letter of award On signing of contract agreement	10% (Total) 5% 5%
	Total	100%

The payments for (A) and (B) shall be made as per project cost determined in approved DPR. However, the final project cost shall be considered as project cost agreed with contractor at the stage of award of contract agreement. All such payment adjustment shall be made during project management phase evenly in first six months of start of implementation of project. In case of escalation of project cost during construction phase, no additional consultancy fee shall be paid on account of increased project cost.

In case of PPP projects, payment shall be made for (A) and (B) component only.

(C) Project Management: 65% of the Consultancy Fee. The payment shall be made proportionately in accordance with the actual work executed (Financial progress) in the project. Based on the executed cost in the particular period, consultancy fee for the payment shall be worked out in accordance with the approved consultancy fee. (in %) then after 65% of this components shall be paid.

The invoicing shall be done project-wise, on monthly basis.

After the expiry of the contract period, i.e. 48 months, the contract may be extended for an additional period as per the project requirements, under the terms and conditions of this project. For the extended period, the Consultant's fees may be enhanced by 10% (of the balance fees only) as provided under clause 6.1.3 of the Contract Agreement, to cover increased costs and overheads.

6. Reporting

The consultant shall report to Executive Director(ED), ISCDL or a person appointed by the ED. The Consultant would be required to establish a project office in Indore, in order to facilitate coordination with the authority and other stakeholders for the duration of the assignment on a day-to-day basis.

SCHEDULE-2
(See Clause 2.1.3)

CONTRACT FOR CONSULTANT'S SERVICES

Project Name : **Consultancy Services for Project Development and Management
Consultant for Area Based Development Project for Indore Smart
City Development Limited**

Contract No. _____

between

Indore Smart City Development Limited

and

[Name of the Consultant]

Dated: _____

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AGREEMENT

This AGREEMENT (hereinafter called the “**Agreement**”) is made on the day of the month of 20..., between, on the one hand, the [President of India acting through] (hereinafter called the “**Authority**” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, (hereinafter called the “**Consultant**” which expression shall include their respective successors and permitted assigns).

WHEREAS

- (A) The Authority vide its Request for Proposal for **Appointment of Project Development Consultant for Area Based Development Project for Indore Smart City Development Limited** (hereinafter called the “**Consultancy**”) for the Indore Smart City Project (hereinafter called the “**Project**”);
- (B) the Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to the Authority that it had the required professional skills, and in the said proposals the Consultant also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) the Authority, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Award dated (the “**LOA**”); and
- (D) in pursuance of the LOA, the parties have agreed to enter into this Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. GENERAL

1.1 Definitions and Interpretation

1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

- (a) “**Additional Costs**” shall have the meaning set forth in Clause 6.1.2;
- (b) “**Agreement**” means this Agreement, together with all the Annexes;
- (c) “**Agreement Value**” shall have the meaning set forth in Clause 6.1.2;
- (d) “**Applicable Laws**” means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;

- (e) “**Confidential Information**” shall have the meaning set forth in Clause 3.3;
- (f) “**Conflict of Interest**” shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- (g) “**Dispute**” shall have the meaning set forth in Clause 9.2.1;
- (h) “**Effective Date**” means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- (i) “**Expatriate Personnel**” means such persons who at the time of being so hired had their domicile outside India;
- (j) “**ED**” means Executive Director, ISCDL
- (k) “**Government**” means the Government of M.P.
- (l) “**INR, Re. or Rs.**” means Indian Rupees;
- (l) “**Member**”, in case the Consultant consists of a joint venture or consortium of more than one entity, means any of these entities, and “**Members**” means all of these entities;
- (m) “**Party**” means the Authority or the Consultant, as the case may be, and Parties means both of them;
- (n) “**Personnel**” means persons hired by the Consultant or by any Sub-Consultant as employees and assigned to the performance of the Services or any part thereof;
- (o) “**Resident Personnel**” means such persons who at the time of being so hired had their domicile inside India;
- (p) “**RFP**” means the Request for Proposal document in response to which the Consultant’s proposal for providing Services was accepted;
- (q) “**Services**” means the work to be performed by the Consultant pursuant to this Agreement, as described in the Terms of Reference hereto;
- (r) “**Sub-Consultant**” means any entity to which the Consultant subcontracts any part of the Services in accordance with the provisions of Clause 4.7; and
- (s) “**Third Party**” means any person or entity other than the Government, the Authority, the Consultant or a Sub-Consultant.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

- 1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral parts of this Agreement and in case of any contradiction between or among them the priority in which a

document would prevail over another would be as laid down below beginning from the highest priority to the lowest priority:

- (a) Agreement;
- (b) Annexes of Agreement;
- (c) RFP; and
- (d) Letter of Award.

1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the Authority and the Consultant. The Consultant shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Rights and obligations

The mutual rights and obligations of the Authority and the Consultant shall be as set forth in the Agreement, in particular:

- (a) the Consultant shall carry out the Services in accordance with the provisions of the Agreement; and
- (b) the Authority shall make payments to the Consultant in accordance with the provisions of the Agreement.

1.4 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5 Language

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

1.6 Table of contents and headings

The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

1.7 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- (a) in the case of the Consultant, be given by e-mail and by letter delivered by hand to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside the city specified in sub-clause (b) below may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by e-mail to the number as the Consultant may from time to time specify by notice to the Authority;
- (b) in the case of the Authority, be given by e-mail and by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority Representative set out below in Clause 1.10 or to such other person as the Authority may from time to time designate by notice to the Consultant; provided that if the Consultant does not have an office in the same city as the Authority's office, it may send such notice by e-mail and by registered acknowledgement due, air mail or by courier; and
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of e-mail, it shall be deemed to have been delivered on the working days following the date of its delivery.

1.8 Location

The Services shall be performed at the site of the Project in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Consultant.

1.9 Authority of Member-in-charge

In case the Consultant consists of a consortium of more than one entity, the Parties agree that the Lead Member shall act on behalf of the Members in exercising all the Consultant's rights and obligations towards the Authority under this Agreement, including without limitation the receiving of instructions and payments from the Authority.

1.10 Authorised Representatives

- 1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Consultant, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.

1.10.2 The Authority may, from time to time, designate one of its officials as the Authority Representative. Unless otherwise notified, the Authority Representative shall be:

.....

.....

Tel:

Mobile:

Email:

1.10.3 The Consultant may designate one of its employees as Consultant’s Representative. Unless otherwise notified, the Consultant’s Representative shall be:

.....

.....

Tel:

Mobile:

Email:

1.11 Taxes and duties

Unless otherwise specified in the Agreement, the Consultant shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Laws (except Service Tax and Cess which will be paid by the Authority) and the Authority shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

This Agreement shall come into force and effect on the date of this Agreement (the “Effective Date”). **The Agreements shall remain effective for the entire project duration, i.e. 4 years (or 48 months).**

2.2 Commencement of Services

The Consultant shall commence the Services within a period of 14 (fourteen) days from the Effective Date, unless otherwise agreed by the Parties.

2.3 Termination of Agreement for failure to commence Services

If the Consultant does not commence the Services within the period specified in Clause 2.2 above, the Authority may, by not less than 2 (two) weeks’ notice to

the Consultant, declare this Agreement to be null and void, and in the event of such a declaration, the Bid Security of the Consultant shall stand forfeited. The termination shall apply on the applicant's failure to commence work, only if such failure is due to reasons solely attributable to the applicant.

2.4 Expiry of Agreement

Unless terminated earlier pursuant to Clauses 2.3 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (i) expiry of a period of 90 (ninety) days after the delivery of the final deliverable to the Authority; and (ii) the expiry of [4 (four) years] from the Effective Date. Upon Termination, the Authority shall make payments of all amounts due to the Consultant hereunder.

2.5 Entire Agreement

2.5.1 This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Consultant arising out of the provisions of the RFP shall continue to subsist and shall be deemed to form part of this Agreement.

2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

2.6 Modification of Agreement

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clauses 4.2.3 and 6.1.3 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Force Majeure

2.7.1 Definition

(a) For the purposes of this Agreement, "**Force Majeure**" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Consultant or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement, and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No breach of Agreement

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.

2.7.3 Measures to be taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfil its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than 14 (fourteen) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimise the consequences of any event of Force Majeure.

2.7.4 Extension of time

Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.7.5 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to be reimbursed for Additional Costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 Consultation

Not later than 30 (thirty) days after the Consultant has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8 Suspension of Agreement

The Authority may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Consultant to remedy such breach or failure within a period not exceeding 30 (thirty) days after receipt by the Consultant of such notice of suspension.

2.9 Termination of Agreement

2.9.1 By the Authority

The Authority may, by not less than 30 (thirty) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- (a) the Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within 30 (thirty) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing. The termination shall apply only in the listed events of notice of suspension amount to the material breach of agreement;
- (b) the Consultant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Consultant submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Consultant knows to be false;
- (e) any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was considered eligible or successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or

2.9.2 By the Consultant

The Consultant may, by not less than 30 (thirty) days' written notice to the Authority, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

- (a) the Authority fails to pay any money due to the Consultant pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within 45 (forty five) days after receiving written notice from the Consultant that such payment is overdue;
- (b) the Authority is in material breach of its obligations pursuant to this Agreement and has not remedied the same within 45 (forty five) days (or such longer period as the Consultant may have subsequently granted in writing) following the receipt by the Authority of the Consultant's notice specifying such breach;
- (c) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (d) the Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survive such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Consultant's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.6, as relate to the Consultant's Services provided under this Agreement; and (iv) any right or remedy which a Party may have under this Agreement or the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Authority, the Consultant shall proceed as provided respectively by Clauses 3.9 or 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Agreement pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Authority shall make the following payments to the Consultant (after

offsetting against these payments any amount that may be due from the Consultant to the Authority):

- (i) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- (ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and
- (iii) except in the case of termination pursuant to sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the Consultant's personnel.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standards of Performance

The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the Authority, and shall at all times support and safeguard the Authority's legitimate interests in any dealings with Sub-Consultants or Third Parties.

3.1.2 Terms of Reference

The scope of services to be performed by the Consultant is specified in the Terms of Reference (the "**TOR**") at Annex-1 of this Agreement. The Consultant shall provide the Deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Consultant, as well as the Personnel and agents of the Consultant and any Sub-Consultant, comply with the Applicable Laws.

3.2 Conflict of Interest

3.2.1 The Consultant shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement.

3.2.2 Consultant and Affiliates not to be otherwise interested in the Project

The Consultant agrees that, during the term of this Agreement and after its termination, the Consultant or any Associate thereof and any entity affiliated with the Consultant, as well as any Sub-Consultant and any entity affiliated with such Sub-Consultant, shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest; provided that the restriction herein shall not apply after a period of five years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services provided to the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services provided to the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant's firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof.

3.2.3 Prohibition of conflicting activities

Neither the Consultant nor its Sub-Consultant nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.4 Consultant not to benefit from commissions, discounts, etc.

The remuneration of the Consultant pursuant to Clause 6 hereof shall constitute the Consultant's sole remuneration in connection with this Agreement or the Services and the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-Consultant, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

- 3.2.5 The Consultant and its Personnel shall observe the highest standards of ethics and shall not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”). Notwithstanding anything to the contrary contained in this Agreement, the Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the Authority shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, *inter alia*, the time, cost and effort of the Authority, without prejudice to the Authority’s any other rights or remedy hereunder or in law.
- 3.2.6 Without prejudice to the rights of the Authority under Clause 3.2.5 above and the other rights and remedies which the Authority may have under this Agreement, if the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Consultant shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.
- 3.2.7 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means (i) the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the Authority in relation to any matter concerning the Project;
 - (b) “**fraudulent practice**” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection 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 Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;
- (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

3.3 Confidentiality

The Consultant, its Sub-Consultants and the Personnel of either of them shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Authority to the Consultant, its Sub-Consultants and the Personnel; any information provided by or relating to the Authority, its technology, technical processes, business affairs or finances or any information relating to the Authority’s employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project, the Services or this Agreement (**“Confidential Information”**), without the prior written consent of the Authority.

Notwithstanding the aforesaid, the Consultant, its Sub-Consultants and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (i) was in the public domain prior to its delivery to the Consultant, its Sub-Consultants and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Consultant, its Sub-Consultants and the Personnel of either of them;
- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the Consultant, its Sub-Consultants and the Personnel of either of them shall give the

Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and

- (iv) is provided to the professional advisers, agents, auditors or representatives of the Consultant or its Sub-Consultants or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Consultant or its Sub-Consultants or Personnel of either of them, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4 Liability of the Consultant

- 3.4.1 The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.
- 3.4.2 The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.
- 3.4.3 The Parties hereto agree that in case of negligence or wilful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall not be liable to the Authority:
 - (i) for any indirect or consequential loss or damage; and
 - (ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.
- 3.4.4 This limitation of liability specified in Clause 3.4.3 shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

3.5 Insurance to be taken out by the Consultant

- 3.5.1 (a) The Consultant shall, for the duration of this Agreement, take out and maintain, and shall cause any Sub-Consultant to take out and maintain, at its (or the Sub-Consultant's, as the case may be) own cost, insurance against the risks, and for the coverages, as specified in the Agreement and in accordance with good industry practice.
- (b) Within 15 (fifteen) days of receiving any insurance policy certificate in respect of insurances required to be obtained and maintained under this clause, the Consultant shall furnish to the Authority, copies of such policy

certificates, copies of the insurance policies and evidence that the insurance premia have been paid in respect of such insurance. No insurance shall be cancelled, modified or allowed to expire or lapse during the term of this Agreement.

- (c) If the Consultant fails to effect and keep in force the aforesaid insurances for which it is responsible pursuant hereto, the Authority shall, apart from having other recourse available under this Agreement, have the option, without prejudice to the obligations of the Consultant, to take out the aforesaid insurance, to keep in force any such insurances, and pay such premia and recover the costs thereof from the Consultant, and the Consultant shall be liable to pay such amounts on demand by the Authority.
- (d) Except in case of Third Party liabilities, the insurance policies so procured shall mention the Authority as the beneficiary of the Consultant and the Consultant shall procure an undertaking from the insurance company to this effect; provided that in the event the Consultant has a general insurance policy that covers the risks specified in this Agreement and the amount of insurance cover is equivalent to 3 (three) times the cover required hereunder, such insurance policy may not mention the Authority as the sole beneficiary of the Consultant or require an undertaking to that effect.

3.5.2 The Parties agree that the risks and coverages shall include but not be limited to the following:

- (a) Third Party liability insurance as required under Applicable Laws, with a minimum coverage equivalent to Agreement Value;
- (b) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultant, in accordance with Applicable Laws; and
- (c) professional liability insurance for an amount no less than the Agreement Value.

The indemnity limit in terms of "Any One Accident" (AOA) and "Aggregate limit on the policy period" (AOP) should not be less than the amount stated in Clause 6.1.2 of the Agreement. In case of consortium, the policy should be in the name of Lead Member and not in the name of individual Members of the consortium.

3.6 Accounting, inspection and auditing

The Consultant shall:

- (a) keep accurate and systematic accounts and records in respect of the Services provided under this Agreement, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the

basis thereof (including the basis of the Consultant's costs and charges);
and

- (b) permit the Authority or its designated representative periodically, and up to one year from the expiration or termination of this Agreement, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Authority.
- (c) The audit conducted shall be restricted to the physical files of this Agreement only and shall be subject to client agreeing to maintain confidentiality of these documents. If any third parties are employed by the client to conduct audit, client shall ensure that such third parties are not be a competitor of the applicant and shall agree to confidential obligations with applicant.

3.7 Consultant's actions requiring the Authority's prior approval

The Consultant shall obtain the Authority's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Professional Personnel as are not listed in Annex-2.
- (b) sub-contracting shall not be allowed.
- (c) any other action that is specified in this Agreement.

3.8 Reporting obligations

The Consultant shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

3.9 Documents prepared by the Consultant to be property of the Authority

3.9.1 All plans, drawings, specifications, designs, reports and other documents (collectively referred to as "**Consultancy Documents**") prepared by the Consultant (or by the Sub-Consultants or any Third Party) in performing the Services shall become and remain the property of the Authority, and all intellectual property rights in such Consultancy Documents shall vest with the Authority. Any Consultancy Document, of which the ownership or the intellectual property rights do not vest with the Authority under law, shall automatically stand assigned to the Authority as and when such Consultancy Document is created and the Consultant agrees to execute all papers and to perform such other acts as the Authority may deem necessary to secure its rights herein assigned by the Consultant.

3.9.2 The Consultant shall, not later than termination or expiration of this Agreement, deliver all Consultancy Documents to the Authority, together with a detailed inventory thereof. The Consultant may retain a copy of such Consultancy Documents. The Consultant, its Sub-Consultants or a Third Party shall not use these Consultancy Documents for purposes unrelated to this Agreement without the prior written approval of the Authority.

3.9.3 The Consultant shall hold the Authority harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as ‘Claims’) which may arise from or due to any unauthorised use of such Consultancy Documents, or due to any breach or failure on part of the Consultant or its Sub-Consultants or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Authority.

3.10 Equipment and materials furnished by the Authority

Equipment and materials made available to the Consultant by the Authority shall be the property of the Authority and shall be marked accordingly. Upon termination or expiration of this Agreement, the Consultant shall furnish forthwith to the Authority, an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the instructions of the Authority.

3.11 Providing access to Project Office and Personnel

The Consultant shall ensure that the Authority, and officials of the Authority having authority from the Authority, are provided unrestricted access to the Project Office and to all Personnel during office hours. The Authority’s official, who has been authorised by the Authority in this behalf, shall have the right to inspect the Services in progress, interact with Personnel of the Consultant and verify the records relating to the Services for his satisfaction.

3.12. Accuracy of Documents

The Consultant shall be responsible for accuracy of the data collected by it directly or procured from other agencies/authorities, the designs, drawings, estimates and all other details prepared by it as part of these services. Subject to the provisions of Clause 3.4, it shall indemnify the Authority against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Consultant or arises out of its failure to conform to good industry practice. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the drawings including any re-survey / investigations.

4. CONSULTANT’S PERSONNEL AND SUB-CONSULTANTS

4.1 General

The Consultant shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

4.2 Deployment of Personnel

4.2.1 The designations, names and the estimated periods of engagement in carrying out the Services by each of the Consultant’s Personnel are described in Annex-2 of this Agreement.

4.2.2 Adjustments with respect to the estimated periods of engagement of Personnel set forth in the aforementioned Annex-2 may be made by the Consultant by written notice to the Authority.

4.2.3 If additional work is required beyond the scope of the Services specified in the Terms of Reference, the estimated periods of engagement of Personnel, set forth in the Annexes of the Agreement may be increased by agreement in writing between the Authority and the Consultant, provided that any such increase shall not, except as otherwise agreed, cause payments under this Agreement to exceed the Agreement Value set forth in Clause 6.1.2.

4.3 Approval of Personnel

4.3.1 The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by the Authority. No other Professional Personnel shall be engaged without prior approval of the Authority.

4.3.2 If the Consultant hereafter proposes to engage any person as Professional Personnel, it shall submit to the Authority its proposal along with a CV of such person in the form provided at Appendix-I (Form-12) of the RFP. The Authority may approve or reject such proposal within 14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Consultant may propose an alternative person for the Authority's consideration. In the event the Authority does not reject a proposal within 14 (fourteen) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the Authority.

4.4 Substitution of Key Personnel

The Authority expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the Consultant and the concerned Key Personnel. Such substitution shall be subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Without prejudice to the foregoing, substitution of Key Personnel shall be permitted subject to deduction of maximum up to 0.25% (zero point Two five per cent) of the total contract amount, if it seems to the employer that the personnel is changed without any justified reason and reasons well within control of the applicant.

4.5 Working hours, overtime, leave, etc.

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Agreement, and the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is excluded from the man days of service set forth in Annex-2. Any taking of leave by any Personnel for a period exceeding 7 (seven) days shall be subject to the prior approval of the Authority, and the Consultant shall ensure that any absence on leave will not delay the progress and quality of the Services.

4.6 Team Leader and Project Manager

The person designated as the Team Leader of the Consultant's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel. In addition, Project Manager shall be responsible for day to day performance of the Services.

4.7 Sub-Consultants

Sub-Consultants listed in Annex-4 of this Agreement are hereby approved by the Authority. The Consultant may, with prior written approval of the Authority, engage additional Sub-Consultants or substitute an existing Sub-Consultant. The hiring of Personnel by the Sub-Consultants shall be subject to the same conditions as applicable to Personnel of the Consultant under this Clause 4.

5. OBLIGATIONS OF THE AUTHORITY

5.1 Assistance in clearances etc.

Unless otherwise specified in the Agreement, the Authority shall make best efforts to ensure that the Government shall:

- (a) provide the Consultant, its Sub-Consultants and Personnel with work permits and such other documents as may be necessary to enable the Consultant, its Sub-Consultants or Personnel to perform the Services;
- (b) facilitate prompt clearance through customs of any property required for the Services; and
- (c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

5.2 Access to land and property

The Authority warrants that the Consultant shall have, free of charge, unimpeded access to the site of the project in respect of which access is required for the performance of Services; provided that if such access shall not be made available to the Consultant as and when so required, the Parties shall agree on (i) the time extension, as may be appropriate, for the performance of Services, and (ii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause 6.1.3.

5.3 Change in Applicable Law

If, after the submission date of price bid for this project, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Consultant in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value, w.e.f. any such change in the Applicable Laws.

5.4 Payment

In consideration of the Services performed by the Consultant under this Agreement, the Authority shall make to the Consultant such payments and in such manner as is provided in Clause 6 of this Agreement.

6. PAYMENT TO THE CONSULTANT

6.1 Cost estimates and Agreement Value

6.1.1 An abstract of the cost of the Services payable to the Consultant is set forth in Annex-5 of the Agreement.

6.1.2 Except as may be otherwise agreed under Clause 2.6 and subject to Clause 6.1.3, the payments under this Agreement shall not exceed the agreement value specified herein (the “**Agreement Value**”). The Parties agree that the Agreement Value is Rs. (Rupees.).

6.1.3 Notwithstanding anything to the contrary contained in Clause 6.1.2, if pursuant to the provisions of Clauses 2.6 and 2.7, the Parties agree that additional payments shall be made to the Consultant in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 6.1.1 above, the Agreement Value set forth in Clause 6.1.2 above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.1.4 After the expiry of the contract period, i.e. 48 months, the contract may be extended for an additional period as per the project requirements, under the terms and conditions of this project. For the extended period, the Consultant’s fees may be enhanced by 10% (of the balance fees only) as provided under clause 6.1.3 of the Contract Agreement, to cover increased costs and overheads.

6.2 Currency of payment

All payments shall be made in Indian Rupees. The Consultant shall be free to convert Rupees into any foreign currency as per Applicable Laws.

6.3 Mode of billing and payment

Billing and payments in respect of the Services shall be made as follows:-

(a) The Consultant shall be paid for its services as per the Payment Schedule at Annex-6 of this Agreement, subject to the Consultant fulfilling the following conditions:

(i) No payment shall be due for the next stage till the Consultant completes, to the satisfaction of the Authority, the work pertaining to the preceding stage.

(ii) The Authority shall pay to the Consultant, only the undisputed amount.

(b) The Authority shall cause the payment due to the Consultant to be made within 45 (Forty five) days after the receipt by the Authority of duly

completed bills with necessary particulars (the “**Due Date**”). Interest at the rate of 10% (ten per cent) per annum shall become payable as from the Due Date on any amount due by, but not paid on or before, such Due Date.

- (c) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Authority. The Services shall be deemed completed and finally accepted by the Authority and the final deliverable shall be deemed approved by the Authority as satisfactory upon expiry of 60 (sixty) days after receipt of the final deliverable by the Authority unless the Authority, within such 60 (sixty) day period, gives written notice to the Consultant specifying in detail, the deficiencies in the Services. The Consultant shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The Authority shall make the final payment upon acceptance or deemed acceptance of the final deliverable by the Authority.
- (d) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Consultant to the Authority within 30 (thirty) days after receipt by the Consultant of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a final report in accordance with Clause 6.3 (d). Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.
- (e) All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

7. LIQUIDATED DAMAGES AND PENALTIES

7.1 Performance Security

- 7.1.1 The consultant shall furnish a bank guarantee for an amount equal to 5% (Five percent) of the agreement value as performance security in the form specified at Annex – 7 of this agreement, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2. The balance remaining out of the Performance Security shall be released to the Consultant at the end of 3 (three) months after the expiry of this Agreement pursuant to Clause 2.4 hereof.

7.2 Liquidated Damages

- 7.2.1 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the

Consultant by way of deemed liquidated damages, subject to a maximum of 10% (ten per cent) of the Agreement Value.

7.2.2 Liquidated Damages for delay

In case of delay in submission of deliverables beyond two weeks from due date of submission of deliverable, liquidated damages not exceeding an amount equal to 0.5% (Zero point five percent) of the milestone payment per day, subject to a maximum of 10% (ten percent) of the milestone payment will be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time shall be granted.

7.2.3 Encashment and appropriation of Performance Security

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Consultant in the event of breach of this Agreement or for recovery of liquidated damages specified in this Clause 7.2.

7.3 Penalty for deficiency in Services

In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the Consultant for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the Authority, other penal action including debarment for a specified period may also be initiated as per policy of the Authority.

8. FAIRNESS AND GOOD FAITH

8.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realisation of the objectives of this Agreement.

8.2 Operation of the Agreement

The Parties recognise that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

9. SETTLEMENT OF DISPUTES

9.1 Amicable settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

9.2 Dispute resolution

9.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

9.3 Conciliation

In the event of any Dispute between the Parties, either Party may call upon Chairman, ISCDL for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 9.4.

9.4 Arbitration

9.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the “**Rules**”), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The place of such arbitration shall be Indore, Madhya Pradesh where the Authority has its headquarters and the language of arbitration proceedings shall be English.

9.4.2 There shall be [a sole arbitrator whose appointment] / [an Arbitral Tribunal of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected, and in the event of disagreement between the two arbitrators, the appointment] shall be made in accordance with the Rules.

- 9.4.3 The arbitrators shall make a reasoned award (the “**Award**”). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Consultant and the Authority agree and undertake to carry out such Award without delay.
- 9.4.4 The Consultant and the Authority agree that an Award may be enforced against the Consultant and/or the Authority, as the case may be, and their respective assets wherever situated.
- 9.4.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed in their respective names as of the day and year first above written.

SIGNED, SEALED AND DELIVERED

For and on behalf of
Consultant:

(Signature)
(Name)
(Designation)
(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of
Authority

(Signature)
(Name)
(Designation)
(Address)

In the presence of:

1.

2.

Annex -1

Terms of Reference

(Refer Clause 3.1.2)

(Reproduce Schedule-1 of RFP)

Annex-2

Deployment of Key Personnel

(Refer Clause 4)

(Reproduce as per Form-7 of Appendix-I)

Annex-3

DELETED

Annex-4

Approved Sub-Consultant(s)

(Refer Clause 4.7)

(Reproduce as per Form-12 of Appendix-I)

Annex-5
Cost of Services
(Refer Clause 6.1)

(as per the template provided on www.mpeprocure.gov.in)

Annex-6

Payment Schedule

(Refer Clause 6)

Consultant shall be paid an amount of Rs. 75.00 Lakhs of following deliverables in addition to percentage rate quoted by the consultant in the following manner:

S. No.	Deliverable / Milestone (upon approval)	As percentage of total as above
1	Inception report	10%
2	Detailed Base Map	40%
3	ABD Master Plan (Draft)	40%
4	Final ABD Master Plan	10%
	Total	100%

The payments to the consultant would be made project wise in following manner:

List of deliverables and payments for Consultant

Sl. No	Deliverables	Payment based on Percentage Rate of Project Cost
1	Preparation of Feasibility Study / DPR including surveys & investigations	25%
2	Tender Document Preparation and Bid Process Management	5%
3	Project Management & allied activity (linked to financial progress of the project)	65%
4	Successful completion of project	5%

(A) Preparation of Feasibility Study / DPR including surveys & investigations – 25%

Sr. No	Particulars	Percentage to be released of total amount for (A)
1	On approval of Existing Situation Report with Primary & Secondary Data Collection, Survey & Investigations, Data Analysis, Feasibility Study, Design Options, Plans / Drawings.	40%
2	On approval of Draft DPR with Plans, Drawings, BOQ, Cost Estimates etc. AND providing all necessary documentation for statutory clearances as applicable	35%
3	On approval of Final DPR	25%

Note: Statutory clearances will be obtained by the client and no payment of the consultant will be withheld pending such clearances.

(B) Tender Document Preparation and Bid Process Management: 5%

Sr. No	Particulars	Percentage to be released of total amount
1	Bid documents On submission of bid documents On approval of bid documents On publication of NIT of bid documents	60% (Total) 40% 10% 10%
2	Technical Bid evaluation report On submission bid evaluation report On approval of evaluation report	20 % (Total) 10% 10%
3	Financial Bid evaluation report On submission bid evaluation report On approval of evaluation report	10 % (Total) 5% 5%
4	On award of contract On issue of letter of award On signing of contract agreement	10% (Total) 5% 5%
	Total	100%

The payments for (A) and (B) shall be made as per project cost determined in approved DPR. However, the final project cost shall be considered as project cost agreed with contractor at the stage of award of contract agreement. All such payment adjustment shall be made during project management phase evenly in first six months of start of implementation of project. In case of escalation of project cost during construction phase, no additional consultancy fee shall be paid on account of increased project cost.

In case of PPP projects, payment shall be made for (A) and (B) component only.

(C) Project Management: 65% of the Consultancy Fee. The payment shall be made proportionately in accordance with the actual work executed (Financial progress) in the project. Based on the executed cost in the particular period, consultancy fee for the payment shall be worked out in accordance with the approved consultancy fee. (in %) then after 65% of this components shall be paid.

Annex-7

Bank Guarantee for Performance Security

(Refer Clause 7.1.3)

To

[The President of India/Governor of]

acting through

.....
.....
.....

In consideration of Indore Smart City Development Limited acting on behalf of the [President of India/Governor of] (hereinafter referred as the “**Authority**”, which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) awarding to, having its office at (hereinafter referred as the “**Consultant**” which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority’s Agreement no. dated valued at Rs. (Rupees), (hereinafter referred to as the “**Agreement**”) the assignment for consultancy services in respect of thefor, and the Consultant having agreed to furnish a Bank Guarantee amounting to Rs..... (Rupees) to the Authority for performance of the said Agreement.

We, (hereinafter referred to as the “**Bank**”) at the request of the Consultant do hereby undertake to pay to the Authority an amount not exceeding Rs. (Rupees) against any loss or damage caused to or suffered or would be caused to or suffered by the Authority by reason of any breach by the said Consultant of any of the terms or conditions contained in the said Agreement.

2. We, (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Consultant of any of the terms or conditions contained in the said Agreement or by reason of the Consultant’s failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. (Rupees).

3. We, (indicate the name of Bank) undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Consultant shall have no claim against us for making such payment.

4. We, (indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be required for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period equivalent to the project duration from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

5. We, (indicate the name of Bank) further agree with the Authority that the Authority shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Consultant from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said Consultant and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Consultant or for any forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Consultant or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Consultant(s).

7. We, (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Authority in writing.

8. For the avoidance of doubt, the Bank’s liability under this Guarantee shall be restricted to Rs. crore (Rupees crore) only. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 2 hereof, on or before [..... (indicate the date falling 365days after the Bid Due Date specified in the RFP)].

Dated, the day of 20

For

(Name of Bank)

(Signature, name and designation of the authorised signatory)

Seal of the Bank:

NOTES:

- (i) The Bank Guarantee should contain the name, designation and code number of the officer(s) signing the Guarantee.
- (ii) The address, telephone no. and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE-3

(See Clause 2.3.3)

Guidance Note on Conflict of Interest

1. This Note further explains and illustrates the provisions of Clause 2.3 of the RFP and shall be read together therewith in dealing with specific cases.
2. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and a consultant or between consultants and present or future concessionaries/ contractors. Some of the situations that would involve conflict of interest are identified below:
 - (a) Authority and consultants:
 - (i) Potential consultant should not be privy to information from the Authority which is not available to others.
 - (ii) Potential consultant should not have defined the project when earlier working for the Authority.
 - (iii) Potential consultant should not have recently worked for the Authority overseeing the project.
 - (b) Consultants and concessionaires/contractors:
 - (i) No consultant should have an ownership interest or a continuing business interest or an on-going relationship with a potential concessionaire/ contractor save and except relationships restricted to project-specific and short-term assignments.
 - (ii) No consultant should be involved in owning or operating entities resulting from the project.
 - (iii) No consultant should bid for works arising from the project.

The participation of companies that may be involved as investors or consumers and officials of the Authority who have current or recent connections to the companies involved, therefore, needs to be avoided.

4. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the consultants become aware of them.
5. Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general

rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Authority.

6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
7. Another form of conflict of interest called “scope-creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
8. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

APPENDICES

APPENDIX-I

(See Clause 2.1.3)

TECHNICAL PROPOSAL

Form-1

Letter of Proposal

(On Applicant's letter head)

(Date and Reference)

To,

.....
.....
.....

Sub: Appointment of Project Development and Management Consultant for Area based Development Project for Indore Smart City Development Limited

Dear Sir,

With reference to your RFP Document dated, I/We, having examined all relevant documents and understood their contents, hereby submit our Proposal for selection as Project Development and Management Consultant (the "**Consultant**") for Area Based Development Project for Indore Smart City Development Limited. The proposal is unconditional and unqualified.

2. I/We acknowledge that the Authority will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the Consultant, and we certify that all information provided in the Proposal and in the Appendices is true and correct, nothing has been omitted which renders such information misleading; and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Project.
4. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
5. I/We acknowledge the right of the Authority to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.

6. I/We certify that in the last three years, we or any of our Associates 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 against the Applicant, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/We declare that:
 - (a) I/We have examined and have no reservations to the RFP Documents, including any Addendum issued by the Authority;
 - (b) I/We do not have any conflict of interest in accordance with Clause 2.3 of the RFP Document;
 - (c) 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 Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
 - (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Applicants in accordance with Clause 2.8 of the RFP document.
9. I/We declare that we are not a member of any other Consortium applying for Selection as a Consultant.
10. I/We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
11. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
12. I/We further certify that no investigation by a regulatory authority is pending either against us or against to be engaged team members.

13. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority [and/ or the Government of India] in connection with the selection of Consultant or in connection with the Selection Process itself in respect of the above mentioned Project.
14. I/We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened or rejected.
15. I/We agree to keep this offer valid for 120 (One Hundred Twenty Days) days from the PDD specified in the RFP.
16. A Power of Attorney in favour of the authorised signatory to sign and submit this Proposal and documents is attached herewith in Form 4.
17. In the event of my/our firm being selected as the Consultant, I/we agree to enter into an Agreement in accordance with the form at Schedule–2 of the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.
18. In the event of my/our firm being selected as the Consultant, I/we agree to enter into an Agreement in accordance with the form at Schedule -2 of the RFP. We agree not to seek changes in the aforesaid form and agree to abide by the same.
19. I/We have studied RFP and all other documents carefully. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.
20. I/We agree and undertake to abide by all the terms and conditions of the RFP Document.

In witness thereof, I/we submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

(Name and seal of the Applicant/ Lead Member)

APPENDIX-I

Form-2

Particulars of the Applicant

1.1	Title of Consultancy:
1.2	Title of Project:Project
1.3	State whether applying as Sole Firm or Lead Member of a consortium: Sole Firm or Lead Member of a consortium
1.4	State the following: Name of Firm: Legal status (e.g. sole proprietorship or partnership): Country of incorporation: Registered address: Year of Incorporation: Year of commencement of business: Principal place of business: Name, designation, address and phone numbers of authorised signatory of the Applicant: Name: Designation: Company: Address: Phone No.: E-mail address:
1.5	If the Applicant is Lead Member of a consortium, state the following for each of the other Member Firms:

	<p>(i) Name of Firm:</p> <p>(ii) Legal Status and country of incorporation</p> <p>(iii) Registered address and principal place of business.</p>
1.6	<p>For the Applicant, (in case of a consortium, for each Member), state the following information:</p> <p>(i) In case of non-Indian Firm, does the Firm have business presence in India? Yes/No</p> <p>If so, provide the office address (es) in India.</p> <p>(ii) Has the Applicant or any of the Members in case of a consortium been penalised by any organization for poor quality of work or breach of contract in the last five years? Yes/No</p> <p>(iii) Has the Applicant/ or any of its Associates ever failed to complete any work awarded to it by any public authority/ entity in last five years? Yes/No</p> <p>(iv) Has the Applicant or any member of the consortium been blacklisted by any Government department/Public Sector Undertaking in the last five years? Yes/No</p> <p>(v) Has the Applicant or any of its Associates, in case of a consortium, suffered bankruptcy/insolvency in the last five years? Yes/No</p> <p>Note: If answer to any of the questions at (ii) to (v) is yes, the Applicant is not eligible for this consultancy assignment.</p>
1.7	<p>(Signature, name and designation of the authorised signatory)</p> <p>For and on behalf of</p>

APPENDIX-I

Form-3

Statement of Legal Capacity

(To be forwarded on the letter head of the Applicant)

Ref. Date:

To,

.....

.....

.....

Dear Sir,

Sub: Appointment of Project Development and Management Consultant for Area based Development Project for Indore Smart City Development Limited

I/We hereby confirm that we, the Applicant (along with other members in case of consortium, the constitution of which has been described in the Proposal), satisfy the terms and conditions laid down in the RFP document.

I/We have agreed that (insert Applicant's name) will act as the Lead Member of our consortium.

I/We have agreed that (insert individual's name) will act as our Authorised Representative/ will act as the Authorised Representative of the consortium on our behalf and has been duly authorized to submit our Proposal. Further, the authorised signatory is vested with requisite powers to furnish such proposal and all other documents, information or communication and authenticate the same.

Yours faithfully,

(Signature, name and designation of the authorised signatory

For and on behalf of

APPENDIX-I

Form-4

Power of Attorney

Know all men by these presents, We, (name of Firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms..... son/daughter/wife and presently residing at....., who is presently employed with/ retained by us and holding the position of as our true and lawful attorney (hereinafter referred to as the “Authorised Representative”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for and selection as Project Development and Management Consultant for Area based Development Project to be developed by the Indore Smart City Development Limited (the “Authority”) including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the Authority.

AND, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorised Representative 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 Authorised Representative in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

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

For

(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Notarised

Accepted

.....

(Signature, name, designation and address of the Attorney)

Notes:

- *The 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 other 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.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX-I

Form-5**Financial Capacity of the Applicant***(Refer Clause 2.2.2 (B))*

S. No.	Financial Year	Annual Professional Fee from Advisory and Consultancy Services (Rs)
1.		
2.		
3.		
Average		
Certificate from the Statutory Auditor^{\$\$}		
This is to certify that(name of the Applicant) has received the payments shown above against the respective years on account of professional fees from advisory and consulting services.		
(Signature, name and designation of the authorised signatory)		
Date:	Name and seal of the audit firm:	

^{\$\$}In case the Applicant does not have a statutory auditor, it shall provide the certificate from its chartered accountant that ordinarily audits the annual accounts of the Applicant.

Note:

1. Please attach duly-certified Annual Audit / Financial Statements.
2. In case of consortium, Form-5 shall be submitted by all members of the consortium.

APPENDIX-I

Form-6

DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN IN RESPONDING TO THE TERMS OF REFERENCE

A description of the approach, methodology and work plan for performing the assignment, including a detailed description of the proposed methodology and staffing.

Suggested structure:

- a) **Technical Approach and Methodology**: Explain understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TORs in here.
- b) **Work Plan**: Outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations and tentative delivery dates of the monthly progress reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here.
- c) **Organization and Staffing**: Describe the structure and composition of your team, including the list of the Key Personnel, Sector Experts, Support Team and relevant technical and administrative support staff.

Prescribed format:

Strictly follow the page limit of 30 pages, font type: arial, minimum font size: 11, minimum line spacing of 1.0 and normal margins. Non-conforming submissions may be disqualified.

APPENDIX-I

Form-7

TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS

N°	Name	Expert's input (in person days per month)										Total time-input (in days)					
		Position	Month 1	Month 2	Month 3	Month. ..	Home	Field	Total							
KEY PERSONNEL																	
1	{e.g., Mr. aaaa}	[Team Leader]	[Home] [2 days]	[10]	[14]												
			[Field] [20]	[12]	[8]												
2																	
3																	
4..																	
	Sub-total																

Note:

- 1 For Key Experts, the input should be indicated individually for the same positions as required under the clause 2.1.4.
- 2 Months are counted from the start of the assignment/mobilization. One working day shall be not less than 8 (eight) working-hours.
- 3 "Home" means work in the office of the expert's place of residence or Applicant's office. "Field" work means work carried out in the Authority's office or any place assigned by the Authority to carry out the services.

APPENDIX-I

Form-8

Particulars of Key Personnel

S. No.	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience
(1)	(2)	(3)	(4)	(5)
1.				
2.				
3.				
4.				

APPENDIX-I

Form-9**Abstract of Assignments of the Applicant[§]***(Refer Clause 2.2.2, B)*

S.No.	Name of Project	Name of Client	Professional fee ^{\$\$} received by the Applicant (in Rs crore) [£]
(1)	(2)	(3)	(4)
1			
2			
3			
4			
5			

[§]The Applicant should provide details of only those assignments that have been undertaken by it under its own name.

^{\$\$} Exchange rate for conversion of US \$ shall be as per Clause 1.7.1.

£ In the event that the Applicant is notable to disclose the consultancy fee received for any particular assignment for reasons such as confidentiality, non-disclosure clause, etc., it may submit a self-certification with specific reason/s that it has received more than the amount specified for eligibility under this RFP.

Certificate from the Statutory Auditor[§] of [Name of Company]

This is to certify that the informati/on contained in Column 4 above is correct as per the accounts of the Applicant and/ or the clients.

(Signature, name and designation of the authorised signatory)

Date:

Name and seal of the audit firm:

[§] In case the Applicant does not have a statutory auditor, it shall provide the certificate from its chartered accountant that ordinarily audits the annual accounts of the Applicant.

Note: In case of consortium, Form-9 for each consortium member shall be submitted.

APPENDIX-I
Form-10
Assignments of Applicant

(Refer Clause 2.2.2, B)

1.	Name of company:
2.	Assignment name:
3.	Description of Assignment:
4.	Approx. value of the contract (in Rupees):
5.	Approx. value of the services provided by your company under the contract (in Rupees):
6.	Country:
7.	Location within country:
8.	Duration of Assignment/job (months) :
9.	Name of Client:
10.	Client address and contact information:
11.	In case of consortium, whether your company was Lead member or other consortium member:
12.	Total No of staff-months of the Assignment:
13.	Total No of staff-months provided by your company:
14.	Start date (month/year):
15.	Completion date (month/year):
16.	Name of associated Consultants, if any:
17.	Name of senior professional staff of your firm involved and functions performed.
18.	Description of actual Assignment/ provided by your staff within the Assignment:

Note:

1. Use separate sheet for each Assignment as mentioned in clause 2.2.2 (B).
2. Each Eligible Assignment shall not exceed 2 pages, and following format shall be used: font: arial, font size: 11, normal margin.
3. Exchange rate for conversion of US \$ shall be as per Clause 1.7.1.

APPENDIX-I

Form-11

Curriculum Vitae (CV) of Professional Personnel

1. Proposed Position: [For each position of key professional separate form will be prepared]:

2. Name of Firm: [Insert name of firm proposing the staff]:

3. Name of Staff: [Insert full name]:

4. Brief Profile of Proposed Staff: [Provide summary of proposed staff experience, qualifications and achievements in no more than 250 words]

5. Date of Birth:

6. Nationality:

7. Education:[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]:

8. Membership of Professional Associations:

9. Other Training:

10. Countries of Work Experience:[List countries where staff has worked in the last ten years]:

11. Languages [For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:

12. Employment Record:[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:

From [Year]:

To [Year]:

Employer:

Positions held:

13. Detailed Tasks Assigned: [List all tasks to be performed under this Assignment]

14. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned [Among the Assignment/jobs in which the staff has been involved, indicate the following information for those Assignment/jobs that best illustrate staff capability to handle the tasks listed under point 12.]

Name of Assignment or project:

Employer:

Year:

Location:

Main project features:

Positions held:

Activities performed:

(Signature and name of the authorised signatory of the Applicant)

Note:

1. Use separate form for each Key Personnel
2. Each page of the CV shall be countersigned by the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

APPENDIX-I

Form-12

Proposal for Sub-Consultant(s)

1. Details of the Firm				
Firm's Name, Address and Telephone				
Name and Telephone No. of the Contact Person				
Fields of Expertise				
No. of Years in business in the above Fields				
2. Services that are proposed to be sub contracted:				
3. Person who will lead the Sub- Consultant				
Name:				
Designation:				
Telephone No:				
Email:				
4. Details of Firm's previous experience				
Name of Work	Name, address and telephone no. of Client	Total Value of Services Performed	Duration of Services	Date of Completion of Services
1.				
2.				
3.				

(Signature and name of the authorised signatory)

Note:

1. The Proposal for Sub-Consultant(s) shall be accompanied by the details specified in Forms 12 of Appendix -I.
2. Use separate form for each Sub-Consultant

APPENDIX-II

FINANCIAL PROPOSAL

Form-1

Covering Letter

(On Applicant's letter head)

(Date and Reference)

To,

.....
.....
.....

Dear Sir,

Subject: Appointment of Project Development and Management Consultant for Area based Development Project for Indore Smart City Development Limited

I/We, (Applicant's name) herewith enclose the Financial Proposal for selection of my/our firm as Project Development and Management Consultant for Area Based Development Projects in Indore for Indore Smart City Development Limited as indicated above.

I/We agree that this offer shall remain valid for a period of 120 (one hundred and twenty) days from the Proposal date or such further period as may be mutually agreed upon.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

APPENDIX-II
(See Clause 2.1.3)

Form-2

Sl. No	Consultancy Fees (Percentage Basis)	Percentage of the project cost*	
		% In figure	% In words
1	PDMC Services for Area Based Development Projects with scope as per RFP		

Note:

*Project cost for purpose of evaluation of proposal is taken as Rs. 1500.00 Crore as per project cost of ABD in Indore.

- 1) Consultancy fees shall be quoted on % basis of the project cost.
- 2) For purpose of bid evaluation, the above quoted percentage would be converted into absolute figures by multiplying percentage figure with project cost. The amount such derived would be considered as financial quote for financial scoring.
- 3) Service Tax and Cess will be paid extra as per Law.

Dated this [day / month / year]

Authorized Signatory (in full and initials):

Name and title of signatory:

Duly authorized to sign this Proposal for and on behalf of [Name of Applicant]

Name of Firm:

Address: