

[Tender Notice No: ----7/GSCDL/TENDER/RFP/MLCP-PPP/2018-----]



Gangtok Smart City Development Limited

## **Request for Proposal**

**for**

**Implementation of Multi-Level Car Parking cum Commercial  
Development at Old West Point School Area near M.G.  
Marg, Gangtok – East Sikkim**

**on**

**Design, Build, Finance, Operate and Transfer (DBFOT) basis**

### **Volume I - Instructions to Bidders**

This section specifies procedures to be followed by Bidders in the preparation and submission of their Bids and provides information on submission, opening, evaluation of Bids.

## **NOTE**

Gangtok Smart City Development Limited (the “**Authority**”), in its endeavor to improve the transport and parking infrastructure in Gangtok, has undertaken concerted efforts to upgrade and rehabilitate City’s existing multi-level car parking at Old West Point School Area, near M.G. Marg. The Authority has received requisite approvals and support from Government of Sikkim and other department(s) concerned for the project.

The primary objective of the project is to demolish existing multi-level car parking with a modern, smart, aesthetic, sleek, commuter and environment friendly Multi-Level Car Parking cum Commercial Development in order to achieve substantial service improvement for the local public, tourists, commuters and vehicle owners/ operators. The Authority is developing this project on the DBFOT basis (the “**Project**”). Project implementation has been divided into two phases, i.e. (1) maximum Development Period of 3 (three) years and (2) Operations Period. The Operations Period shall be determined based on the Financial Proposal. The Authority shall compensate Concessionaire by way of payment of construction grant (the “**Grant**”) of 20% of the Estimated Project Cost, and by way of concession to generate revenue from the Project components. The Grant will be payable by the Authority, in stages, starting from the signing of the Concession Agreement till the conclusion of the Development Period. The Bidders are required to bid for the required contract period (the “**Concession Period**”) with a cap of maximum period of **30 years**. The Authority intends to appoint Concessionaire for the implementation of the Project through a transparent bidding procedure. Towards this, the Authority is now inviting Bids from the Eligible Bidders as per the laid-out norms in this Request for Proposal. The Request for Proposal is organized in three volumes as given below:

1. **VOLUME-I: INSTRUCTION TO BIDDERS**
2. **VOLUME-III: PROJECT INFORMATION MEMORANDUM**

Bidders are advised to visit the Project site, read all three volumes in conjunction and are also advised to comply with the terms and conditions for submission of their Bid as defined in this RFP Document. Selection of the Selected Bidder will be through evaluation of the Bids which are to be submitted by the prospective Bidders. All queries regarding the RFP Document may be submitted in the format as provided in **Appendix VII**, in writing to:

**Issuing Office:** The Chief Executive Officer

**Address:** Gangtok Smart City Development Limited

**Sokaythang, Below ICAR office,**

**Gangtok, Sikkim – 737102**

**Email:** gangtoksmartcity@gmail.com

## **Disclaimer**

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

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidders 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 application for qualification (the “**Application for Qualification**”) and financial proposal pursuant to this RFP (the “**Financial Proposal**”), collectively called as the “**Bid**”. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the professional expertise, financial situation and particular need of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP may not be complete, accurate, and adequate or correct for all parties. Each Bidder should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information provided is not 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 law expressed herein.

The Authority, their employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way with for participation in the Bidding Process or submitting the Bid.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidders 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 assumptions contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Application for Qualification and/or the Financial Proposals and/or the Bids without assigning any reasons whatsoever.

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

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## Glossary

Definition	As defined in
Application for Qualification	Disclaimer
Associate	Clause 3.2.12 (a)
Authority	Gangtok Smart City Development Limited
Project	Note
Bid	Clause 2.2.2
Bid Due Date	Clause 2.1.8
Bid Security	Clause 2.2.8
Bid Validity Period	Clause 2.2.7
Bid Documents	Clause 2.2.1
Bidding Process	Clause 2.2.1
Concession Agreement	Clause <b>Error! Reference source not found.</b>
Concession Period	Note
Concessionaire	Clause <b>Error! Reference source not found.</b>
Conflict of Interest	Clause 3.2.4
Consortium	Clause 3.2.1
Consortium Member	Clause 3.2.8
Contract	Clause <b>Error! Reference source not found.</b>
Cut-off Time	Clause 3.16.1
DBFOT	Clause 2.1.1
Development Period Performance Security	Clause 2.2.8
Estimated Project Cost	Clause 2.1.4
Financial Capacity	Clause 3.4.2
Financial Model	Clause 2.2.10
Financial Proposal	Clause 2.2.9
first round of bidding	Clause 3.24.3
GST	Goods and Services Tax
GoS	Government of Sikkim
Grant	Clause 2.2.9
Lowest Bidder	Clause 2.2.9
Holding Company	Clause 3.2.12 (b)
Jt. Bidding Agreement	Clause 3.2.7
Lead Consortium Member	Clause 3.2.8
Authority	Note
LOA	Clause 3.24.5
Nationalised Bank	Clause 2.2.8
Preferred Bidder	Clause 2.2.9
Physical Bid Submission	Clause 3.13.1
Responsive	Clause 3.21.1
RFP Document	Clause 2.2.1
second round of bidding	Clause 3.24.3
Selected Bidder	Clause 2.2.11
Service Area	Clause 2.1.6

<b>Definition</b>	<b>As defined in</b>
Technical Capacity	Clause 3.4.2
third round of bidding	Clause 3.24.4
Qualification	Clause 2.2.3
Qualified Bidders	Clause 2.2.4

## 1. Project Summary

Sr. No.	Project Details	Description
1	Name of the Project	Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis
2	Authority	Gangtok Smart City Development Limited
3	Service Area, in sqmtr	About 4,604 Sqmtr.
4	Area Requirement	<b>Total Area available for Development: approx. 9,200 Sqmtr + Parking Area</b>
5	Timeline	→ Multi-Level Car Parking: 2.0 Years from Effective Date → Commercial Development Period: 4.0 Years from Effective Date
6	Shortlisting of Bidder	<p><b>Technical Capacity</b></p> <p>The Bidder shall, over the past 10 (ten) financial years preceding the Bid Due Date, have:</p> <p>a) Experience of atleast one multi-level car parking or experience of one civil construction project of having total project cost above Rs 75 Crore (Rupees seventy five crore) OR experience of atleast two civil construction projects having total project cost above Rs 40 Crore (Rupees forty crore) each OR experience of civil construction of three project cost above Rs 25 Crore (Rupees twenty five crore) each</p> <p style="text-align: center;"><b>AND</b></p> <p>b) Successfully commissioned at least one residential/commercial /industrial real estate project, having total development area above 2,500 Sqmtr.</p>
7		<p><b>Financial Capacity</b></p> <p>The Bidder shall, have a minimum:</p> <p>a) Net Worth of Rs 35 Crore (Rupees thirty five crore) at the close of the last financial year, preceding Bid Due Date</p> <p style="text-align: center;"><b>OR</b></p> <p>b) Average Net Cash Accrual of Rs 15 Crore (Rupees fifteen crore) over the three preceding financial years.</p>
8	Consortium	Allowed – Maximum 6 Members



Sr. No.	Project Details	Description																												
		<ul style="list-style-type: none"> <li>▪ Mandatory equity contribution – Minimum 3 Consortium Members</li> <li>▪ Optional equity contribution – remaining Consortium Members</li> </ul>																												
9	Bid Security	Rs 3.50 Crore (Rupees three crore and fifty lakh only)																												
10	Development Period Performance Security	Rs 7.50 Crore (Rupees seven crore and fifty lakh only)																												
11	Operations Period Performance Security	Rs 2.50 Crore (Rupees two crore and fifty lakh only)																												
12	Schedule of Bidding Process	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #4F81BD; color: white;">Sr. No.</th> <th style="background-color: #4F81BD; color: white;">Event Description</th> <th style="background-color: #4F81BD; color: white;">Bidding Process Timeline</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>Release of RFP Document</td> <td>January 09, 2019</td> </tr> <tr> <td style="text-align: center;">2</td> <td>Submission of queries by Bidders</td> <td>January 21, 2019</td> </tr> <tr> <td style="text-align: center;">3</td> <td>Pre-Bid Meeting</td> <td>January 28, 2019</td> </tr> <tr> <td style="text-align: center;">4</td> <td>Lead ULB Response to queries</td> <td>February 01, 2019</td> </tr> <tr> <td style="text-align: center;">5</td> <td>Bid Due Date</td> <td>February 15, 2019 at 1200 hrs IST</td> </tr> <tr> <td style="text-align: center;">6</td> <td>Opening of Envelope-1</td> <td>February 15, 2019 at 1300 hrs IST</td> </tr> <tr> <td style="text-align: center;">7</td> <td>Opening of Financial Proposal</td> <td rowspan="3">Appropriate dates Shall be declared by authority</td> </tr> <tr> <td style="text-align: center;">8</td> <td>Letter of Award (LoA) to the Preferred Bidder</td> </tr> <tr> <td style="text-align: center;">9</td> <td>Signing of contract</td> </tr> </tbody> </table>	Sr. No.	Event Description	Bidding Process Timeline	1	Release of RFP Document	January 09, 2019	2	Submission of queries by Bidders	January 21, 2019	3	Pre-Bid Meeting	January 28, 2019	4	Lead ULB Response to queries	February 01, 2019	5	Bid Due Date	February 15, 2019 at 1200 hrs IST	6	Opening of Envelope-1	February 15, 2019 at 1300 hrs IST	7	Opening of Financial Proposal	Appropriate dates Shall be declared by authority	8	Letter of Award (LoA) to the Preferred Bidder	9	Signing of contract
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9	Signing of contract																													
13	Bid Parameter	Required Concession Period, with a cap of 30 Years																												
14	Bid Submission Mode	Physical – On Bid Due Date																												
15	Pre-Bid Meeting Address	Gangtok Smart City Development Limited Sokaythang, Below ICAR office, Gangtok, Sikkim – 737102																												
16	Cost of the RFP Document	Rs 200,000/- (Rupees two lakh only) in form of Demand Draft																												
17	Revenue Streams for the Concessionaire	<ol style="list-style-type: none"> <li>1. Lease / Rentals – Annual and One-time, as the case may be;</li> <li>2. Advertisement;</li> <li>3. Parking Charges;</li> <li>4. Wi-Fi operator’s lease rental;</li> <li>5. Mobile booster’s lease rental; and</li> </ol>																												

Sr. No.	Project Details	Description
		6. Any other, with an approval of the Authority
18	Commercial Facility	Following functions / products will not be permitted for development: a) Industrial activities b) Hostel c) Warehousing, except such warehousing facility which is incidental to the use of the Project d) Wholesale Activity e) Car Service Garage f) Workshops g) Hospitals and health centres h) Other environmentally incompatible functions
19	Dispute Resolution	a) Steering Committee b) Arbitration – Under Indian Arbitration and Conciliation Act, 1996
20	Comfort to the Lender	Substitution Agreement
21	Termination and Termination Payment	a) Termination under Force Majeure and Events of Default (Concessionaire and the Authority) b) Termination Payment
22	Protection of Interests of the Concessionaire	Provisions under Change in Scope and Change in Law
23	Working Capital Requirement	Availability of 3 months' funding requirement in a liquid form

## **2. Introduction**

### **2.1. Background**

- 2.1.1. The Authority is a special purpose vehicle company which came into being under the provisions of the Companies Act, 2013, and formed for the sole purpose of implementation of the smart city mission at the city level in Gangtok, Sikkim. The Authority plan, appraise, approve, release funds, implement, manage, operate, monitor and evaluate the Gangtok smart city development projects. The Authority is desirous of redeveloping existing multi-level car parking at Old West Point School area near M.G. Marg with modern, smart, aesthetic, sleek, commuter and environment friendly Multi-Level Car Parking cum Commercial Development (the “**Project**”). As part of this endeavour, the Authority has been authorised by Government of Sikkim to select a suitable entity through a competitive bidding process, who would implement the Project and undertake its operation and maintenance on Design, Build, Finance, Operate and Transfer (the “**DBFOT**”) basis for a Concession Period, which will be determined based on the submitted proposal and the concessionaire period may be extendable by a similar period for two more terms, subject to mutually agreed terms and conditions of fresh concession agreement. Pursuant thereto, the Authority, has decided to carry out the Bidding Process for selection of the Concessionaire to whom the Project may be awarded.
- 2.1.2. The Board of Directors of the Authority have approved the Project to be developed through private participation on DBFOT basis. The Government of Sikkim has approved the Project to be developed through private participation on DBFOT basis.
- 2.1.3. The details of the Project have been provided at RFP Volume III – Project Information Memorandum.
- 2.1.4. The cost of the Project is estimated at about Rs 140 Crore (the “**Estimated Project Cost**”). The assessment of actual costs, however, will have to be made by the Bidder. The Authority shall compensate Concessionaire by way of paying Grant maximum of 20% of the Estimated Project Cost and that will be paid in the manner as detailed in the Draft Concession Agreement.
- 2.1.5. The Authority intends, through this RFP, to pre-qualify suitable Bidder(s) (the “**Bidder(s)**”), whose submitted Proposals will be opened, for the evaluation purpose.

- 2.1.6. The Concessionaire shall have to develop the Project and provide services to the citizens in the service area, in accordance with the Concession Agreement. The service area, which is estimated at around 4,604 sqmtrs (the “**Service Area**”) at Old West Point School Area, near M.G. Marg, Gangtok – Sikkim. As per the scope of work specified in the Concession Agreement, the Concessionaire is broadly required to undertake the construction works and operation and maintenance of the Project.
- 2.1.7. The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire or the Authority’s rights to amend, alter, change, supplement or clarify the scope of work, the contract to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bid Documents including this RFP Document are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.
- 2.1.8. The Authority shall receive the Bids pursuant to this RFP in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the Authority, and all Bids shall be prepared and submitted in accordance with such terms on or before the Bid due date (the “**Bid Due Date**”) as specified in **Clause 2.3** of this RFP Document.

## **2.2. Brief description of the Bidding Process**

- 2.2.1. The Authority has adopted a single-stage, two envelope bidding process (the “**Bidding Process**”) for selection of the Concessionaire. The Authority has issued following bid documents (the “**Bid Documents**”) for the purpose of Bidding Process:
- a) Request for Proposal Volume I – Instruction to Bidders
  - b) Request for Proposal Volume II – Draft Concession Agreement, to be signed between the Authority and the Concessionaire
  - c) Request for Proposal Volume III – Project Information Memorandum

Collectively these Bid Documents are called as the RFP document (the “**RFP Document**”)

- 2.2.2. The Bidder shall submit following envelopes, in a manner described in **Clause 3.13** of this RFP Document Volume I, as a part of his bid:
- a) **Envelope-1:** Application for Qualification; and
  - b) **Envelope-2:** Financial Proposal

Collectively this is called as the bid (the “**Bid**”)

- 2.2.3. The first envelope (the “**Envelope-1**”) of the Bid involves qualification (the “**Qualification**”) of Bidders that make Application for Qualification in accordance with the provisions of this RFP Document.
- 2.2.4. On evaluation of Envelope-1, in accordance with the provision of this RFP Document, submitted by the Bidders, as a part of their respective Bids, the Authority will announce a list of qualified Bidders (the “**Qualified Bidders**”), securing 60 score out of 100 in technical bid provided in **Clause 3.23.1**, whose second envelope (the “**Envelope-2**”), containing the Financial Proposal will be opened.
- 2.2.5. The Bidders would be required to furnish the information, for the purpose of the Qualification, as specified in this RFP. The Financial Proposal, to be submitted as Envelope-2, shall be opened only for the Qualified Bidders on their Qualification.
- 2.2.6. The Bidders are advised to go through **Request for Proposal Volume II** and **Request for Proposal Volume III**, and familiarize themselves with the Project, examine the Project requirements in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Project. The Bidders are, therefore, advised to visit the Service Area and familiarize themselves with the Project.
- 2.2.7. The Bid shall be valid for a period of 180 days from the Bid Due Date (the “**Bid Validity Period**”), as specified in **Clause 2.3** of this RFP Document.

- 2.2.8. In terms of the RFP, a Bidder will be required to deposit, along with its Bid, a bid security (the “**Bid Security**”) of Rs 3.50 Crore (Rupees three crore and fifty lakh only), refundable not later than 180 days from the Bid Due Date, except in the case of the Preferred Bidder. The Authority will refund the Bid Security of the Preferred Bidder, on furnishing the Development Period performance security (the “**Development Period Performance Security**”) of Rs 7.5 Crore (Rupees seven crore and fifty lakh only).

The Selected Bidder shall provide the Development Period Performance Security at the time of signing of a Concession Agreement with the Authority, in a format provided as a schedule to the draft Concession Agreement. The Bidders will have an option to provide the Bid Security in the form of a demand draft or a bank guarantee drawn on nationalised scheduled bank, whose shareholding either fully or majority is with the Government of India (the “**Nationalised Bank**”), having a branch office in the city of Gangtok and net worth of Rs 1000/- crore (Rupees one thousand crore) or more or from State Bank of Sikkim, Headquarter branch, Gangtok, Sikkim. The validity period of the Bid Security shall not be less than 180 (one hundred and eighty) days from the Bid Due Date and may be extended as may be mutually agreed between the Authority and the Bidder(s) from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

- 2.2.9. The Financial Proposal has been invited for the Project on the basis of the lowest Concession Period required for the Concessionaire (the “**Concession Period**”). The Concession Period quoted by the Bidder (the “**Financial Proposal**”) shall constitute the sole criteria for evaluation of Financial Proposal of the Qualified Bidders. The Bidder quoting the lowest Concession Period requirement (the “**Lowest Bidder**”), will be the preferred Bidder (the “**Preferred Bidder**”) for the Project.
- 2.2.10. The Preferred Bidder shall submit his financial bid, which would reflect the premium to be paid during the concession period and the year from which such payment shall be made to Gangtok Smart City Development Limited.
- 2.2.11. The Preferred Bidder will be the selected Bidder (the “**Selected Bidder**”), to be selected as the Concessionaire for the Project. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP Document, be invited to match or improve the Bid submitted by the Preferred Bidder, in case such Preferred Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match or improve the Bid of the Lowest Bidder, the Authority may, in its discretion, invite fresh Bids from all Bidders or annul the Bidding Process, as the case may be.

2.2.12. Bidders are requested to send their queries or request for additional information, if any, with respect to this RFP Document, in writing by speed post or by fax or by e-mail to the officer designated in the **Note** of this RFP Document, in a format provided in **Appendix X** of this RFP Document. The envelope and/or communication shall clearly bear the following identification/ title:

**Queries/Request for Additional Information: RFP for “Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis”**

### **2.3. Schedule of Bidding Process**

The Bidders are requested to adhere to the following schedule:

<b>Sr. No.</b>	<b>Event Description</b>	<b>Bidding Process Timeline</b>
1	Release of RFP Document	January 09, 2019
2	Submission of queries by Bidders	January 21, 2019
3	Pre-Bid Meeting	January 28, 2019
4	Authority Response to queries	February 04, 2019
5	Bid Due Date	February 15, 2019 at 1200 hrs IST
6	Opening of Envelope-1	February 15, 2019 at 1300 hrs IST
7	Opening of Financial Proposal	Appropriate dates Shall be declared by authority
8	Letter of Award (LoA) to the Lowest Bidder	
9	Signing of contract	

### **3. Instruction to Bidders**

#### **A. GENERAL**

##### **3.1. Scope of Bid**

3.1.1. The Authority wishes to receive Application for Qualification, as an Envelope-1 of the Bid submission, in order to declare the Qualified Bidders, for opening of Financial Proposal. The Authority shall open the Financial Proposal, i.e. the Envelope-2, only of the Qualified Bidders.

##### **3.2. Eligibility of Bidders**

3.2.1. The bidder shall be a proprietorship concern or partnership firm or a company registered under the Indian Companies Act/Sikkim companies Act. Consortium bids will be allowed. However, no Bidder submitting Bid either as a single entity or as a Consortium, as the case may be, can be member of the other Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.

3.2.2. The Bidder shall be allowed to submit only one Bid.

3.2.3. The Bidder or any of the Consortium Member, participated in the Bidding Process, but not selected as the Lowest Bidder or Selected Bidder or Concessionaire, as the case may be, shall not be allowed to hold an equity stake in the Concessionaire, before completion of the two years of the Operations Period.

3.2.4. The Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest will be disqualified. The Bidder may be considered to have a Conflict of Interest that affects the Bidding Process, if:

- a) The Bidder, or Associates (or any constituent thereof) and any other Bidder, or its Associates (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 in Bidder, or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% of the paid up and subscribed share capital of such Bidder, or Associate, as the case may be) in the other Bidder, or an Associate is less than 5% of its 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 section 4A of the Companies Act, 1956. For the purpose of this **Clause 3.2.4 (a)**, indirect shareholding held through one or more immediate 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 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% of the subscribed and paid up equity shareholding of such intermediary; or
- b) a constituent of such Bidder is also a constituent of another Bidder; or
  - c) such Bidder receives or has received any direct or indirect subsidy, grant, concessional loan, or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan, or subordinated debt to any other Bidder or any Associate thereof; or
  - d) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
  - e) such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Bid of either or each of the other Bidder; or
  - f) such Bidder, or any Associate thereof has participated as a consultant to the Authority in preparation of any documents, design or technical specification of the Project

- 3.2.5. A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have thereunder or otherwise, the LOA or the Concession Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, or its Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of RFP for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.
- 3.2.6. The Bidder shall submit a Power of Attorney as per the format at **Appendix V**, authorizing the signatory of the Bid to commit the Bidder. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Consortium Member as per the format at **Appendix VI**.

- 3.2.7. If the Bidder is Consortium, then the Consortium Members shall submit a joint Bidding Agreement (the “**Jt. Bidding Agreement**”), in a format provided at **Appendix VII**. Jt. Bidding Agreement, shall, inter alia:
- a) Clearly outline, with a brief description, about the roles and responsibilities of each Consortium Member mainly with respect to the financial, technical and O&M matters;
  - b) Commit that the Lead Consortium Member shall directly, and not through any subsidiary or Associate company, hold minimum 51% (fifty one percent) equity stake from a commencement of the Concession Period to 2 (two) years from the date of commencement of the Operations Period;
  - c) Include a statement to the effect that Consortium Members shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project
- 3.2.8. If the Bidder is Consortium, it shall comply with the following additional requirements:
- a) Number of members in the Consortium shall not exceed 6 (six) (the “**Consortium Member(s)**”);  
The Consortium Members shall nominate one member as the lead Consortium Member (the “**Lead Consortium Member**”), who shall have equity shareholding of at least 51% (fifty one percent) of the consortium;
- 3.2.9. Any entity which has been barred by the Government of India or any State Government in India or any urban local body in India, or any entity controlled by them, from participating in any project, and the bar subsists as on the date of Bid, would not be eligible to submit the Bid, and shall be liable for disqualification.
- 3.2.10. A Bidder or any Consortium Member should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial process of the Authority or a judicial pronouncement or arbitration award against the Bidder, nor been expelled from any project or contract nor have had any contract terminated for breach by such Bidder. The Bidder shall be liable for disqualification in such case.
- 3.2.11. The Bidder or the Consortium Member shall promptly inform the Authority of any change in its shareholding, during the Bidding Process, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.
- 3.2.12. For the purpose of evaluating Technical Capacity and Financial Capacity of Bidder, under various provisions of **Clause 3.4**:

- a) The Technical Capacity of their respective Associates would also be eligible. For purposes hereof, Associate means, in relation to the Bidder, a person who controls, is controlled by, or is under the common control with such Bidder (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, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise; and
- b) For the purpose of the demonstrating the Financial Capacity, the Bidder may use the Financial Capacity of its parent company, which would be controlling equal to or more than 51% equity stake of the Bidder.

3.2.13. Following conditions shall be adhered to while submitting the Bid:

- a) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Appendices is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;
- b) Information supplied by Bidder must apply to the Bidder named in the Bid, and not otherwise; and
- c) In responding to the Application for Qualification submissions, Bidders should demonstrate their capabilities in accordance with various provisions of **Clause 3.4** below.

### **3.3. General terms**

3.3.1. The Financial Proposal should be furnished in the format at **Appendix XI**, clearly indicating Concession Period required by the Bidder in both figures and words, in a format of (years/months/days) and signed by the Bidder’s authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

3.3.2. The Change in Consortium shall not be allowed by the Authority.

### **3.4. Qualification criteria**

3.4.1. The Bidder must fulfil the criteria stipulated in **Clause 3.2** hereinabove. The Bidder must possess the relevant certification of incorporation and the copy duly signed and sealed by the authorized signatory should be attached with the Bid document.

3.4.2. To be eligible for Qualification for opening of Envelope-2, the Bidder shall fulfil the following conditions of eligibility of Technical Capacity and Financial Capacity as described below:

**(A) Technical Capacity:** for demonstrating the technical capacity and experience (the “**Technical Capacity**”), the Bidder shall, over the past 10 (ten) financial years preceding the Bid Due Date, have:

Experience of atleast one multi-level car parking or experience of one civil construction project of having total project cost above Rs 75 Crore (Rupees seventy five crore) OR experience of atleast two civil construction projects having total project cost above Rs 40 Crore (Rupees forty crore) each OR experience of civil construction of three project cost above Rs 25 Crore (Rupees twenty five crore) each

**AND**

Successfully commissioned at least one residential/ commercial /industrial real estate project, having total development area above 2,500 Sqmtr.

**(B) Financial Capacity:** for demonstrating the financial capacity (the “**Financial Capacity**”), the Bidder shall, have a minimum:

(i) Net Worth<sup>1</sup> of Rs 35 Crore (Rupees thirty five crore) at the close of the last financial year, preceding Bid Due Date;

**or**

(ii) Average Net Cash Accrual<sup>2</sup> of Rs 15 Crore (Rupees fifteen crore) over the three preceding financial years.

3.4.3. The Bidder shall enclose with its Bid, complete with all Appendix and respective Annexes, the following:

- a) Certificates from its statutory auditors or the client concerned, stating the relevant experience sought for demonstrating the Technical Capacity. If in case, a particular job / contract has been jointly executed by the Bidder, as a part of the consortium, it should further support its claim for the share of work done for that particular job/ contract by producing a certificate from its statutory auditors or the client concerned. For avoidance of doubt, it is expressly clarified that the Authority shall consider the experience of the Bidder, only in infrastructure projects, where it is/had holding minimum 26% stake in the consortium;
- b) Certificates from its statutory auditors specifying the Net Worth and the Average Net Cash Accrual, as stipulated as a requirement for the Financial Capacity, and also specifying the methodology adopted for calculation; and

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<sup>1</sup> Net Worth = (Paid up & Subscribed Equity Capital + Reserves) LESS (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for the distribution to the equity shareholders + accumulated losses)

<sup>2</sup> Net Cash Accrual = Profit after tax + Depreciation + Amortization

c) Audited annual reports of the Bidder, for the last 5 (five) financial years preceding Bid Due Date.

3.4.4. In case the annual accounts for the latest financial year, preceding Bid Due Date, are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the audited annual reports for 5 (five) financial years preceding the financial year, for which the audited annual report is not being provided.

3.4.5. Notwithstanding anything contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of the Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 10 (ten), or 5 (five), or 3 (three), or 1 (one) financial years, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of the Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

### **3.5. Change in Ownership**

3.5.1. By submitting the Bid, the Bidder shall be deemed to have acknowledged and agreed that in the event of a change in control of the Bidder itself or an Associate whose Technical Capacity and whose Financial Capacity was taken into consideration for the purposes of Short Listing and Qualification under and in accordance with this RFP, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority and the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, approve the same or disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to financial close of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to the Authority under the Bid Documents and/ or the Concession Agreement or otherwise.

### **3.6. Number of Bids**

3.6.1. The Bidder is eligible to submit only one Bid for the Project.

### **3.7. Bid and other costs**

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

### **3.8. Site visit and the verification of information**

3.8.1. Bidders are encouraged to submit their respective Bids after visiting the Service Area, and ascertaining for themselves the site conditions, the quality and quantity of water requirement, project site surroundings for compliance of environment protection, availability of power, and other utilities for construction, availability and access to site, handling and storage of materials, seismic data, soil testing, applicable laws and regulations, labour laws, local bye-laws and any other matter considered relevant by them which will affect the outcome of the Project.

3.8.2. It shall be deemed that by submitting the Bid, the Bidder has:

- a) made a complete and careful examination of the RFP Document;
- 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 relating to any of the matters referred to in **Clause 3.8.1** above; and
- d) agreed to be bound by the undertakings provided by it under and in terms hereof.

3.8.3. The Authority shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFP Document or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority or Authority's advisor. It is the sole responsibility of the Bidder to ascertain the accuracy of the data provided by the Authority or Authority's advisor.

**3.9. Right to accept or reject any or all Bids**

- 3.9.1. Notwithstanding anything to the contrary contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.
- 3.9.2. The Authority reserves the right to reject any Bid if the Bidder does not provide, within the time specified by the Authority, the supplemental or supportive or additional information sought by the Authority for evaluation of the Bid.
- 3.9.3. The Authority reserves the right to reject any Bid and appropriate the Bid Security if at any time a material misrepresentation is made or uncovered. Such misrepresentation and/or improper response shall lead to the disqualification of the Bidder. If such disqualification occurs after the Financial Proposal has been opened and the Lowest Bidder gets disqualified, then the Authority reserves the right to:
- a) declare the next lowest Bidder, as the Lowest Bidder; or
  - b) invite the remaining Bidders to re-submit their Financial Proposals in accordance with the RFP, matching or better the Lowest Bidder's Financial Proposal; or
  - c) take any such measure as may be deemed fit and is the sole discretion of the Authority, including annulment of the Bidding Process.
- 3.9.4. In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof that one or more of the Qualification Criteria have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP Document, be liable to be terminated, by a communication in writing by the Authority to the Selected Bidder or the Concessionaire, as the case may be, without Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire. In such event the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to the Authority under the Bid Documents and/ or the Concession Agreement, or otherwise.



- 3.9.5. The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP. Failure of Authority to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.
- 3.9.6. The Authority shall be entitled to forfeit and appropriate the Bid Security as damages inter alia in any of the events specified in **Clause 3.9.7** herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid Validity Period as specified in this RFP Document. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 3.9.7. The Bid Security shall be forfeited as damages without prejudice to any other right or remedy that may be available to the Authority under the Bid Documents and/ or under the Concession Agreement, or otherwise, under the following conditions:
- a) If a Bidder, at any time makes a material misrepresentation or Authority uncover such material misrepresentation;
  - b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in **Section 4** of this RFP;
  - c) If a Bidder withdraws its Bid during the period of Bid Validity Period as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
  - d) In the case of Preferred Bidder, if it fails within the specified time limit -
    - i. to sign and return the duplicate copy of LOA; or
    - ii. to sign the Concession Agreement; or
    - iii. to furnish the Development Period Performance Security within the period prescribed therefor in the Concession Agreement
  - e) In case the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Development Period Performance Security.

## **B. DOCUMENTS**

### **3.10. Contents of the RFP**

- 3.10.1. This RFP Document is divided into following three volumes:
- a) **Volume I:** Instruction to Bidders
  - b) **Volume II:** Draft Concession Agreement: DELETED
  - c) **Volume III:** Project Information Memorandum

3.10.2. This RFP Volume I comprise the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with **Clause 3.12**.

- Invitation for Qualification
- Section 1 – Project Summary
- Section 2 – Introduction
- Section 3 – Instructions to Bidders
- Section 4 – Fraud & Corrupt Practices
- Section 5 – Pre-Bid Conference
- Section 6 – Miscellaneous

#### **Appendices**

- **Appendix I:** Letter comprising the Application for Qualification
  - **Annex I:** Details of Bidder
  - **Annex II:** Technical Capacity of the Bidder
  - **Annex III:** Financial Capacity of the Bidder
  - **Annex IV:** Statement of Legal Capacity
  - **Annex V:** Undertaking for Working Capital Capacity
- **Appendix II:** Project Design Capability
- **Appendix III:** Project Concept Design
- **Appendix IV:** Traffic Management Plan
- **Appendix V:** Power of Attorney for signing of Bid
- **Appendix VI:** Power of Attorney for Lead Consortium Member of Consortium
- **Appendix VII:** Joint Bidding Agreement
- **Appendix VIII:** Anti-Collusion Certificate
- **Appendix IX:** Bank Guarantee for Bid Security
- **Appendix X:** Clarifications
- **Appendix XI:** Financial Proposal

### **3.11. Clarifications**

- 3.11.1. Bidders requiring any clarification on the RFP may notify the Authority in accordance with **Clause 2.2.12**, before the date specified in the schedule of Bidding Process contained in **Clause 2.3**.
- 3.11.2. The Authority shall endeavour to respond to the queries within the period specified in **Clause 2.3** of this RFP Document, but no later than 15 (fifteen) days prior to the Bid Due Date. The responses will be uploaded on the Authority's website [provide website]. The Authority will share all the queries and its responses thereto, to all Bidders, without identifying the source of queries.
- 3.11.3. The Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.
- 3.11.4. The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFP. Verbal clarifications and information given by the Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

### **3.12. Amendment of RFP**

- 3.12.1. At any time, but no later than 15 (fifteen) days prior to the Bid Due Date, the Authority may for any reason, whether at its own initiative or in response to clarifications requested by the Bidder(s), modify the RFP by the issuance of Addenda.
- 3.12.2. Any Addendum thus issued will be uploaded on the Authority's website [provide Authority's website address].
- 3.12.3. In order to afford the Bidders a reasonable time for taking an Addendum into account, and in line with the **Clause 3.11.2** of this RFP Document, or for any other reason, the Authority may, at its own discretion, extend the Bid Due Date.

## **C. PREPARATION AND SUBMISSION OF BID**

### **3.13. Submission of Bid**

3.13.1. The Bidder shall submit the Bid in a physical form in a sealed outer envelope with a marking as **“Bid Submission – Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis”**

3.13.2. The Bidder shall submit the Bid before Cut-off Time on Bid Due Date, including any extension thereof pursuant to **Clause 2.3**.

3.13.3. The envelope should be addressed to:

The Chief Executive Officer  
Gangtok Smart City Development Limited  
Sokaythang, Below ICAR office,  
Gangtok, Sikkim – 737102  
**Email:** gangtoksmartcity@gmail.com

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 Physical Bid Submission submitted.

3.13.4. The Bidder shall make a payment of Rs 2,00,000/- (Rupees two lakh) as a cost of the RFP Document, on or before Cut-off Time on Bid Due Date, including any extension thereof pursuant to **Clause 2.3 in Envelope 1**. The Bidder shall draw demand draft on name of **“Chief Executive Officer, Gangtok Smart City Development Limited”**

3.13.5. Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be summarily rejected.

### **3.14. Language**

3.14.1. The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language that they are accompanied by appropriate translations, duly notarized, of the pertinent passages in the English language. Supporting material that is not translated into English, and not duly notarized, shall not be considered for determining the Qualification. For the purpose of interpretation and evaluation of the Bid, the notarized English language translation shall prevail.

### **3.15. Signing of Bid**

- 3.15.1. The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects. Incomplete and /or conditional Bids shall be liable to rejection.
- 3.15.2. The Bid shall be signed by the authorized signatory of the Bidder who shall also initial each page. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person signing the Bid.

### **3.16. Bid Due Date**

- 3.16.1. Bid must be submitted on or before 1200 hours IST on the Bid Due Date (the “**Cut-off Time**”), in accordance with the provisions of this RFP Document.
- 3.16.2. The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum, on its website [provide Authority’s website], in accordance with provision of **Clause 3.12.3** uniformly for all Bidders.

### **3.17. Late Bids**

- 3.17.1. Bids, which includes Physical Bid Submission in accordance with **Clause 3.13.1**, received by The Authority after the Cut-off Time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected. For avoidance of doubt, it is expressly clarified that the receipt of Physical Bid Submission after the Cut-off Time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected, and the Bidder shall be disqualified from the Bidding Process.

### **3.18. Modifications/substitution/withdrawal of Bids**

- 3.18.1. The Bidder may modify, substitute or withdraw its Bid after submission, but before 48 hours of Cut-off Time on the Bid Due Date. No Bid shall be allowed to be modified, substituted or withdrawn by the Bidder on or after the Cut-Off Time on Bid Due Date.
- 3.18.2. Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the Authority has expressly sought the same after the Bid Due Date, shall be disregarded and shall not be considered for the evaluation of the Bid.

## **D. EVALUATION PROCESS**

### **3.19. Opening and Evaluation of Bids**

- 3.19.1. The Authority shall open the Bids on at 1300 hours IST on the Bid Due Date at the place specified in **Clause 3.13.3** and in the presence of the authorized person(s) of Bidder(s), who choose to attend.
- 3.19.2. The Authority will subsequently examine and evaluate Bids in accordance with the provisions set out in this **Section 3**.
- 3.19.3. To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications or additional information, in writing from any Bidder regarding its Bid.
- 3.19.4. The Qualification of Bidders shall be entirely at the discretion of the Authority, and in accordance with this RFP Document. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or Qualification shall be provided.
- 3.19.5. Any information contained in the Bid shall not in any way be construed as binding on the Authority, its consultants/advisors, successors or assigns, but shall be binding on the Bidder if the contract is subsequently awarded to it under the Bidding Process on the basis of such information.
- 3.19.6. The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any Bid without assigning any reasons.

### **3.20. Confidentiality**

- 3.20.1. Information relating to the examination, clarification, evaluation, and recommendation for the Bidders and Qualified Bidders shall not be disclosed to any Person who is not officially concerned with the process or is not a retained professional advisor advising to the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of Bid, in confidence and shall require all those who have access to such material to treat the same in confidence. The Authority shall 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.

### **3.21. Tests of Responsiveness**

3.21.1. Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of the RFP. The Bid shall be considered responsive (the “**Responsive**”) only if:

- a) It is received before Cut-off Time on Bid Due Date, including any extension thereof pursuant to **Clause 2.3**;
- b) It is received as per the contents and supporting documents stipulated in this RFP Document;
- c) It is signed, as stipulated in provisions set out in this RFP Document;
- d) it is accompanied by the Bid Security as specified in **Clause 2.2.8**;
- e) it is accompanied by the cost of form as specified in **Clause 2.2.8**;
- f) the Physical Bid Submission submitted before Cut-off Time, and in accordance with **Clause 3.13.1**;
- g) it contains all the information (complete in all respects) as requested in this RFP Document and/or Bid Documents (in formats same as those specified);
- h) It does not contain any condition on Application for Qualification and/or Financial Proposal; and
- i) It is not non-responsive in terms hereof.

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

### **3.22. Clarifications**

3.22.1. To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek written clarifications or additional information or supporting information, from any Bidder regarding its Bid through email or fax. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. The extension for the clarification date will be at the sole discretion of the Authority. If the extension sought by the Bidder is beyond the due date, then the Authority may consider providing such extension, at its own discretion.

3.22.2. If the Bidder does not provide clarifications sought under **Clause 3.22.1** above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of the Authority’s understandings, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

### 3.23. Short listing of Bidders

3.23.1. The Bidder whose Bid is adjudged as Responsive in terms of **Clause 3.21** shall be evaluated for declaring Qualified Bidders, in a following manner:

Sr. No.	Particulars	Maximum Score	Marking Criteria									
1	Technical Capacity	30	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #D9E1F2; color: black;">Sub Parameter</th> <th style="background-color: #D9E1F2; color: black;">Score</th> </tr> </thead> <tbody> <tr> <td style="background-color: #D9E1F2; color: black;">Experience of at least one multi-level car parking or experience of one civil construction project of having total project cost above Rs 75 Crore (Rupees seventy five crore) OR experience of at least two civil construction projects having total project cost above Rs 40 Crore (Rupees forty crore) each OR experience of civil construction of three project cost above Rs 25 Crore (Rupees twenty five crore) each</td> <td style="background-color: #D9E1F2; color: black; text-align: center;">6</td> </tr> <tr> <td style="background-color: #D9E1F2; color: black;">Experience of at least one multi-level car parking or experience of one civil construction project of having total project cost above Rs 100 Crore (Rupees one hundred crore) OR experience of at least two civil construction projects having total project cost above Rs 40 Crore (Rupees forty crore) each OR experience of civil construction of three project cost above Rs 25 Crore (Rupees twenty five crore) each</td> <td style="background-color: #D9E1F2; color: black; text-align: center;">9</td> </tr> <tr> <td style="background-color: #D9E1F2; color: black;">Successfully commissioned at least one residential/ commercial /industrial real estate project, having total</td> <td style="background-color: #D9E1F2; color: black; text-align: center;">6</td> </tr> </tbody> </table>		Sub Parameter	Score	Experience of at least one multi-level car parking or experience of one civil construction project of having total project cost above Rs 75 Crore (Rupees seventy five crore) OR experience of at least two civil construction projects having total project cost above Rs 40 Crore (Rupees forty crore) each OR experience of civil construction of three project cost above Rs 25 Crore (Rupees twenty five crore) each	6	Experience of at least one multi-level car parking or experience of one civil construction project of having total project cost above Rs 100 Crore (Rupees one hundred crore) OR experience of at least two civil construction projects having total project cost above Rs 40 Crore (Rupees forty crore) each OR experience of civil construction of three project cost above Rs 25 Crore (Rupees twenty five crore) each	9	Successfully commissioned at least one residential/ commercial /industrial real estate project, having total	6
Sub Parameter	Score											
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Successfully commissioned at least one residential/ commercial /industrial real estate project, having total	6											



Sr. No.	Particulars	Maximum Score	Marking Criteria											
			development area above 2,500 Sqmtr.											
			Successfully commissioned at least one residential/ commercial /industrial real estate project, having total development area above 4,000 Sqmtr.	9										
2	Financial Capacity	30	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #D9E1F2;">Sub Parameter</th> <th style="background-color: #D9E1F2;">Score</th> </tr> </thead> <tbody> <tr> <td style="background-color: #D9E1F2;">Net Worth of Rs 35 Crore (Rupees thirty five crore) at the close of the last financial year, preceding Bid Due Date</td> <td style="text-align: center;">10</td> </tr> <tr> <td style="background-color: #D9E1F2;">Net Worth of Rs 50 Crore (Rupees fifty crore) at the close of the last financial year, preceding Bid Due Date</td> <td style="text-align: center;">20</td> </tr> <tr> <td style="background-color: #D9E1F2;">Average Net Cash Accrual of Rs 15 Crore (Rupees fifteen crore) over the three preceding financial years</td> <td style="text-align: center;">10</td> </tr> <tr> <td style="background-color: #D9E1F2;">Average Net Cash Accrual of Rs 20 Crore (Rupees twenty crore) over the three preceding financial years</td> <td style="text-align: center;">20</td> </tr> </tbody> </table>		Sub Parameter	Score	Net Worth of Rs 35 Crore (Rupees thirty five crore) at the close of the last financial year, preceding Bid Due Date	10	Net Worth of Rs 50 Crore (Rupees fifty crore) at the close of the last financial year, preceding Bid Due Date	20	Average Net Cash Accrual of Rs 15 Crore (Rupees fifteen crore) over the three preceding financial years	10	Average Net Cash Accrual of Rs 20 Crore (Rupees twenty crore) over the three preceding financial years	20
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3	Project Design Capability	10	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #D9E1F2;">Sub Parameter</th> <th style="background-color: #D9E1F2;">Score</th> </tr> </thead> <tbody> <tr> <td style="background-color: #D9E1F2;">Past experience in designing similar projects</td> <td style="text-align: center;">5</td> </tr> <tr> <td style="background-color: #D9E1F2;">Organisation team structure and in-house availability of the requisite expertise for the Project</td> <td style="text-align: center;">2</td> </tr> <tr> <td style="background-color: #D9E1F2;">Proposed team structure for designing of the Project</td> <td style="text-align: center;">3</td> </tr> </tbody> </table>		Sub Parameter	Score	Past experience in designing similar projects	5	Organisation team structure and in-house availability of the requisite expertise for the Project	2	Proposed team structure for designing of the Project	3		
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4	Project Design Concept	15	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #D9E1F2;">Sub Parameter</th> <th style="background-color: #D9E1F2;">Score</th> </tr> </thead> <tbody> </tbody> </table>		Sub Parameter	Score								
Sub Parameter	Score													

Sr. No.	Particulars	Maximum Score	Marking Criteria											
			Design configuration – Conceptual planning and architectural layouts of the facilities	5										
			Contingency plans – Safety and disaster management plans	2										
			Design attractiveness – Aesthetics, façade, environmental friendliness, and energy efficiency	2										
			Sequencing and activity time schedule	2										
			Methodology for construction	2										
			Methodology for operations & maintenance	2										
5	Traffic Management Plan	15	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #D9E1F2;">Sub Parameter</th> <th style="background-color: #D9E1F2;">Score</th> </tr> </thead> <tbody> <tr> <td>Adequacy of traffic management plan during construction</td> <td style="text-align: center;">4</td> </tr> <tr> <td>Efficiency of circulation plan within and around parking facility</td> <td style="text-align: center;">4</td> </tr> <tr> <td>Efficiency of pedestrian movement plan</td> <td style="text-align: center;">4</td> </tr> <tr> <td>Adequacy of emergency of traffic plan</td> <td style="text-align: center;">3</td> </tr> </tbody> </table>		Sub Parameter	Score	Adequacy of traffic management plan during construction	4	Efficiency of circulation plan within and around parking facility	4	Efficiency of pedestrian movement plan	4	Adequacy of emergency of traffic plan	3
Sub Parameter	Score													
Adequacy of traffic management plan during construction	4													
Efficiency of circulation plan within and around parking facility	4													
Efficiency of pedestrian movement plan	4													
Adequacy of emergency of traffic plan	3													
<b>Total</b>		<b>100</b>												

3.23.2. The Bidders may be required to make a presentation to the Authority to demonstrate the submission made hereinabove in **Clause 3.23.1**.

3.23.3. The Authority shall notify Bidders on the status of their Application for Qualification. The Authority will not entertain any query or clarifications from Bidders, who failed to qualify as Qualified Bidder.

### **3.24. Selection of Bidder**

3.24.1. The Authority shall open Envelope-2, Financial Proposal of the Bidders, declared as the Qualified Bidder, by the Authority in the presence of the Bidders' representatives who choose to attend on the date and time as may be intimated to the Qualified Bidders or through email provided in the bid documents. The Authority will determine whether the Financial Proposal of the Bidder is complete, qualified and unconditional. The Concession Period indicated in the Financial Proposal shall be deemed as final. The Authority shall list all Qualified Bidders in ascending order, **as per the QCBS system**

#### **Financial Bid Evaluation:**

Financial bid of those bidders who qualify the technical evaluation will only be opened. The price with the highest Financial Proposal in the minimum number of years would be considered as the L1 price and would be awarded a commercial score of 100. Commercial Scores (CS) for other technically qualified bidders will be evaluated using following formula.

$$\text{Commercial Score (CS)} = (\text{L1 Price} \div \text{Bidder's quoted price}) \times 100$$

#### **Final Consolidated Evaluation:**

The final selection of the bidders shall be based on Quality Cost Based Selection (QCBS) methodology i.e. scores of the technical bid (70% weightage) and financial bid (30% weightage). The bidder with the highest Total Score / Combined Technical & Financial Score (CTFS) will be declared as successful bidder. The Total Score/ Combined Technical & Financial Score (CTFS) with weightage 70:30 will be:

$$\text{TOTAL SCORE} = \text{TS} \times (70 \div 100) + \text{CS} \times (30 \div 100)$$

3.24.2. In the event that two or more Bidders quote the same Financial Proposal, and in turn becomes the Lowest Bidder (the "**Tie Bidders**"), the Authority shall identify the Preferred Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders, who choose to attend.

- 3.24.3. In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance (the “**first round of bidding**”), the Authority may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match or better the Bid of the aforesaid Lowest Bidder (the “**second round of bidding**”). If in the second round of bidding, only one Bidder matches or betters the Lowest Bidder, it shall be declared as the Preferred Bidder. If two or more Bidders match or better the said Lowest Bidder in the second round of bidding, then the Lowest Bidder between these Bidders shall be declared as the Preferred Bidder. If two or more Bidders match or better the said Lowest Bidder in the second round of bidding, and they are Tie Bidders, then the Bidder whose Bid was higher as compared to other Bidder(s) in the first round of bidding, shall be declared as the Preferred Bidder. For example, if the third and fifth Lowest Bidders in the first round of bidding offer to match or better the said Lowest Bidder in the second round of bidding, and if they are Tie Bidders in the second round of bidding, the said third Lowest Bidder shall be the Selected Bidder.
- 3.24.4. In the event that no Bidder offers to match or better the Lowest Bidder in the second round of bidding as specified in **Clause 3.24.3**, the Authority may, in its discretion, invite fresh Bids (the “**third round of bidding**”) from all Qualified Bidders except the Lowest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Qualified Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are higher than the Bid of the second Lowest Bidder in the first round of bidding.
- 3.24.5. After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Preferred Bidder and the Preferred Bidder 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 Preferred Bidder 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 Bidder as damages on account of failure of the Preferred Bidder to acknowledge the LOA, and the next Lowest Bidder may be considered.
- 3.24.6. After acknowledgement of the LOA as aforesaid by the Preferred Bidder, it shall become the selected Bidder (the “**Selected Bidder**”) to execute the Concession Agreement within the period prescribed in **Clause 2.3**.

## **E. MISCELLANEOUS**

### **3.25. Proprietary data**

3.25.1. All documents and other information supplied by the Authority or submitted by Bidder(s) to the Authority shall remain or become the property of the Authority. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. the Authority will not return any of the Bid submitted or any information provided along therewith.

**3.26. Correspondence with Bidder**

3.26.1. The Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid during the Bidding Process or in future.

## **4. Fraud and Corrupt Practices**

- 4.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Authority shall reject any Bid without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 4.2. Without prejudice to the rights of the Authority under **Clause 4.1** hereinabove, if an Bidder 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 Bidding Process, such Bidder 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 Bidder 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, as the case may be.
- 4.3. For the purposes of this RFP Document, 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 Bidding 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 Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising there from, 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 Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of 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 Bidding Process;
  - c) "**coercive practice**" means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;

- 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 Bidding Process; or (ii) having a Conflict of Interest; and
- e) "**restrictive practice**" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

## **5. Pre-Bid Meeting**

- 5.1. A pre-Bid meeting of the interested Bidders shall be held at 1400 hrs IST, on the designated date, as mentioned in **Clause 2.3** of this RFP Document, at:

Gangtok Smart City Development Limited  
Sokaythang, Below ICAR office,  
Gangtok, Sikkim – 737102

- 5.2. A maximum of two representatives of each Bidder shall be allowed to participate on production of Authority letter from the Bidder.
- 5.3. During the course of pre-Bid meeting, the Bidders 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 Bidding Process.



## **6. Miscellaneous**

- 6.1. The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Gangtok, Sikkim, India shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding 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 Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
  - b) consult with any Bidder in order to receive clarification or further information;
  - c) Qualify or disqualify any Bidder and/ or to consult with any Bidder in order to receive clarification or further information;
  - d) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
  - e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3. It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, their 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.

## **Appendix I: Letter comprising the Application for Qualification**

*[on letterhead of Bidder]*

Dated:

To:

The Chief Executive Officer,  
Gangtok Smart City Development Limited  
Sokaythang, Below ICAR office,  
Gangtok, Sikkim – 737102

**Subject:** Application for Qualification – Technical Capacity and Financial Capacity for Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis (the “Project”)

Dear Sir,

With reference to your RFP Document for Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis, [dated \*\*\*\*\*], we, having examined the RFP Document and understood its contents, hereby submit our Bid for the aforesaid Project. The Bid is unconditional and unqualified.

1. All information provided in the Bid and in the Appendices is true and correct and all documents accompanying such Bid are true copies of their respective originals.
2. This statement is made for the express purpose of qualifying as the Concessionaire for the aforesaid Project.
3. We shall make available to the Authority any additional information it may find necessary or require to supplement or to authenticate the Qualification statement.
4. We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
5. We certify that in the last 3 (three) years, we have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been

expelled from any project or contract nor have had any contract terminated for breach on our part.

6. We declare that:
  - a) We have examined and have no reservations to the RFP Document, including any Addendum issued by the Authority.
  - b) We do not have any conflict of interest in accordance with **Clauses 3.2.4** of the RFP Document; and
  - c) 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) We hereby certify that we have taken steps to ensure that in conformity with the provisions of **Clause 4** of the RFP Document, no person acting for us or on our behalf has engaged or shall engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
7. We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with **Clause 3.9** of the RFP Document.
8. We declare that we are not a part of any other Bidder, participating in this Bidding Process.
9. We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory Authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
10. 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.
11. We further certify that no investigation by a regulatory Authority is pending either against us or against our associates or against our partners or any of our managers/ employees.
12. We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.

13. The Statement of Legal Capacity as per format provided at **Annex IV** in **Appendix I** of the RFP Document, and duly signed, is enclosed.

14. We, hereby irrevocably waive any right which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of Bidders, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above-mentioned Project and the terms and implementation thereof.

15. We agree and undertake to abide by all the terms and conditions of the RFP Document.

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

Yours faithfully,

Date: (Signature of the Authorized Signatory)

Place: (Name and designation of the Authorized Signatory)  
Name and Seal of the Bidder

## Annex I: Details of Bidder<sup>3</sup>

### 1. The Bidder

- (a) Name:
- (b) Country of incorporation:
- (c) Address of the corporate headquarters and its branch office(s), if any, in India:
- (a) Date of incorporation and/ or commencement of business:

### 2. Brief description of the Bidder including details of its main lines of business and proposed role and responsibilities in this Project[s]:

### 3. Details of individual(s) who will serve as the point of contact/ communication:

- (a) Name:
- (b) Designation:
- (c) Company:
- (d) Address:
- (e) Telephone Number:
- (f) E-Mail Address:
- (g) Fax Number:

### 4. Particulars of the Authorized Signatory of the Bidder:

- (a) Name:
- (b) Designation:
- (c) Address:
- (d) Phone Number:
- (e) Fax Number:

### 5. In case of a Consortium,

- a) the information above (1-4) should be provided for all the Members of the Consortium.
- b) Jt. Bidding Agreement, as envisaged in **Clause 3.2.7 (g)** should be attached to the Proposal.
- c) Information regarding role of each Consortium Member should be provided as per table below:

Sl. No	Name of Consortium Member	Role of Consortium Member
1.		

---

<sup>3</sup> In case of Consortium, provide these details for all Consortium Members

Sl. No	Name of Consortium Member	Role of Consortium Member
2.		
3.		

a) The following information shall also be provided for each Consortium Member

Sl No	Criteria	Yes	No
1.	Has the Bidder/ any of the Consortium Member been barred by the Central/ State Government, or any entity controlled by it from participating in any project (DBFOT or otherwise)?		
2.	If the answer to Sr. No. 1 is yes, does the bar subsist as on Bid Due Date?		
3.	Has the Bidder/ any of the Consortium Member paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

If the answer if “Yes” for any of above three questions, then the Bidder shall provide required information in detail.

**6.** A statement by the Bidder disclosing material non-performance or contractual noncompliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary)

## Annex II: Technical Capacity of the Bidder

Particulars	Details of the project
Name of the project	
Name of the project Authority	
Entity claiming for the Technical Capacity – Bidder/ Associate	
If in case of Associate, then the relationship with the Bidder and details (Attach extra sheets, if necessary)	
Client name	
Period of the project construction and commencement	Construction period – from ddmmyyyy to ddmmyyyy Project commencement date – ddmmyyyy
Location	
Project cost, Rs crore	
Project scope	
Role played by the Bidder / Associate	
Equity holding of the Bidder/ Associate in the project executing company/ consortium	
Certificate provided by the Bidder/ Associate	

### Instructions:

1. The Bidder is expected to provide information in a format provided above for a project, matching Qualification criteria as stipulated in **Clause 3.4**, of this RFP Document.
2. Certificates from the Bidder’s statutory auditor or the client concerned must be furnished for the project. In jurisdictions, that do not have the statutory auditors, the auditors who audit the annual accounts of the Bidder should provide the requisite certification.
3. It may be noted that, in case of an absence of the proper certificate, as mentioned hereinabove, the information would be considered an inadequate and would lead to the exclusion of the project, in determining the Technical Capacity of the Bidder.

## Annex III: Financial Capacity of the Bidder

In Rupees crore<sup>4</sup>

Name of Bidder	Year 1	Year 2	Year 3
Net Worth			
Net Cash Accruals			

### Instructions:

1. The Bidder shall attach copies of the financial statements/ annual reports for the five financial years, preceding Bid Due Date. The financial statements/ annual reports, must:
  - i. Reflect the financial situation of the Bidder;
  - ii. Be audited by the statutory auditor;
  - iii. Be complete, including all notes to the financial statements; and
  - iv. Correspond to the accounting periods already completed and audited; no statements for partial periods shall be requested or accepted
2. Year 1 will be the latest completed financial year, preceding Bid Due Date. Year 2 will be the year, immediately preceding the Year 1, and so on. If in case the Bid Due Date falls within 3 months of the close of the latest financial year of the Bidder, refer **Clause 3.4.5**.

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<sup>4</sup> If in case the financial details are available in the foreign currency, other than Indian Rupee, then the same may be converted into Indian Rupee. The rate applicable for such conversion shall be the RBI Reference Rate, provided and published by the Reserve Bank of India, on its website [www.rbi.org.in](http://www.rbi.org.in) for 08-02-2019. If in case, the financial details are available other than tradable currencies, i.e. USD, GBP, Euro or YEN, then the same may be converted first into these tradable currencies, before converting into Indian Rupee. For converting the financial data, into the tradable currency, the Bidder may consider the convertible rate provided and published by the central bank of the respective country for 08-02-2019.



## **Annex IV: Statement of Legal Capacity**

(To be forwarded on the letterhead of the Bidder)

Ref.

Date:

To,  
The Chief Executive Officer,  
Gangtok Smart City Development Limited  
[Address]

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the RFP Document.

We have agreed that \_\_\_\_\_ (insert individual's name) will act as our representative and has been duly authorized to submit the RFP. Further, the authorized signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

Authorised Signatory

For and on behalf of

## **Annex V: Undertaking for Working Capital Capacity**

(To be forwarded on the letterhead of the Bidder)

Ref.

Date:

To,  
The Chief Executive Officer,  
Gangtok Smart City Development Limited  
[Address]

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the RFP Document.

We agree that, if appointed as a Concessionaire for the Project “Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis”, we shall always maintain, during the Concession Period, the working capital requirement of the Project for subsequent three months’ requirement in liquid assests.

Thanking you,

Yours faithfully,

Authorised Signatory

For and on behalf of

## **Appendix II: Project Design Capability**

The Bidder should demonstrate its Project design capacity by way of:

- I. Past experience in designing similar projects
- II. Organisation team structure and in-house availability of the requisite expertise for the Project;  
and
- III. Proposed team structure for designing of the Project

## **Appendix III: Project Concept Design**

The Bidder's concept design for the Project should have following:

- I. Design configuration – Conceptual planning and architectural layouts of the facilities
- II. Contingency plans – Safety and disaster management plans
- III. Design attractiveness – Aesthetics, façade, environmental friendliness, and energy efficiency, modern interpretation of local architecture
- IV. Sequencing and activity time schedule
- V. Methodology for construction; and
- VI. Methodology for operations & maintenance
- VII. Site plan indicating total open space, built up area and flow of traffic.

## **Appendix IV: Traffic Management Plan**

Bidder's traffic management plan shall cover following:

- I. Adequacy of traffic management plan during construction
- II. Efficiency of circulation plan within and around parking facility
- III. Efficiency of pedestrian movement plan
- IV. Adequacy of emergency of traffic plan

## Appendix V: Power of Attorney for signing of Bid

Know all men by these presents, We \_\_\_\_\_ (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr/ Ms (name), \_\_\_\_\_ son/daughter/wife of \_\_\_\_\_ and currently residing at \_\_\_\_\_, who is [currently employed with us and holding the position of \_\_\_\_\_], as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for pre-qualification and submission of our Bid for “Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis” (the “Project”), proposed or being developed by the Gangtok Smart City Development Limited, including but not limited to signing and submission of Bid, and other documents and writings, participate in Pre-Bids and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Gangtok Smart City Development Limited in all matters in connection with or relating to or arising out of our Bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the Gangtok Smart City Development Limited.

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

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

FOR -----  
(SIGNATURE)  
(NAME, TITLE, ADDRESS)

WITNESS:

- 1.
- 2.

(ACCEPTED) \_\_\_\_\_ (SIGNATURE)  
(NAME, TITLE, ADDRESS OF THE ATTORNEY)

**[NOTARIZED]**

- 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 executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.

## **Appendix VI: Power of Attorney for Lead Consortium Member of Consortium**

*(To be executed on non-judicial stamp paper of appropriate value)*

Whereas Gangtok Smart City Development Limited has invited Bids from interested parties for an Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis (the “**Project**”).

Whereas, the Consortium Members are interested in submitting Bid for the Project and implementing the Project in accordance with the terms and conditions of the Request for Proposal (RFP) Document and Concession Agreement, and

Whereas, it is necessary for the Consortium Members to designate one of the Consortium Members as the Lead Consortium Member with all necessary power and Authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s Bid for the Project and its execution.

We, ..... having our registered office at ....., and M/s. ...., having our registered office at ....., (hereinafter collectively referred to as the “**Principals**”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s ....., having its registered office at ....., being one of the Consortium Members, as the Lead Consortium Member and true and lawful attorney of the Consortium (hereinafter referred to as the “**Attorney**”) and hereby irrevocably authorise the Attorney (with power to subdelegate) to conduct all business for and on behalf of the Consortium and any one of us during the Bidding Process and, in the event the Consortium is awarded the Project, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its Bid for the Project, including but not limited to signing and submission of all applications, Bids and other documents and writings, accept the Letter of Award, participate in Bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the Bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s Bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred



by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

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

For .....  
(Signature, Name & Title)

For .....  
(Signature, Name & Title)  
(Executants)

(To be executed by all Consortium Members)

Witnesses:

- 1.
- 2.

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 Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

*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 Bidders 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 VII: Joint Bidding Agreement**

*(To be executed on stamp paper of appropriate value and to be authenticated by the Magistrate)*

THIS JOINT BIDDING AGREEMENT is entered into on this the ..... day of ..... 20... (the “**Jt. Bidding Agreement**”)

AMONGST

1. {....., a company incorporated under the (Indian) Companies Act, 1956 or Companies Act, 2013 or Sikkim Companies Act, 1961 OR Partnership Act, 1932 or Limited Liability Partnership Act, 2008} and having its registered office at ..... (hereinafter referred to as the “**First Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns);

AND

2. ...., a company incorporated under the (Indian) Companies Act, 1956 or Companies Act, 2013 or Sikkim Companies Act, 1961 OR Partnership Act, 1932 or Limited Liability Partnership Act, 2008} and having its registered office at ..... (hereinafter referred to as the “**Second Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. ...., a company incorporated under the (Indian) Companies Act, 1956 or Companies Act, 2013 or Sikkim Companies Act, 1961 OR Partnership Act, 1932 or Limited Liability Partnership Act, 2008} and having its registered office at ..... (hereinafter referred to as the “**Third Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

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

WHEREAS,

**A.** The Gangtok Smart City Development Limited hereinafter referred to as “[**GSCDL**]” has invited Bids by its Request for Proposal Tender No. .... dated ..... (the “**RFP**”) for “Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis” (the “**Project**”);

- B.** The Parties are interested in jointly bidding for the Project as Consortium Members (as defined below) and in accordance with the terms and conditions of the Bidding Documents including the RFP; and
- C.** It is a necessary condition under the RFP that the members of the Consortium shall enter into a Jt. Bidding Agreement and furnish a copy thereof with the Bid.

NOW IT IS HEREBY AGREED as follows:

**1. Definitions and Interpretations**

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

**2. Consortium**

The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Project.

The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/or through any other consortium constituted for the Project, either directly or indirectly.

**3. Role of the Parties**

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a. Party of the First Part shall be the Lead Consortium Member of the Consortium and shall have the power of attorney from Second Part for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Effective Date under the Concession Agreement.
- b. {Party of the Second Part shall be \_\_\_\_\_.}
- c. {Party of the Third Part shall be \_\_\_\_\_.}

**4. Joint and Several Liability**

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

**5. Representation of the Parties**

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

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

## **6. Termination**

This Agreement shall be effective from the date hereof and shall continue in full force and effect till the full and final satisfaction of all obligations under the Concession Agreement in accordance with the terms thereof, in case the Project is awarded to the Consortium. However, in case the Consortium is either not qualified for the Project or does not get selected

for award of the Project as the Selected Bidder, the Agreement will stand terminated, in accordance with the mutual agreement of the Parties.

**7. Miscellaneous**

This Joint Bidding Agreement shall be governed by laws of India.

The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of Gangtok Smart City Development Limited.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD CONSORTIUM MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

SECOND PART

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1.

2.

**Notes:**

- 1. The mode of execution of the Joint Bidding Agreement 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.*
- 2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution/power of attorney in favour of the person executing this Agreement for the delegation of power and Authority to execute this Agreement on behalf of the Consortium Member.*
- 3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.*

## **Appendix VIII: Anti-Collusion Certificate**

*(To be executed on stamp paper of appropriate value)*

We undertake that, in competing for (and, if the award is made to us, in executing) the above Project, we will strictly observe the laws against fraud and corruption in force in India namely “Prevention of Corruption Act, 1988” and subsequent amendments thereof.

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

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

Dated this .....Day of .....,20

.....

(Name of the Bidder)

.....

(Signature of the Bidder / Authorised Person)

.....

(Name of the Authorised Person)

## **Appendix IX: Bank Guarantee for Bid Security**

B.G.No.

Dated:

1. In consideration of you, The Chief Executive Officer, Gangtok Smart City Development Limited having its office at [provide office address], State of Sikkim, India (hereinafter referred to as the “**Authority**”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid, a Company registered under provision of the [Companies Act, 1956 or Companies Act, 2013 or Sikkim Companies Act, 1961 OR Partnership Act, 1932 or Limited Liability Partnership Act, 2008] and having its registered office at [xx] and acting on behalf of its Consortium (hereinafter referred to as the “**Bidder**” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis, (hereinafter referred to as the “**Project**”) pursuant to the request for proposal document dated [xx] issued in respect of the Project (“**RFP**”), we [Name of the Nationalized Bank] having our registered office at [xx] and one of its branches at [xx] (hereinafter referred to as the “**Bank**”), at the request of the Bidder, do hereby in terms of **Clause 2.2.8** the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the RFP Document by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of [provide Bid Security amount here] only as bid security (hereinafter referred to as the “**Bid Security**”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder, if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said RFP.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the RFP shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the RFP including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said RFP for any reason whatsoever. Any such demand made on the Bank shall be conclusive



as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding the Bid Security.

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the RFP including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said RFP, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said RFP or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfillment and compliance with all or any of the terms and conditions contained in the said RFP by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said RFP or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.

9. We undertake to make the payment on receipt of Authority's notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch who shall be deemed to have been duly authorized to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding, any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorized and has full power to execute this Guarantee for and on behalf of the Bank.
13. This Bank Guarantee and all questions of its interpretation shall be construed in accordance with the laws of India. The courts at Gangtok shall have jurisdiction over matters arising out of or relating to this Bank Guarantee.

Signed and Delivered by [xx] Bank

By the hand of Mr./Ms. [xx], its [xx] and authorized official.

(Signature of the Authorized Signatory)  
(Official Seal)

## **Appendix X: Clarifications**

<b>Sr. No</b>	<b>RFP Document – Clause reference</b>	<b>Issue with current Clause or Provision / Rationale for change</b>	<b>Comment or Clarification/ Change sought</b>
1			
2			
.			
N			

## **Appendix XI: Financial Proposal**

Dated:

To,  
The Chief Executive Officer,  
Gangtok Smart City Development Limited  
Sokaythang, Below ICAR office,  
Gangtok, Sikkim – 737102

**Subject:** Financial Proposal for “Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis”

Dear Sir,

With reference to your RFP Document for “Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis”, dated \*\*\*\*\*, I/we, having examined the RFP Document and understood its contents, hereby submit my/our Financial Proposal for the aforesaid Project. The Bid is unconditional and unqualified.

1. The Financial Proposal is unconditional and unqualified.
2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Concessionaire for the “Implementation of Multi-Level Car Parking cum Commercial Development at Old West Point School Area near M.G. Marg, Gangtok – East Sikkim on Design, Build, Finance, Operate and Transfer (DBFOT) basis” (the “**Project**”).
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or to authenticate the Financial Proposal.

5. I/ We acknowledge the right of the Authority to reject our Financial Proposal without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we/ 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, 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 Bid Documents, including any Addendum issued by the Authority; and
  - b) I/ We do not have any Conflict of Interest in accordance with **Clause 3.2.4** of the RFP Document; and
  - 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 has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
  - e) the undertakings given by us along with the Bid in response to the RFP Document for the Project were true and correct as on the date of making the Bid and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with **Clause 3.9** of the RFP Document.
9. I/ We believe that we satisfy(s) the Net Worth and Average Cash Accrual and meet(s) the requirements as specified in the RFP Document.
10. I/ We declare that we or our Associates are not a part of any other Bidder submitting a Bid for the Project.
11. 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 could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.

12. I/ We further certify that in regard to matters relating to security and integrity of the country, we or any of our Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. I/ We further certify that no investigation by a regulatory Authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/employees.
14. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate Authority of the same immediately.
15. 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 in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above-mentioned Project and the terms and implementation thereof.
16. In the event of our organisation being declared as the Preferred Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to us prior to the Bid Due Date [and Addenda thereof]. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
17. I/ We have studied all the Bid Documents carefully. We understand that except to the extent as expressly set forth in the Concession 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 relating to the Bidding Process including the award of Contract.
18. I/ We offer a Bid Security of [provide amount here] to the Authority in accordance with the RFP Document.
19. The Bid Security in the form of a [Demand Draft/ Bank Guarantee] is enclosed.
20. I/ We agree and understand that the Financial Proposal is subject to the provisions of the Bid Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Contract is not awarded to me/us or our Bid is not opened or rejected.
21. The Concession Period has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs and

after a careful assessment of the site and all the conditions that may affect the Project cost and implementation of the project.

22. I/ We agree and undertake to abide by all the terms and conditions of the RFP Document.

23. We shall be liable for all the obligations of the Concessionaire under the Concession Agreement.

24. I/ We shall keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.

25. I/ We hereby submit our Bid and seek Concession Period of [Years-Months-Days] to execute the Project in accordance with the provisions of the draft Concession Agreement.

26. I/ We shall submit our Financial Model in a soft copy, i.e. in MS Excel in support of our Bid, in accordance with the provisions of the RFP Document. I/We shall submit my/our financial bid, which would reflect the premium to be paid during the concession period and the year from which such payment shall be made to Gangtok Smart City Development Limited.

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

Yours faithfully,

Date: (Signature, name and designation of the Authorised signatory)

Place: Name and seal of Bidder