

बिहार स्टेट टूरिज्म डेवलपमेंट कॉर्पोरेशन लि०

Bihar State Tourism Development Corporation Ltd.

Register office: वीर चन्द पटेल पथ / Beerchand Patel Path, पटना / Patna- 800 001

दूरभाष / Phone : - +91-612-2222622 फ़ैक्स नं० / Fax No: - 0612-2506218

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File No. 122/Engg/2024/1612/engg/24

Date: 20/12/2024

CORRIGENDUM-5

It is informed to the bidders Concerned that under unavoidable circumstances the Process of Tendering vide NIT:- **NOTICE INVITING E-TENDER NO. 26/RFP/2024-25**, PR No- 011718(B & C) 2024-25, Date-02/11/2024 is further extended as per following Schedule:-

- (1) Destination Strategy Development Plan for – Gaya & Bodhgaya.
- (2) Destination Strategy Development Plan for – Rajgir & Nalanda.

| SL. No. | Detail | As Per revised earlier | As Per present Schedule |
|---------|--|--|--|
| 1 | Date of Inviting tender | 20.11.2024 | |
| 2 | Date of downloading of bid document | 29.11.2024 To 24.12.2024 up to 3:00 PM Through website www.eproc2.bihar.gov.in | 29.11.2024 To 31.12.2024 up to 3:00 PM Through website www.eproc2.bihar.gov.in |
| 3 | Place & Date of Pre-bid meeting | Date: 02.12.2024, Time 03:00 PM (Chief Engineer, BSTDC office, 4th Floor, Sikh heritage Building, Daroga Prasad Rai Path, Patna– 800 001) | Date: 02.12.2024, Time 03:00 PM (Chief Engineer, BSTDC office, 4th Floor, Sikh heritage Building, Daroga Prasad Rai Path, Patna– 800 001) |
| 4 | Last date and time for receipt on eproc2 | Date 24.12.2024, at 3:00 PM | Date 31.12.2024, at 3:00 PM |
| 6 | Time and Date of opening of Technical bids | Date 26.12.2024, at 3:30 PM | Date 02.01.2025, at 3:30 PM |

Other informations and Conditions will remain unchanged.

For Convenience to bidders Bank Guarantee Format is attached

Sd/-

(Er. Arjun Prasad)
Executive Engineer (South)
BSTDC, Patna

Bank Guarantee (Un conditional)

B.G. No. _____

Dated: _____

1. In consideration of you, _____, having its office at _____, (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 of _____ (a company registered under the Companies Act, 1956/2013) and having its registered office at _____ (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 the _____ Project (hereinafter referred to as "the Project") pursuant to the RFP Document dated _____ issued in respect of the Project and other related documents including without limitation the draft agreement (hereinafter collectively referred to as "Bidding Documents"), we (Name of the Bank) having our registered office at _____ and one of its branches at _____ (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of the relevant Clause of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of INR _____ (Rupees _____ only) (hereinafter referred to as the "Guarantee") 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 Bidding Documents.
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 Bidding Documents / Agreement 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 fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents 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 INR _____ (Rupees _____ only).
4. This Guarantee shall be irrevocable and remain in full force for a period of 60 (sixty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days beyond all contractual obligations of the bidder 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 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 Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, 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 Bidding Documents 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 Bidding Documents 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 Bidding Documents 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 your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised 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 unrealised.
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 authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Banks liability under this Guarantee shall be restricted to INR. (Rupees only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance

with paragraph 9 hereof, on or before[..... (Indicate date falling 90 days after the Bid Due Date)].

Signed and delivered by Bank

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

(Signature of the Authorised Signatory)

(Official Seal)

“Selection of Consultant for Destination Strategy Development plan at Identified Location in Bihar”.
(1) Destination Strategy Development Plan for – Gaya & Bodhgaya
(2) Destination Strategy Development Plan for – Rajgir & Nalanda

| S. No | RFP Document Reference (Number/Page) | Content of RFP requiring Clarification (s) | Point of Clarification Required | Response by BSTDC |
|-------|--------------------------------------|--|--|---|
| 1 | Corrigendum-2 | Last date and time for receipt on eproc2: Date 09.12.2024, at 3:00 Pm | Request you to kindly extend the Bid submission date by at least 3 weeks, considering the high technical requirement of the proposal. | Last date and time for receipt on eproc2: Date 30.12.2024, at 3:00 Pm |
| 2 | 3.13 of RFP/ page-12 | CONFLICT OF INTEREST Conflict of interest exists in the event of (i) Agencies or institutions having a business or family relation with the Client directly or indirectly; | We understand that Agency/ Consultant already having Engagement and currently having an active Engagement with Tourism Department/ Bihar State Tourism Development Corporation are in Conflict of Interest as per terms of the RFP and prohibited to participate in the Bid. | Agencies/Consultant working for BSTDC fulfilling the eligibility criteria may participate in this bid. |
| 3 | 4.1 of RFP/ page-15 | Turnover: Agency should have Average annual turnover of 20 Crores in any three out of preceding five financial years i.e. (FY 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24) | Given the complexity of the project, the turnover is low. We request to consider a minimum Average annual turnover of 500 Crores in any three out of preceding five financial years i.e. (FY 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24) | As per RFP |
| 4 | 4.1 of RFP/ page-15 | Net-worth: The net worth of the bidder as on 31st March 2024 should be Positive | Given the complexity of the project, the net-worth is low. We request to consider the net worth of the bidder as on 31st March 2024 should be Rs 500 Crs. | As per RFP |

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| 5 | 4.1 of RFP/ page-15 & 16 | <p>Experience in Relevant field:</p> <p>The bidder should have experience in implementation of at least three projects related to Tourism Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with a minimum project fee of Rs 40 lakhs or more for any Department / Agency / PSU in any State or Central Government or International Financial Institutions/ Externally Aided Projects during last 5 years as on last date of submission of this bid.</p> | <p>We understand that as a part of single mandate of Tourism Development Project at National Level (for eg Ministry of Tourism – Govt of India), multiple projects has been implemented across multiple States of India. Each sperate Projects will be considered as an individual & specific projects.</p> <p>Sir, there was a global pandemic during the period 2019-2021, India was also effected by the pandemic and so Project implementation. We request to consider Projects during last 7-10 years as on last date of submission of this bid.</p> | As per RFP |
| 6 | 4.1 of RFP/ page-16 & 17 | <p>Evaluation of Pre-Qualification Criteria</p> <p>SI no. 4: Experience in Relevant field</p> <p>SI no. 5: Experience with Tourism Department/ Corporation (more than 500 hectares)</p> | <p>There may be project where the scope of work includes both SI No.4 and SI No.5 (Evaluation of Pre-Qualification Criteria). Kindly confirm whether the same projects may be considered in both category SI no.4 and SI no. 5 or projects considered in one category cannot be considered in other.</p> <p>Request your kind confirmation.</p> | The project shall be considered for each eligible category as per the criteria set out in the RFP |
| 7 | 4.2 of RFP/ page-16 | <p>Experience of bidder in the similar field as on last date of submission of this bid – 15 Marks</p> <ul style="list-style-type: none"> • At least 5 Years – 10 | <p>Given the complexity and importance of the project, the turnover requirement is more suitable criteria to evaluate the capacity of the</p> | As per RFP |

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| | | <p>marks</p> <ul style="list-style-type: none"> • For each additional Year of Experience – 1 mark (maximum 5 marks) | <p>Agency. We request to consider the following clause or amend as suitable marks allocation to turnover and net worth.</p> <p>We request you to kindly consider the following marking pattern.</p> <p>15 marks for the bidder /with highest average annual turnover. Other bidders shall be awarded prorated marks.</p> <p>Request your kind consideration.</p> | |
| 8 | 4.7 of RFP/ page-19 | <p>4.7 TERMINATION</p> <p>1 Termination for defaults –</p> <p>2 Termination for insolvency</p> | <p>Termination of Agreement</p> <p>3. By the Consultant</p> <p>We request to add the following to account for specific circumstances wherein, due to legal provisions or professional requirements, the consultant is not able to provide continued services: "Consultant may terminate this Agreement, or any particular Services, immediately upon written notice to Client if Consultant reasonably determine that Consultant can no longer provide the Services in accordance with applicable law or professional obligations."</p> | <p>Please refer to Article 11 of the Draft Contract attached as Annexure 1 to the pre-bid response document</p> |
| 9 | 5.7 of RFP/ page-24 | <p>5.7 Penalty Clause</p> <p>In case of default in performance on the part of the agency, BSTDC may penalize the agency based on its internal review and decision of</p> | <p>We request you to kindly limit the penalty to a maximum of 5% of the Agreement Value.</p> | <p>As per RFP</p> |

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| | | MD, BSTDC. The penalty will be applicable @1% per week of delay but subject to maximum penalty shall be levied equal to 10% of contract value. | | |
| 10 | 5.3 of RFP/ page-20-23 | 5.3 Scope of Work <i>Stakeholder Consultation</i> | <i>The consultant has to carry out stakeholder consultations as and when required to ensure that voices of all affected people are reflected in the decision-making process. These would include locals, investors, tourism service providers, NGOs, local government departments, etc. The client shall provide all required support in organising the required meetings.</i> It is assumed that cost of holding formal stakeholder meet shall be borne by the authority. | The cost of holding formal discussion/ meet with stakeholder will be borne by the bidder. |
| 11 | 5.3 of RFP/ page-20-23 | Extensive field visits, observations and stakeholder interactions are expected for a thorough situation analysis. However, for this assignment the consultant is not expected to commission detailed physical surveys, large-scale tourist surveys, traffic surveys, geo-technical surveys or mapping exercises. Prevailing GIS and digital maps available with Government or | We request you to kindly share the list of required documents available with the Tourism Department/ BSTDC. For example: physical surveys, large-scale tourist surveys, traffic surveys, geo-technical surveys or mapping exercises. Prevailing GIS and digital maps available with Government. We request you to kindly confirm that any Prevailing GIS and digital maps available | The cost of satellite imagery and surveys to be borne by bidder. |

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| | | commercially, are expected to be used in preparation of the plans. If the consultant chooses to conduct such surveys, it shall be to its' own cost, and no additional time period shall be provided for completion of the deliverables. | commercially, are expected to be used in preparation of the plans, the cost of same is to be reimbursed by BSTDC on actual. As the same will be property of BSTDC only or same may be purchased directly by BSTDC and made available to the Agency. We understand that the cost of Procurement of satellite imagery of scale 1:25000 and 1:5000, if applicable, will be reimbursed to the consultant on actual basis or same may be purchased directly by BSTDC and made available to the Agency. | | | | | | | | | | | |
| 12 | 5.4 of RFP/ page-23 | <table border="1"> <tr> <td>Destination Development Plan Workshop (present proposed destination strategy and Development Plans for TIA and TDA, with brief project profiles to all concerned stakeholders, seek their feedback)</td> <td>Within T+75 days</td> </tr> <tr> <td>Draft Report – Destination Strategy and Development Plans (at the</td> <td>Within T+75 days</td> </tr> </table> | Destination Development Plan Workshop (present proposed destination strategy and Development Plans for TIA and TDA, with brief project profiles to all concerned stakeholders, seek their feedback) | Within T+75 days | Draft Report – Destination Strategy and Development Plans (at the | Within T+75 days | <table border="1"> <tr> <td colspan="2">We request you to kindly consider the following.</td> </tr> <tr> <td>Destination Development Plan Workshop (present proposed destination strategy and Development Plans for TIA and TDA, with brief project profiles to all concerned stakeholders, seek their feedback)</td> <td>Within T+75 days</td> </tr> <tr> <td>Draft Report – Destination Strategy and</td> <td>Within T+100 days</td> </tr> </table> | We request you to kindly consider the following. | | Destination Development Plan Workshop (present proposed destination strategy and Development Plans for TIA and TDA, with brief project profiles to all concerned stakeholders, seek their feedback) | Within T+75 days | Draft Report – Destination Strategy and | Within T+100 days | As per RFP |
| Destination Development Plan Workshop (present proposed destination strategy and Development Plans for TIA and TDA, with brief project profiles to all concerned stakeholders, seek their feedback) | Within T+75 days | | | | | | | | | | | | | |
| Draft Report – Destination Strategy and Development Plans (at the | Within T+75 days | | | | | | | | | | | | | |
| We request you to kindly consider the following. | | | | | | | | | | | | | | |
| Destination Development Plan Workshop (present proposed destination strategy and Development Plans for TIA and TDA, with brief project profiles to all concerned stakeholders, seek their feedback) | Within T+75 days | | | | | | | | | | | | | |
| Draft Report – Destination Strategy and | Within T+100 days | | | | | | | | | | | | | |

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| | | <p>end of Stage 2)</p> <p>Final Report – Destination Strategy and Development Plan (at the end of Stage 3)</p> | <p>Within T+90 days</p> | <p>Development Plans (at the end of Stage 2)</p> <p>Final Report – Destination Strategy and Development Plan (at the end of Stage 3)</p> | <p>Within T+120 days</p> | |
| 13 | 5.4 of RFP/ page-23 | 5.4 of RFP/ page-23 | | <p>Considering the complexity of the Project, we request you to kindly consider the following.</p> <p>Total Project period – 4 months/ 120 days</p> | | As per RFP |
| 14 | New Clause | LIMITATIONS OF LIABILITY: | | <p>We request to add the following:</p> <p>LIMITATIONS OF LIABILITY:</p> <p>(i) the Contractor and the Employer shall not be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs.</p> <p>And</p> <p>(ii) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply in cases of fraud or wilful misconduct on the part of the consultant.</p> | | Please refer to Article 18 of the Draft Contract attached as Annexure 1 to the pre-bid response document |
| 15 | New Clause | Draft Agreement | | We request you to share the Draft Agreement. | | Attached in Annexure 1 of pre bid response document |

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| 16 | Annexure 7 – page-31 | Annexure 7 – Financial Proposal Format | We understand that Package-A & B are two different packages and sperate bid to be submitted for each Package. | As per RFP |
| 17 | RFP Page No-17, 4.2 Technical Evaluation Criteria | <p>Experience of bidder in the similar field as on last date of submission of this bid – 15 Marks</p> <ul style="list-style-type: none"> • At least 5 Years – 10 marks • For each additional Year of Experience – 1 mark (maximum 5 marks) <p>Documents required: Copy of work order/ Contract/ Experience Certificate clearly indicating the date of start of work to ascertain years of experience is mandatory. In case of missing information in documents submitted, experience of that project will not be considered.</p> <p>Experience in implementation of projects related to Tourist Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with a minimum project fee of Rs 40 lakhs or more for any Department / Agency / PSU in any State or Central Government or International Financial Institutions/ Externally Aided Projects during last 5 years as on last date of submission of this</p> | <p>We request the authority to kindly allow us to showcase experience related to preparation of Feasibility/ Preparation & Implementation Tourism Development Strategy for all types of Tourism-related Projects, so that the consultant is able to offer a comprehensive and productive service.</p> <p>We would like to highlight that several clients refrain from providing the Completion certificates. Additionally, many of the Clients' certificates do not highlight all the project details such as cost, size, fee, duration, and Scope of work of the project. Also, there are certain NDAs signed with clients so we are restricted from sharing the Client certificates for the projects.</p> <p>Therefore, we request the authority to kindly allow the consultants to submit a CA Certificate / Self-attested declaration by the consultant's authorized signatory as proof reflecting that the fee in lieu of the work done has been received/Percentage of the fee has been received and thus the project has been completed</p> | As per RFP |

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| | | <p>bid. Experience of projects related to Tourist Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with Tourism Department/ Tourism Corporation in India for an area exceeding 500 hectares</p> | <p>mentioning the project details altogether along with any LOA/LOI/ Work order/ Contract agreement released by the client. Additionally, we also request the authority to kindly provide us the format for Statutory Auditor/CA Certificate to showcase the projects. And also allow ongoing projects to be showcased as a part of the eligibility criteria.</p> | |
| 18 | Add Clause | Liability of the Consultant | <p>In reference to the inputs provided by our Legal team, if the liability against direct/indirect is not capped to a particular amount. The indicative meaning to be drawn legally will be for the Liability to be treated as Unlimited. Thus, at least for international corporations such as us making it a very high-risk project. Also, this is a particular limitation which is widely issued and limited to the fee on many other Government Contracts. Please add a new clause for Limitation of Liability as follows: "In no circumstances shall Consultant's total liability for any direct damages under this Contract exceed the Fee paid to Consultant. Consultant shall not be liable to Client in tort (including negligence),</p> | <p>Please refer to Article 18 of the Draft Contract attached as Annexure 1 to the pre-bid response document</p> |

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| | | | breach of contract, breach of statutory duty or otherwise due to, under and/or arising out of or in connection with this Contract to the extent such loss or damage is consequential, indirect, special or punitive, whether or not Client had been advised of the likelihood of any such loss or damage". | |
| 19 | Page No. 24, 5.5 Team | Team Leader (1) - Master in urban planning / Urban design / Architecture OR B. Tech in Civil Engineering with more than 15 years of experience in spatial planning | We believe an individual's credentials and relevant experience should be given more weightage than just a degree. A graduate in any related field with a diploma/ PGDM /MBA holder with relevant experience in the field may also be an adept resource. Thus, we request the Authority to not limit the Master in urban planning / Urban design / Architecture OR B. Tech in Civil Engineering and allow other experts with relevant experience and diverse qualifications. | As per RFP |
| 20 | Page No. 24, 5.5 Team | Project Associate - Postgraduate with more than 5 years of experience. The Project Associate shall be deployed full time in Patna/ Project Location during the entire term of the project | The project duration is for 3 (Three) months, We would like to highlight that Project Associate CV asked in the RFP are not required for the complete duration of the assignment. They are needed on intermittent basis only; therefore, their continuous | As per RFP |

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| | | | <p>deployment is not required. In addition, there will be a huge financial implication for Permanent deployment of the expert who will not be giving any continuous inputs, and this can be saved if their inputs can be made intermittent as per requirement.</p> <p>Thus, it is a benefitting factor to not have deployment mandatory and thus all experts can be utilized with planning and the costs will be lower for the authority as well for the project.</p> <p>Thus, we request the authority to kindly allow the expert to be available for any meetings / reviews /presentations as in when required by the Department from time to time.</p> | |
| 21 | <p>Clause 8 46659_TechnicalSheet NIT26 Destination development plan.xls</p> | Bid Cost Details | <p>Kindly Clarify/elaborate what this implies as this is a technical document with no reference to bid Cost</p> | This is cost of tender document. |
| 22 | <p>Clause 11 46659_TechnicalSheet NIT26 Destination development plan.xls</p> | <p>Bidder must be a Company/ Partnership firm/ LLP registered under the Indian Companies Act and must be in operation since last 05 years as on date of submission of Bid. Note: Joint Venture Consortiums are not allowed</p> | <p>Allowing JV/Partners/Consortium</p> | As per RFP |

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| 23 | Clause 16 46659_TechnicalSheet NIT26 Destination development plan.xls | The bidder should have experience in implementation of at least three projects related to Tourism Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with a minimum project fee of Rs 40 lakhs or more for any Department / Agency / PSU in any State or Central Government or International Financial Institutions/ Externally Aided Projects during last 5 years as on last date of submission of this bid. | The scoping covers lot of aspects where it would be difficult to bring all project requirements and hence would request for a relaxation of this criteria to be 1 instead of 3 similar projects | As per RFP |
| 24 | Clause 16 46659_TechnicalSheet NIT26 Destination development plan.xls | The bidder should have experience in implementation of at least three projects related to Tourism Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with a minimum project fee of Rs 40 lakhs or more for any Department / Agency / PSU in any State or Central Government or International Financial Institutions/ Externally Aided Projects during last 5 years as on last date of submission of this bid. | To give international perspective to the destination development, would request if international projects could be considered | As per RFP |
| 25 | Clause 16 46659_TechnicalSheet NIT26 | The bidder should have experience in implementation of at | Lot of work has been done for tourism destination developments in the | As per RFP |

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| | Destination development plan.xls | least three projects related to Tourism Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with a minimum project fee of Rs 40 lakhs or more for any Department / Agency / PSU in any State or Central Government or International Financial Institutions/ Externally Aided Projects during last 5 years as on last date of submission of this bid. | private sector. Request if projects done in colabaration with the private sector also to be considered as similar projects | |
| 26 | Clause 17 46659_TechnicalSheet NIT26 Destination development plan.xls | The bidder should have experience of minimum one assignment related to Tourist Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with Tourism Department/ Tourism Corporation in India for an area exceeding 500 hectares | The scoping covers lot of aspects where it would be difficult to bring all project requirements and hence would request for a relaxation of this criteria to be 1 instead of 3 similar projects | As per RFP |
| 27 | Clause 17 46659_TechnicalSheet NIT26 Destination development plan.xls | The bidder should have experience of minimum one assignment related to Tourist Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with Tourism Department/ Tourism Corporation in India for an area exceeding 500 hectares | To give international perspective to the destination development, would request if international projects could be considered | As per RFP |

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| 28 | Clause 17 46659_TechnicalSheet NIT26 Destination development plan.xls | The bidder should have experience of minimum one assignment related to Tourist Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with Tourism Department/ Tourism Corporation in India for an area exceeding 500 hectares | Lot of work has been done for tourism destination developments in the private sector. Request if projects done in colabaration with the private sector also to be considered as similar projects. | As per RFP |
| 29 | 42273_Financial bid NIT26_destination development plan - Nalanda.xls | I/ We shall abide by the above offer/quote and terms condition of the RFP, if the Authority selects the bidder for this work. | Terms and conditions - RFP Request for details/draft contract with the terms and conditions which needs to be accepted by the bidder. | Refer Annexure-I of the pre bid queries response document |
| 30 | 47041_RFP for NIT26 Destination Strategy Development Plan UPDATE.pdf | The Contract shall remain valid with effect from the date of award of the contract/ tender till the end of 5 years of operation. | The final report needs to be submitted within 90 days. Please clarify on the contract validity Validity to be kept till the agreed the submission of the final report | The Contract shall remain valid with effect from the date of award of the contract/ tender for a period of 6 months. |
| 31 | 47041_RFP for NIT26 Destination Strategy Development Plan UPDATE.pdf | All taxes payable to government must be paid by the service provider as per applicable norms and procedure. | Terms and conditions - RFP Any changes in the tax structure during the execution of the project would be discussed and shall be paid extra/deducted as applicable | As per RFP |
| 32 | 47041_RFP for NIT26 Destination Strategy Development Plan UPDATE.pdf | No hard copy submissions of Proposal are required and The Physical copy of the proposal is accompanied with the 'Cost of RFP | please clarify if hard copy needs to be submitted along with the soft copy on the portal, a notice period of minimum 60 days or as mutually agreed whichever | As per RFP Clause 3.15 (iii) |

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| | | Document/ Tender Fee’ and ‘Bid Security’ amount as set out in RFP Document | Is higher is provided to the bidder to discuss and amicably come out with a solution. If the solution is not agreed upon by the both the parties, the termination can be initiated as per the indian court of law. | |
| 33 | 47041_RFP for NIT26 Destination Strategy Development Plan UPDATE.pdf | The selected agency shall keep BSTDC indemnified and harmless against all claims, damages, dues, payments, fines, penalties, compensations, liabilities other losses etc. which may incur on account of non-compliance or violation by the selected agency or otherwise. | This does not cover the third-party indemnification. To predefine the instances where indemnification are applicable | Please refer to Draft Contract attached as Annexure 1 to the pre-bid queries response document |
| 34 | 47041_RFP for NIT26 Destination Strategy Development Plan UPDATE.pdf | Termination | The client may without prejudice to any other remedy for breach of agreement, by written notice of default sent to the consultants, terminate the agreement in whole or in part: For equality to both the parties, the bidder can also terminate incase of any breach of agreed contract terms and conditions | Please refer to Article 11 of the Draft Contract attached as Annexure 1 to the pre-bid queries response document |
| 35 | 47041_RFP for NIT26 Destination Strategy Development Plan UPDATE.pdf | Indemnification | law of arbitration We would request for bidder representation in the arbitration process. | Please refer to Draft Contract attached as Annexure 1 to the pre-bid queries response document |
| 36 | 47041_RFP for NIT26 Destination | ARBITRATION | law of arbitration | Please refer to Draft Contract attached as |

| | | | | |
|----|--|--|--|---|
| | Strategy Development Plan UPDATE.pdf | | We would request for bidder representation in the arbitration process. | Annexure 1 to the pre-bid queries response document |
| 37 | 47041_RFP for NIT26 Destination Strategy Development Plan UPDATE.pdf | Payment Schedule | revision of payment schedule As most of the work needs to be undertaken till the first deliverables and hence would request for revision in payment terms with atleast 30-40 % upfront fees. Balance can be distributed as per the agreed payment terms | As per RFP |
| 38 | Others - clauses not present in the RFP document | Liability Clause, Third part indemnification, use of report etc | There are other clauses pertaining to use of report, Liability Third party indemnification etc which needs to be incorporated. Suggest to provide us the final terms and conditions. The bidder to discuss and finalise the clauses not provided in RFP which are mutually accepted | Please refer to Draft Contract attached as Annexure 1 to the pre-bid queries response document |
| 39 | RFP Page 12 | 2.15 FORMAT AND SIGNING OF PROPOSAL iii. No hard copy submissions of Proposal are required. Bidders must upload their Technical and Financial proposals on the website www.eproc2.bihar.gov.in 1.18 TEST OF RESPONSIVENESS b. The Physical copy of | There appears to be a contradiction between Clause 3.15 (iii) and Clause 3.18 (b) of the RFP. We understand that the physical submission of the Technical and Financial bids is not required, and only the EMD and RFP document fee need to be submitted physically. Kindly clarify? | As per RFP Clause 3.15 (iii) |

| | | | | | |
|----|-------------|--|--|--|-------------------|
| | | the proposal is accompanied with the 'Cost of RFP Document/ Tender Fee' and 'Bid Security' amount as set out in RFP Document | | | |
| 40 | RFP Page 23 | 5.4 Deliverables and Timelines In case the review of deliverables by the authority takes more than 5 working days, the additional review period | We understand that if the authority takes more than 5 working days to review a deliverable, the extra review time will not be counted in the total project duration. Moreover, considering that deliverables are dependent on the approval of prior deliverables, we understand that the additional time will be added to the deadline of subsequent deliverables, without any penalties on consultant. Please confirm if this understanding is correct. | As per RFP | |
| 41 | RFP Page 23 | 5.4 Deliverables and Timelines T – Date of issue of Letter of Intent | As per industry practice and our company policy, for timely mobilization of team, signing of contract with client is a necessary prerequisite. Therefore, we kindly request you to update the definition of 'T' as follows: T- Date of Contract Signing | 5.4 Deliverables and Timelines T – Date of issue of Letter of Acceptance. | |
| 42 | RFP Page 24 | N o On Achieving of Milestone for specific destination | Payment as % of the Lumpsum fees for each destination | As per the payment schedule, first payment will be released after 40 days of letter of intent, prior to reaching this milestone, significant fieldwork and resource allocation will be required. To support resource | As per RFP |

| | | | | | | |
|----|--|--|--|---|-------------------|-----|
| | | | tion | allocation and fieldwork, we request a mobilization advance or a payment upon submission of the inception report (T+15 days) of 10%. | | |
| | | 1 | Destination Analysis and Strategy Report | | | 25% |
| | | 2 | Draft Report – Destination Strategy and Development Plan | | | 50% |
| | | 3 | Final Report – Destination Strategy and Development Plan | 25% | | |
| 43 | Earnest Money Deposit (EMD) Pg No. 7 | Earnest Money Deposit (EMD) of Rs. 1,00,000 /- (Rupees One Lac only) | | We would request you to please exempt the EMD as Organizations registered under MSME are exempt from paying EMD. | As per RFP | |
| 44 | 4.1.1 Legal Entity | Joint Venture Consortiums are not allowed | | Would request you to please allow Joint Venture / Consortium / Association | As per RFP | |
| 45 | 4.1.2 Evaluation of Pre-Qualification Criteria | Turnover Agency should have Average annual turnover of 20 Crores in any three out of preceding five financial years i.e. (FY 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24) | | Would request you to please decrease the Average Annual Turnover from Rs. 20 Cr to Rs.2 Cr for the last five years ending March 2024. | As per RFP | |
| 46 | 4.1.4 Evaluation of Pre-Qualification Criteria | Experience in Relevant field The bidder should have | | Would request you to please allow completed assignments for | As per RFP | |

| | | | | |
|----|--|---|--|-------------------|
| | | <p>experience in at least three projects related to Tourism Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with a minimum project fee of Rs 40 lakhs or more for any Department / Agency / PSU in any State or Central Government or International Financial Institutions/ Externally Aided Projects during last 5 years as on last date of submission of this bid.</p> <ul style="list-style-type: none"> • Minimum 3 Projects – 30 marks • For each additional Project – 7.5 marks (maximum 15 marks) | <p>preparation of Masterplan & DPR of the any following areas: eco-restoration / Riverfront / Lakefront / Seafront in any urban area in India with a minimum project fee of Rs 40 lakhs within the last 10 years</p> | |
| 47 | 4.1.5 Evaluation of Pre-Qualification Criteria | <p>Experience with Tourism Department/ Corporation Experience of minimum one assignment related to Tourist Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with Tourism Department/ Tourism Corporation in India for an area exceeding 500 hectares. Minimum 1 Project – 7 marks For each additional project – 1 mark (maximum 3 marks)</p> | <p>Would request you to please allow completed assignments for preparation of Masterplan & DPR of the any following areas: eco-restoration / Riverfront / Lakefront / Seafront in any urban area in India for an area exceeding 300 acres within the last 10 years</p> | As per RFP |
| 48 | 5.5 Team | Team Leader (1) | Kindly include Senior | As per RFP |

| | | | | |
|----|---|---|---|---|
| | | <p>Qualification & Experience: Master in urban planning / Urban design / Architecture OR B. Tech in Civil Engineering with more than 15 years of experience in spatial planning</p> | Architect (B. Arch) with 25 years' experience in the planning, designing and implementation of similar projects. | |
| | | <p>Tourism Specialist Qualification & Experience: Master in business administration / Tourism / urban planning / design with more than 10 years of experience in Tourism projects</p> | Kindly include M. Arch (Landscape) with 15 years' experience | As per RFP |
| | | <p>Urban Designer Qualification & Experience: Postgraduate with more than 8 years of experience in urban design/ architecture / preparation of detailed plans and project reports</p> | <p>Please also allow Urban Designer with M. Arch in Planning. Kindly also decrease the key expert experience to more than 4 years' instead of more than 8-years' experience</p> | As per RFP |
| | | <p>Project Associate Qualification & Experience: Postgraduate with more than 5 years of experience. The Project Associate shall be deployed full time in Patna/ Project Location during the entire term of the project</p> | Please allow or consider team members to be associates or Sub-consultants for this position. | As per RFP |
| 49 | Section 4.1, Eligibility Criteria 4. Experience | The bidder should have experience in implementation of at least three projects related to Tourism Destination Development Plan/ Tourist Circuit development Plan/ Perspective Plan or other similar projects with a minimum project fee of Rs | | 'Implementation of at least three projects.....' in this eligibility criteria refers to experience of projects undertaken related to Tourism Destination Development |

| | | | | |
|--|--|--|--|--|
| | | <p>40 lakhs or more for any Department / Agency / PSU in any State or Central Government or International Financial Institutions/ Externally Aided Projects during last 5 years as on last date of submission of this bid.</p> | | <p>Plan/ development Tourist Circuit Plan/ Perspective Plan or other similar projects.</p> |
|--|--|--|--|--|

Annexure

MASTER SERVICE AGREEMENT

For

Preparation of Destination Strategy and Development Plans at identified destinations in Bihar

Hereinafter referred to as “**Agreement**” is made on this ____ day of _____ 2024 and effective from _____

BY AND BETWEEN

Bihar State Tourism Development Corporation Limited, Government of Bihar, _____, **Patna, Bihar** hereinafter referred to as "**BSTDC** " (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and permitted assigns) of the **FIRST PART**;

AND

M/s _____, a company incorporated under the _____ having its registered office at _____, hereinafter referred to as "**Consultants**" (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and permitted assigns) of the **SECOND PART**;

(Each of the parties mentioned above are collectively referred to as the ‘*Parties*’ and individually as a ‘*Party*’)

WHEREAS BSTDC, Government of Bihar requires the services of an agency for “Preparation of Destination Strategy and Development Plans at identified destinations in Bihar” and in this regard has issued RFP dated _____. (*Selected bidder*) has submitted technical and financial bid for the “Preparation of Destination Strategy and Development Plans at identified destinations in Bihar” in BSTDC, Government of Bihar dated _____. BSTDC has selected successful bidder and decided to award work to the CONSULTANTS based on the bid response and has issued Letter of Intent No. ____ dated _____.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements hereinafter contained, **CONSULTANTS** and **BSTDC, Government of Bihar** have agreed and do hereby agree as follows:

ARTICLE 1 – DEFINITIONS

1.1 Unless otherwise clearly required by the context, the following terms as used in this Agreement shall have the respective meanings as defined below:

- (a) “**Affiliate**” shall mean any holding company or subsidiary company of a part to the agreement or any company, which is subsidiary of such a holding company. The expressions “holding company” and “subsidiary company” shall have the meaning specified in section 2 of the Companies Act 2013 (as amended from time to time).

- (b) **“Agreement”** means the Agreement to be signed between the successful bidder and BSTDC including all attachments, appendices, all documents incorporated by reference thereto together with any subsequent modification, the RFP, the bid offer, the acceptance and all related correspondences, clarifications, presentations.
- (c) **“Applicable Law(s)”** shall be the laws of India extending to any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision applicable to the relevant party and as may be in effect on the date of the execution of this Agreement and during the subsistence thereof, applicable to the Project.
- (d) **“Bid Amount”** means the amount specified in **Schedule -2**
- (e) **“BSTDC”** means, Bihar State Tourism Development Corporation Limited, a Government of Bihar undertaking
- (f) **“Consulting Agency”/ “Consultant”** means M/s _____ or appointed consultant by BSTDC.
- (g) **“Contract”** is used synonymously with Agreement.
- (h) **“Effective Date”** means the date of start of the assignment and is _____
- (i) **“GoB”** means Government of Bihar.
- (j) **“Intellectual Property”** includes inventions (whether patentable or not), patents, patent applications, registered designs and applications thereof, copyright material including computer software, technical information and know-how.
- (k) **“Law”** shall mean any Act, notification, by law, rules and regulations, directive, ordinance, order or instruction having the force of law enacted or issued by the Central Government and/ or the Government of Bihar or any other Government or regulatory authority or political subdivision of government agency.
- (l) **“LOI”** means issuing of Letter of Intent, which shall constitute the intention of tenderer to place the Purchase Order with the successful bidder.
- (m) **“Request for Proposal (RFP)”** means the RFP for engagement of an agency for providing consultancy services for project management and other services by BSTDC
- (n) **“Requirements”** shall mean and include schedules, details, description, and statement of technical data, performance characteristics, standards (Indian as well as

International) as applicable and specified in the RFP and respective corrigendum and undertaking received.

- (o) **“Parties”** means BSTDC and the Consultants collectively and **Party** means either BSTDC or the Consultants as the context may demand.
- (p) **“Project”** means Project Implementation as per the standards and acceptance criteria prescribed by BSTDC.
- (q) **“Services”** means providing consultancy services for project for BSTDC as specified in **Schedule ____**. This Schedule may be altered by adding or deleting any service thereto or there from by mutual written agreement of the Parties.
- (r) **“Stake Holders”** means GoB and its various departments, BSTDC and its nominated agencies and consultants.

1.2 In this Agreement unless the context demands otherwise:

- i. Words used in singular shall include the plural and vice-versa.
- ii. Words denote of one gender shall denote the other gender.
- iii. A person includes a legal or natural person or a partnership, firm, trust, government, or local authority and shall also include the legal representative or successor in interest of such person.

1.3 Ambiguities within Agreement

In case of ambiguities or discrepancies within this Agreement, the following principles shall apply:

- a. As between two Articles/Clauses of this Agreement, the provisions of a specific Article/Clause relevant to the issue under consideration shall prevail over those in a general Article/Clause;
- b. As between the provisions of the Agreement and the Schedules/Annexure, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules/ Annexures; and
- c. As between any value written in numerals and that in words, the value in words shall prevail.

1.4 Priority of documents

This Agreement, including its Schedules and Annexures, represents the entire agreement between the Parties as noted in this Article. If in the event of a dispute as to the interpretation

or meaning of this Agreement it should be necessary for the Parties to refer to documents forming part of the bidding process leading to this Agreement, then such documents shall be relied upon and interpreted in the following descending order of priority:

- a. This MSA along with the, Schedules and Annexure;
- b. RFP and Corrigendum to the request for Proposal (if any) and the clarifications and undertakings submitted by Consultant.
- c. Technical proposal submitted by consultant dated _____
- d. For the avoidance of doubt, it is expressly clarified that in the event of a conflict between this agreement, Annexure / Schedules or the contents of the RFP, the terms of this agreement shall prevail over the Annexures / Schedules and Annexures / Schedules shall prevail over the contents and specifications of the RFP.

ARTICLE 2 – OBLIGATIONS OF THE PARTIES

- 2.1 The CONSULTANT must deliver services as per scope mentioned in **Schedule- 1** (detail requirement as mentioned in the RFP and subsequent undertaking received)
- 2.2 BSTDC or BSTDC appointed person shall be responsible for monitoring the performance of the Consultant deployed by SELECTED BIDDER and verification and validation of all invoices submitted by SELECTED BIDDER and will recommend the eligible payment in accordance with this Agreement.
- 2.3 Selected Bidder will take all the reasonable endeavors and necessary steps for ensuring the maintenance of correctness and genuineness of all or any of the information/ Data being the subject matter of this agreement.

ARTICLE 3 – SAFETY MEASURES

- 3.1 The Consultant shall at all time ensure the safety of its personnel. However, if Consultant's employees shall be deployed at BSTDC's premises, hence BSTDC shall ensure to maintain the health, safety and hazard protection measures etc. to the extent required by law at its premises.

ARTICLE 4 – EFFECTIVE DATE AND TERM

- 4.1 This Agreement shall come into force and effect from the effective date and, unless terminated earlier as per the terms of the agreement, shall remain in force for a period of six Months from the effective date (Term).

ARTICLE 5 – STATUTORY OBLIGATIONS

- 5.1 Consultant shall pay all the government levies and taxes applicable on consultant for provision of Services under this Agreement and shall produce upon BSTDC's request all proof of such payments.
- 5.2 Consultant shall comply with all Applicable Laws and statutes. BSTDC shall not be liable in any manner whatsoever for any non-compliance on part of Consultant of the Applicable Laws. Consultant shall maintain all requisite records, registers etc. which are obligatory under any Applicable Law in connection with the services being rendered or work being performed to BSTDC and shall provide such information as may be required under any law to any authority.
- 5.3 Consultant shall ensure compliance with all applicable laws, local and Central, including all labour laws as applicable on (selected bidder) for provision of Services under this Agreement. The Consultants shall be responsible to furnish all reasonable information/documents to BSTDC in this regard as may be required by it from time to time.
- 5.4 The personnel assigned by consultant to perform the Services shall be employees of the consultant, and under no circumstances shall such personnel be considered employees of BSTDC. The consultant shall have the sole responsibility for the supervision and control of the personnel deployed in the Project and for payment of such personnel's compensation, including salary, withholding of income taxes, employee, and disability benefits EPF, ESI and the like and shall be responsible for all obligations of an employer subject to Applicable Laws.

ARTICLE 6 – PAYMENT TERMS

- 6.1 In consideration of the Services and subject to the provisions of this Agreement the Consultants shall be paid in accordance with payment terms specified in Schedule I attached hereto.
- 6.2 BSTDC shall pay any taxes including services, sales, use, value added or other such taxes that are due in relation to the Goods and Services.

BSTDC undertakes to submit all the necessary information and documents, including, GSTIN of BSTDC, BSTDC's site, Billing Location, Certificate of Goods and Services Tax (GST), Registration and such other documents that may be required by consultant to adhere to Statutory compliances as applicable under GST Law. Consultant shall not be responsible for verification of GST registration number. Any tax liability arising consequent to non-compliance of law or due to furnishing of incorrect registration shall be borne by BSTDC.

In the event, BSTDC fails to furnish GST registration number, BSTDC will be treated as “unregistered”.

BSTDC acknowledges and agrees that in event any enquiry, scrutiny, audit, assessment or any other tax proceedings are initiated against the Consultant, BSTDC shall fully support and cooperate with Consultant by furnishing the relevant information and documents, related to the service provided by Consultant, on timely basis as may be required by the Consultant.

ARTICLE 7 – CONFIDENTIALITY

- 7.1 The Term “Confidential Information” for the purpose of this clause means any information, including information created by or for the other party, whether written or oral (which is confirmed in writing by disclosing party within 15 (fifteen) days of such oral disclosure), which relates to internal controls, computer or data processing, programs, algorithms, electronic data, processing applications, routines, sub routines, techniques or systems, or information concerning the business or financial affairs and methods of operation or proposed methods of operation, accounts, transactions, proposed transactions or security procedures of either party or any of its affiliates, or any client of either party.
- 7.2 Either party shall keep any confidential information with the same degree of care as it would treat its own confidential information of similar nature, which degree of care in no case shall be less than reasonable.
- 7.3 Either party shall use the confidential information only for the purpose of this agreement and not for any other purposes.
- 7.4 Either party shall cause all its employees or agents which have been given access to the confidential information bound by the confidentiality obligations of this agreement.
- 7.5 The obligations of confidentiality under this section shall survive even termination or expiration of this agreement and for a period of one year thereafter.
- 7.6 Nothing in this agreement shall prevent a party from treating confidential information as non-confidential, if such information is:
 - a) in the possession of, or was known to such party prior to its receipt, without an obligation to maintain its confidentiality;
 - b) becomes generally known to the public without violation of this agreement by such party;
 - c) obtained by such party from a person

- i) Who such party does not know to have violated, or to have obtained such information in violation of any obligation to another person or other party with respect to such information;
 - ii) Who does not require such party to refrain from disclosing such information;
 - iii) Who has the right to disclose it, without the obligation to keep such information confidential
- d) independently developed by such party without the use of confidential information and without the participation of individuals who have had access to confidential information.
- e) is required to be disclosed by such party under the compulsion of law, or by order of any court or government or regulatory body to whose supervisory authority the receiving party is subject.

ARTICLE 8 – INDEMNIFICATION

- 8.1 Subject to final judicial determination, the Consultant hereby agrees to indemnify and hold harmless and undertake to defend BSTDC, and their respective employees, officers and directors against any claim made by a third party for infringement of such 3rd parties' copyright by any deliverable of consultancy firm provided by the consultancy firm under this agreement. However, the indemnity obligations shall not apply to infringements caused by modifications to the deliverables provided by consultant under this agreement or that result from any designs, specifications or other information provided by BSTDC or from combination of such work with information, products or services not provided by consultant.
- 8.2 BSTDC acknowledges that Consultant accepts no liability to anyone, other than the BSTDC, in connection with the services hereunder.

ARTICLE 9- NOTICE

- 9.1 Except as specifically provided elsewhere in the Agreement, no notice, acceptance, approval, consent or claim under or in pursuance of this Agreement shall be valid unless the same is in writing and shall be sufficient if sent by registered mail or reputed courier to the under mentioned address and received by the other Party.

- (i) **To BSTDC:**

Attention: Managing Director, BSTDC

e-mail:

(ii) To _____

Attention: _____

e-mail: _____

9.2 The Notice, consent, acceptance, or approval sent by e-mail shall be deemed to have been given or made when delivered in person/ sent by such mode having proof of dispatch, at the given address to an authorized representative of the Party specified above.

ARTICLE 10 – REPRESENTATION AND WARRANTIES

10.1 Consultant represents and Warrants that:

- (a) It is a company duly organized and validly existing under the laws of India and has all requisite legal power and authority and corporate authorization to execute this agreement and carry out the terms, conditions and provisions hereof.
- (b) It has in full force and effect all requisite clearances, approvals and permits necessary to enter into this Agreement and perform its obligations hereof.
- (c) The Agreement and the transactions and obligations hereof do not contravene its constitutional documents or any law, regulation or government directive and will not contravene any provisions of, or constitute a default under, any other Agreement or instrument to which it is a party or by which it or its property may be bound or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers or cause it to exceed its authorized powers.
- (d) It has signed this Agreement after having itself fully acquainted with the local conditions and factors which would have any effect on the performance of this Agreement.
- (e) It shall not seek any change in the time schedule of this Agreement or any financial adjustments arising thereof on account of its failure to know the local conditions.
- (f) There are no pending or threatened actions, suits or proceedings affecting the Consultant or its Affiliates (Affiliates for the purpose of this agreement shall mean the Affiliates in India) or any of their respective assets before a court, governmental agency, commission or arbitrator or administrative tribunal which affects Consultant's ability to perform its obligations under the Agreement; and neither

Consultant nor any of its affiliates have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution or otherwise).

- (g) All representations and warranties of consultant set forth in the Agreement are true, complete and correct in all respects.
- (h) No information given by consultant in relation to this Agreement, project documents or any document comprising security contains any material misstatement of fact or omits to state as fact which would be materially adverse to the enforcement of the rights and remedies of BSTDC or which would be necessary to make any statement, representation or warranty contained herein or therein true and correct.
- (i) Consultant shall ensure compliance with all applicable laws, local and Central and shall keep BSTDC indemnified and harmless in case of any action for violation by consultant of any of the applicable laws so long as this arrangement is in force. For all purposes the persons deployed will be employees of consultant and they will have no relation whatsoever with BSTDC. Consultant shall be responsible to furnish all such information/documents to BSTDC in this regard as may be required by it from time to time. Furthermore, Consultant shall be responsible to furnish self-attested copies of all returns/ Challans filed by consultant in the office of EPF, etc. on demand of BSTDC, in case, the Consultant fails to submit or not willing to submit the copies of returns, first party shall be entitled to stop the payments till the submissions of the returns.
- (j) In event of any theft, loss, damage, destruction, or any other act of vandalism or sabotage of the property of BSTDC in the possession of the Consultant by virtue of this Agreement, Consultant shall be liable to indemnify BSTDC to the extent of damage or loss so caused.

ARTICLE 11 – TERM AND TERMINATION

11.1 This Agreement may be terminated by BSTDC by giving one month's notice in writing to the Consultant upon failure by agency in performance of its material obligations i.e. performance is not materially in accordance with the agreed specifications, non-adherence to the timelines of the project, quality of work is not agreed in writing between the parties, and consultant fails to cure such breach/ failure by following the procedure specified in clause 11.4 (b) below.

- 11.2 In the event of premature termination of this agreement by BSTDC, BSTDC shall make payment to the Consultant for the deployment of resources/ milestones achieved by the Consultant (including the work in progress) till the effective date of termination and the same will be within 60 days of the termination of the agreement,
- 11.3 The Consultant on transit period will endeavor to transfer all the work in progress and knowledge out of the project (excluding its confidential information) as per the mutually agreed terms provided that such transition assistance period shall not extend beyond one (01) month.
- 11.4. This Agreement shall be terminated by either Party upon the happening of all or any of the following events:
- (a) Upon the other Party being declared insolvent or bankrupt.
 - (b) Upon the other Party committing a material breach or being in default of all or any of the terms, conditions, covenants, under-takings and stipulations of this Agreement. In case of material breach, the aggrieved Party shall give notice in writing of such default in observance or performance of any of the terms or conditions of this Agreement to the Party in default. If the Party in default effectively remedies such breach or default within the period, not being less than 30 (thirty) days, from the date of receipt of such notice, designated by such notice then the Agreement shall remain in force. Where the default by the Consultant is as a result of or consequent to technical non-feasibility, which requires modification/alteration in the scope of work so as to replace the technical non-feasible deliverable with a feasible deliverable, then such default shall not be considered as a Default by the CONSULTANTS under the provisions of this Clause;
 - (c) By mutual agreement in writing between the Parties.
- 11.5 Upon expiration or termination of this Agreement;
- a) the CONSULTANT shall;
 - (1) Notify to BSTDC forthwith with the particulars of all project assets.
 - (2) Deliver relevant records and reports pertaining to the Project and its design, engineering, operation, and maintenance including all operations and maintenance records and manuals pertaining thereto and complete as on date of termination or expiration.
 - b) BSTDC shall expeditiously settle the accounts not later than 60 days from the date of termination.

ARTICLE 12 - FORCE MAJEURE

- 12.1 Except as provided herein neither party shall be responsible to the other for any delay or failure in performance of its obligations due to any occurrence commonly known as Force Majeure which is beyond the control of any of the Parties, including, but not limited to, fire, flood, explosion, acts of God or any Governmental body, public disorder, riots, embargoes, or strikes, acts of military authority, epidemics, insurrections, civil commotion, war, enemy actions.
- 12.2 If a Force Majeure arises, the CONSULTANTS shall notify within 12 Hours to BSTDC in writing of such condition and the cause thereof. Unless otherwise directed by BSTDC, the CONSULTANTS shall continue to perform his obligations under the Agreement as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 12.3 The CONSULTANTS shall notify BSTDC of such event providing evidence thereof as soon as possible and, in any case, not later than 48 hours following the occurrence of such event and shall similarly give written notice of the restoration of normal conditions as soon as possible. The consulting firm shall be excused from performance of his obligations in whole or part and the timelines for completion of the services shall be extended for a period equal to the time such causes (Due to Force majeure), circumstances or events continue to prevent or delay such performance.

ARTICLE 13- ARBITRATION

- 13.1 BSTDC and Consultant shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with this Agreement.
- 13.2 If, after thirty (30) days from the commencement of such informal negotiations, any and all disputes, controversies and conflicts (“Disputes”) arising out of this Agreement between the parties or arising out of or relating to or in connection with this Agreement or the performance or non-performance of the rights and obligations set forth herein or the breach, termination, invalidity or interpretation shall resolve or settle amicably through mutual negotiation and discussions, if the dispute/disputes is not settled amicably then in that case it shall be finally decided by reference to Bihar Arbitration Tribunal in accordance with Arbitration and Conciliation Act, 1996 or any amendments thereof. The place of arbitration shall be Patna and the language used in the arbitral proceedings shall be English. The

Arbitral award shall be in writing and shall be final and binding on each party and shall be enforceable in any court of competent jurisdiction. The Arbitration panel shall constitute three (3) arbitrators. Parties agree that one arbitrator shall be appointed by each party, and third presiding arbitrator shall be appointed by agreement of the two party appointed arbitrators within 14 (fourteen) days of the appointment of the second arbitrator.

ARTICLE 14 - GOVERNING LAW & JURISDICTION

14.1 This Agreement shall be governed by the laws of India and courts at Patna shall have exclusive jurisdiction over matters relating to or arising from this Agreement.

ARTICLE 15- HEADINGS & SCHEDULES

15.1 The headings for each Article in the Agreement have been inserted for convenience of reference only and are not intended to limit or expand the meaning of the language contained in the particular Article.

15.2 The Schedules to this Agreement form an integral part of this Agreement and will be interpreted in consonance with the article or provision referring to the Schedule.

ARTICLE 16 - INDEPENDENT CONTRACTOR

16.1 This Agreement is being entered into on a principal-to-principal basis and that (*selected bidder*) is an independent entity and not an agent and/or employee of BSTDC. Consultant agrees that it will not present itself as an agent of BSTDC. Consultant shall not enter into any agreement or arrangement which will bind BSTDC legally or otherwise, without the prior written consent of BSTDC.

16.2 For the purposes of the Agreement each Party thereto shall be deemed to be an independent contractor and not the other party's agent or employee. Nothing herein contained shall be construed as a Joint venture, a partnership or an agency nor shall any similar relationship be deemed to exist between the Parties except as specifically provided herein.

16.3 Without prejudice to the generality of the foregoing, Consultant shall ensure compliance with all laws relating to employment including the payment of provident fund, employee's state insurance and other dues under the provision of services in this agreement.

16.4 In case of default in compliance as aforesaid Consultant shall be solely responsible for the consequences and that neither BSTDC nor the State of Bihar nor the instrumentalities of the State of Bihar shall in any way be responsible or liable for such default.

ARTICLE 17 – CHANGE PROCEDURE

17.1 In case BSTDC desire any change in the scope of consultant relating to additional work or the extension of team for performing additional work or additional roles, such additional requirement shall be conveyed to the consultant by BSTDC. Consultant shall submit their proposal for such additional work/ additional manpower along with the cost of the proposed changes. The rates for additional manpower shall be based on the rates effective on the basis of financial proposal submitted by the consultant (attached in Schedule 2). For any other additional work, Consultant shall convey to BSTDC the time schedule and cost of the proposed additional work. BSTDC shall signify either its approval or disapproval to consultant within 7 (seven) days of receipt of such proposal from the consultant. If BSTDC does not accept the estimation, then the change request shall be deemed to be cancelled and Consultant shall be relieved from all obligations to perform such change. If the consultant any change in the team due to unavoidable reasons, the replacement CV shall be submitted by the consultant to BSTDC. Such replacement should meet the eligibility criteria of the position prescribed in the RFP.

ARTICLE 18- LIMITATION OF LIABILITY

18.1 Notwithstanding anything contained in this Agreement:

- a) Consultant's aggregate liability under this Agreement in respect of any or all claims is limited to total Contract/Agreement value. Consultant shall not be liable for any special, indirect, incidental, or consequential damages of any kind including but not limited to loss of use, data, profit, income, business, anticipated savings, reputation, and more generally, any loss of an economic or financial nature, whether these may be deemed as consequential or arising directly and naturally from the incident giving rise to the claim.
- b) Consultant shall not be liable for delay in discharging its obligations, to the extent that such delay or failure is attributable to BSTDC. In case of such delay, the Consultant shall be entitled to an extension of time to perform its obligations and unless otherwise agreed between the Parties.

18.2 Notwithstanding anything contrary contained in the agreement the Consultant shall not be liable for any liquidated damage, penalty, or termination on account of non-receipt of bids in response to any tender prepared by the Consultant as part of deliverables under this agreement.

ARTICLE 19- INTELLECTUAL PROPERTY RIGHTS

- 19.1 All Intellectual Property under the RFP and/ or the Contract will belong exclusively to Government of Bihar, except the preexisting Intellectual Property Rights of the Consultant or its subcontractors (if any). Upon payment in full, GoB shall at all times retain all right, title and interest in and to any intellectual property rights in the deliverables to be provided by the Consultant under this agreement and any modifications thereto or Works derived from there except the preexisting intellectual property rights of Consultant or its subcontractors (if any). It is thereby expressly clarified that the Consultant shall have no right, title or interest in or to such intellectual property rights for any purpose, except the right to use, modify, enhance and operate such designs, programs, modifications as per requirement of BSTDC. Consultant shall not use such intellectual property for any other purpose during and after the term of the Contract.
- 19.2 No services covered under the Contract shall be sold or disposed by the Consultant in violation of any right whatsoever of 3rd party, and in particular, but without prejudice to the generality of the foregoing, of any patent right, trademark or similar right, or any charge, mortgage, or lien.
- b) Subject to clause (c) below, the intellectual property rights of all the database, programs, reports, formats etc. developed/ created for the project would be of BSTDC/ GoB.
 - c) The consultant shall continue to retain sole ownership of the pre-existing proprietary knowledge, tools, methodology, templates, and intellectual property content brought in by the Consultant to this engagement and/ or incorporated in the deliverables submitted by consultant to BSTDC. Further, any 3rd party licenses other than the hardware and software to be used by the Consultant's resources for delivering the deliverables under the contract, necessary for the performance of the services under this agreement, would need to be procured by BSTDC.
- 19.3 The Consultant hereby undertakes;
- 19.3.1 Not to provide access to the intellectual property of BSTDC to persons other than authorized users.
 - 19.3.2 To ensure that all authorized users are appropriately notified of the importance of respecting the intellectual property rights and that they are made aware of and undertake to abide by the terms and conditions of this tender document and the Contract.
 - 19.3.3 Not to permit any person, other than the authorized users, to copy, duplicate, translate into any language, or in any way reproduce the intellectual property.

- 19.3.4 To effect and maintain reasonable security measures to safeguard the intellectual property from unauthorized access or use by any third party other than the authorized user.
- 19.3.5 To notify BSTDC promptly that any unauthorized disclosure, use or copying of the intellectual property of which the Consultant becomes aware.
- 19.3.6 To change the manpower deployed if BSTDC notifies issue in the satisfactory performance of the respective resource

ARTICLE 20 - TERMINATION

20.1 Termination for defaults - The client may without prejudice to any other remedy for breach of agreement, by written notice of default sent to the consultants, terminate the agreement in whole or in part:

- a. If the Bidder fails to deliver any or all of the services within the time period(s) specified in the agreement or any extension thereof granted by the client in writing for the reasons solely attributable to the Bidder.
- b. If the Bidder fails to perform any other obligations under the agreement for the reasons solely attributable to the Bidder, Or
- c. If the Bidder refuses to accept and perform the assignment given by the client within the scope of this contract.”

20.2 Termination for insolvency

- a. The client may at any time also terminate the agreement by giving written notice to the Bidder without any compensation to the Bidder, if the Bidder becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the client.
- b. The client shall have the liberty to postpone or not to execute any work and the t Bidder shall not be entitled to any compensation for non-execution of the work except the fees which are payable to the Bidder up to the stage of services already submitted.
- c. The agreement shall be governed by the Indian laws in force from time to time and the courts at Patna shall alone have exclusive jurisdiction to entertain and try any or all matters arising out of this agreement.
- d. Any disputes or differences in connection with the agreement shall be to the extent possible, settled amicably between the parties. If it cannot be reached then all disputed

issues shall be settled by arbitration as proposed hereafter, subject to termination clause mentioned in this agreement.

ARTICLE 21 - LIQUIDITY DAMAGE

- 21.1 Except as provided under clause "Force Majeure," if the selected bidder fails to deliver Services within the period specified in the Contract, BSTDC may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as Liquidated damages, a sum as specified as in this document for delay until actual delivery, up to a maximum deduction 10% of contract value. Once the maximum is reached, BSTDC may terminate the Contract pursuant to clause "Termination."
- 21.2 BSTDC shall examine the justification of causes of hindrance in the delivery of service and the period of delay occurred due to that and grants extension with or without liquidated damages.
- 21.3 If BSTDC agrees to extend the delivery period schedule, an amendment to the contract with suitable denial clauses and with or without liquidated damages, as the case may be, shall be issued. The amendment letter shall mention that no extra price or additional cost for any reason, whatsoever beyond the contracted cost shall be paid for the delayed supply of service.
- 21.4 If BSTDC is in need of the service rendered after expiry of the stipulated delivery period, it may accept the services and issue a letter of extension in delivery period.
- 21.5 The aggregate liability under this agreement in respect of any or all claims is limited to the total contract/ agreement value.

ARTICLE 22 - EXIT MANAGEMENT

In the case of termination of the agreement, the parties shall agree at that time whether, and if so during what period, the provision of this clause shall apply. The parties shall ensure that their respective associated entities carry out their respective obligations before the expiry of the exit management period which will be decided by both the Parties and the Consultant will deliver all the information and knowledge out of this assignment to BSTDC or to any team as may be mutually agreed between Parties.

BSTDC and the **CONSULTANT** have caused this Agreement to be executed, in duplicate, by their respective duly authorized officers on the date, month and year and at the place indicated below.

SIGNED AND DELIVERED BY

In the presence of

(on behalf of **BSTDC**)

Signature

Signature

Name & Designation:

Name & Designation.....

Address:

Witness 1: _____

Witness 2: _____

SIGNED AND DELIVERED BY (on behalf of

In the presence of

M/s _____

Signature

Signature:

Name & Designation

Name & Designation:

Address: _____

Witness 1: _____

Witness 2: _____

SCHEDULE 1

- A. Scope of Services as per RFP**
- B. Deployment of Manpower as per RFP**
- C. Payment Terms as per RFP**

SCHEDULE 2

Financial details as per approved rates quoted by bidder