

**REQUEST FOR PROPOSAL
DOCUMENT**

FOR

SELECTION

OF

CONTRACTOR - CUM - O&M SERVICE PROVIDER

THROUGH COMPETITIVE BIDDING PROCESS

FOR

**IMPLEMENTATION OF
24x7 WATER SUPPLY SYSTEM
IN THE CITY OF COIMBATORE**

ISSUED BY

COIMBATORE CITY MUNICIPAL CORPORATION

CONTENTS

S. No.	Contents	Page No.
	Letter of Invitation	3
	Disclaimer	5
	Glossary	7
	Invitation for Proposals	8
1	Introduction	9
	1.1 Background	9
	1.2 Brief description of Bidding Process	12
	1.3 Schedule of Bidding Process	13
	1.4 Pre-Bid Conference	13
2	Instructions to Bidders	13
	A General	13
	2.1 General terms of Bidding	13
	2.2 Change in composition of the Consortium	17
	2.3 Change in Ownership	18
	2.4 Cost of Bidding	19
	2.5 Site visit and verification of information	19
	2.6 Verification and Disqualification	19
	B Documents	20
	2.7 Contents of the RFP	20
	2.8 Clarifications	21
	2.9 Amendment of RFP	21
	C Preparation and Submission of Bids	22
	2.10 Format and Signing of Bid	22
	2.11 Sealing and Marking of Bids	22
	2.12 Bid Due Date	23
	2.13 Late Bids	23
	2.14 Contents of the Bid	23
	2.15 Modifications/ Substitution/ Withdrawal of Bids	24
	2.16 Rejection of Bids	24
	2.17 Validity of Bids	24
	2.18 Confidentiality	24
	2.19 Correspondence with the Bidder	24

D	Bid Security	25
	2.20 Bid Security	25
3	Evaluation of Bids	26
	3.1 Opening and Evaluation of Bids	26
	3.2 Tests of responsiveness	26
	3.3 Selection of Bidder	27
	3.4 Contacts during Bid Evaluation	27
4	Fraud and Corrupt Practices	27
5	Pre-Bid Conference	29
6	Miscellaneous	29
	Appendices	30
I	Letter comprising the Bid	30
II	Bank Guarantee for Bid Security	47
III	Power of Attorney for signing of Bid	50
IV	Power of Attorney for Lead Member of Consortium	52
V	Format of Joint Bidding Agreement	53

Coimbatore City Municipal Corporation

LETTER OF INVITATION

Dated [•]

To,

[Insert name and address of bidder]

Sub: RFP for Implementation of 24x7 Water Supply System in the City of Coimbatore

Dear Sir,

Pursuant to your submission in response to our Request for Qualification for the subject stated project, the RFQ, you were short listed as a Bidder.

You are requested to participate in the RFP Stage and submit your Bid (as defined hereinafter) either by post or courier or by hand for the subject stated project in accordance with the RFP document enclosed herewith.

Please note that the Authority reserves the right to accept or reject all or any of the bids without assigning any reason whatsoever.

Thanking you,

Yours faithfully,

(Signature, name and designation of the Signatory)

Disclaimer

The information contained in this Request for Proposals document (the “**RFP**”) 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 its 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 making their financial offers (Bids) pursuant to this RFP. 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 investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially Volume III (“Technical Terms of Reference”), may not be complete, accurate, adequate or correct. 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 may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or 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 for participation in this Bid Stage.

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

The 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 a Bidder or to appoint the Successful Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the 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 a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

Glossary

Authority	As defined in Clause 1.1.4
Associate	As defined in Clause 2.1.14
Bank Guarantee	As defined in Clause 2.20.1
Bid	As defined in Clause 1.2.2
Bidders	As defined in Clause 1.2.2
Bidding Documents	As defined in Clause 1.1.10
Bid Due Date	As defined in Clause 1.1.10
Bidding Process	As defined in Clause 1.2.1
Bid Security	As defined in Clause 1.2.4
Bid Stage	As defined in Clause 1.2.1
Concession	As defined in Clause 1.1.5
Concession Agreement	As defined in Clause 1.1.5
Concessionaire	As defined in Clause 1.1.5
Conflict of Interest	As defined in Clause 2.1.14
Damages	As defined in Clause 2.1.14
Estimated Project Cost	As defined in Clause 1.1.4
Feasibility Report	As defined in Clause 1.2.3
LOA	As defined in Clause 3.3.5
Member	Member of a Consortium
PPP	Public Private Partnership
Project	As defined in Clause 1.1.4
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in the Disclaimer
RFQ	As defined in Clause 2.1.2
Successful Bidder	As defined in Clause 3.3.1

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto hereinabove. The words and expressions beginning with capital letters and not defined herein, but defined in the RFQ, shall, unless repugnant to the context, have the meaning ascribed thereto therein.

Invitation for Proposals

Coimbatore City Municipal Corporation

1. INTRODUCTION

1.1 Background

1.1.1 About Coimbatore

Coimbatore also known as Kovai, is a city in India. It is the second largest metropolitan city and urban agglomeration after Chennai in the Indian state of Tamil Nadu. It is one of the fastest growing tier-II cities in India and a major textile, industrial, commercial, educational, information technology, healthcare and manufacturing hub of Tamil Nadu. Other important industries include software services. It is the capital city in the Kongu Nadu region and is often been referred to as the Manchester of South India. The city is located on the banks of the Noyyal River surrounded by the Western Ghats and is administered by the Coimbatore Municipal Corporation. Coimbatore has been ranked 4th among Indian cities in investment climate by CII and ranked 17th among the top global outsourcing cities by Tholons. Coimbatore is the fourth largest metropolis in South India. Coimbatore city is the administrative capital of Coimbatore district.

1.1.2 Demographic Characteristics

As per the 2011 census, the Urban Local Body had a population of 1,601,438. In the urban agglomeration, males constitute 50.08% of the population and females 49.92%. Coimbatore has an average literacy rate of 89.23%, higher than the national average of 74.04%. Male literacy is 93.17% and female literacy is 85.3% with 8.9% of the population under 6 years of age. The Sex ratio was 964 females per 1000 males. In 2011, the population density in the city was 10,052 per km² (26,035 per mi²).

1.1.3 Rationale for the Project

Water supply distribution, as a national scenario, is being performed as an intermittent service rendered, subject to limitations contained in various water supply schemes. Decision has been taken at national level that, as far as possible, water distribution in urban areas should be provided as a continuous service for 24 hours a day and 365 days in a year, with occasional minor interruptions as may be permitted by the relevant government authorities. This has been widely accepted by all the States in India. Efforts have been commenced for converting the existing water supply systems to 24 x 7 levels through appropriate improvements.

As a pioneer exercise of improving its service levels, the Authority has decided to upgrade the existing water supply system in the core areas, so that it will provide 24 x 7 water supply to all its customers.

1.1.4 The Proposed Project

Coimbatore City Municipal Corporation (the “**Authority**”) is desirous to select an entity who shall upgrade, operate and maintain the existing water supply system in Coimbatore City into 24x7 water supply system (“**Project**”) that the Project shall be executed by the Successful Bidder adjudged as successful pursuant to the bidding process under this RFP. The Project shall be implemented through public-private partnership (the “PPP”) model on Build, Transfer and Operate (the “BTO”) basis in two stages i.e., construction under the engineering, procurement and construction stage and the operation and maintenance of the Project under the O&M stage. A part of the capital expenditure required for the Project shall be incurred from the grants to be received from the Authority, the Government of India (“GOI”), Government of Tamil Nadu (“GOTN”) as per the provisions of the JNNURM scheme and the Tamil Nadu Infrastructure Development Board (“TNIDB”). Brief particulars of the Project are as follows:

Name	Broad Details of existing facilities	Estimated Construction Cost (In Rs. cr.)	Project
Up gradation of the existing water supply and distribution system in the city of Coimbatore into a 24x7 water supply system	Feeder Mains – 105 kms Supply in 63 zones 1.50 lakh household connections	556.57	

1.1.5 The Successful Bidder, who is either a company incorporated under the Companies Act, 1956/ 2013 or undertakes to incorporate as such prior to execution of the project agreement (the “**Concessionaire**”), shall be responsible for development of the Project on build, transfer and operate basis under and in accordance with the provisions of agreement for development cum operation and maintenance (the “**Concession Agreement**”) to be entered into between the Successful Bidder and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto.

1.1.6 Scope of Work

The scope of work involved in the implementation of the Project shall be as follows:

1.1.6.1 Engineering, Procurement, and Construction (EPC) stage: The EPC stage would primarily focus on the up-gradation into 24x7 water supply system of the existing water supply and distribution system in the city of Coimbatore consisting of the following:

- a. Feeder Mains: 105 Km
- b. Sump, Pumpsets and Diesel Generators
- c. Service Reservoirs: 29 nos. with 40.20 ML Capacity
- d. Distribution system: 63 Zones of 1470 Kms Pipe length
- e. House Service Connections (1.5Lakh Nos.)
- f. Special Components such as:
 - Automatic Hand Held Meter reading System (5 Nos.)
 - Any Time Payment Machine (5 Nos)
 - Bulk Water Meter With Data Logger (101 Nos)

- Gas Chlorination Disinfection (2Nos)
 - Rider Mains of 90 Kms Length
- g. Common Components such as:
- Water Quality Test Laboratory (1 No)
 - SCADA for Monitoring (1 No)

1.1.6.2 Operation and Maintenance (O&M) stage: The O&M stage would primarily focus on operation management and maintenance of the 24x7 water supply system, broadly consisting of the following activities:

a. Operation of the 24X7 water supply system consisting of activities such as:

- Storage and distribution of water to customers with the agreed boundary
- Billing, collection and entire customer service

b. Management and Maintenance of the 24x7 water supply system consisting of the following activities:

- Leakage detection and prevention
- Providing new connections
- Repair and replacement of existing/newly created assets
- Monitoring and reporting
- Generating bills of the customers on behalf of the Authority, collection of moneys from such customers and depositing the same into an escrow account as well as timely submission of reports containing the details of the defaulters to the Authority for necessary action.

1.1.7 The estimated construction cost of the Project (the “**Estimated Project Construction Cost**”) has been specified in Clause 1.1.4 above. The assessment of actual costs, including the O&M component however, will have to be made by the Bidders.

1.1.8 The Authority shall execute the Concession Agreement which shall provide the detailed terms and conditions for grant of rights for the development and operation of the Project.

1.1.9 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 Contractor set forth in the Concession Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the scope of work. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP 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.

1.1.10 The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFP, as modified, altered, amended and clarified from time to time by the Authority (collectively the “**Bidding Documents**”), and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Bid (the “**Bid Due Date**”).

1.2 Brief description of Bidding Process

- 1.2.1 The Authority has adopted a two-stage bidding process (collectively referred to as the “**Bidding Process**”) for selection of the Bidder for award of the Project. The first stage (the “**Qualification Stage**”) of the process involved pre-qualification of interested parties/ Consortia in accordance with the provisions of the RFQ. At the end of the Qualification Stage, the Authority short-listed Applicants who are eligible for participation in the second stage of the Bidding Process (the “**Bid Stage**”) comprising Request for Proposal.
- 1.2.2 In the Bid Stage, the aforesaid short-listed Applicants, including their successors, (the “**Bidders**”, which expression shall, unless repugnant to the context, include the Members of the Consortium) are being called upon to submit their respective technical proposal and financial proposal (the “**Bid**”) in accordance with the terms specified in the Bidding Documents. The Bid shall be valid for a period of not less than 180 (one hundred and eighty) days from the Bid Due Date (“**Bid Validity Period**”).
- 1.2.3 The Bidding Documents include the draft Concession Agreement for the Project. The statement on the scope of work in the Project prepared by the Authority through its consultants (“**Technical Terms of Reference**”) is also enclosed. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFP document, will be deemed to form part of the Bidding Documents.
- 1.2.4 A Bidder is required to deposit, along with its Bid, a bid security of Rs. 5.6 crores (the “**Bid Security**”), refundable not later than 60 (sixty) days from the expiry of the Bid Validity Period, except in the case of the Successful Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of a bank guarantee acceptable to the Authority. In case a bank guarantee is provided, its validity period shall not be less than 240 (two hundred and forty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 1.2.5 During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids and implementation of the Project.
- 1.2.6 The Bidder who has quoted the lowest as per the financial proposal shall be adjudged successful pursuant to the RFP or such Bidder selected vide Clause 3.4.3 or 3.4.4 shall be selected as the Successful Bidder.
- 1.2.7 The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3 of this RFP, be invited to match the Bid submitted by the Successful Bidder in case such Successful Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Successful Bidder, the Authority may, in its discretion, either invite fresh Bids from the remaining Bidders or annul the Bidding Process.
- 1.2.8 Any queries or request for additional information concerning this RFP shall be submitted in writing by speed post/ courier/ special messenger and by e-mail so as to reach the officer designated in Clause 2.11.2 by the specified date. The envelopes/ communication shall clearly bear the following identification/ title:

“Queries/Request for Additional Information: RFP for Implementation of 24x7 Water Supply System in the City of Coimbatore”.

- 1.2.9 Details of the process to be followed at the Bid Stage and the terms thereof are provided in this RFP.

1.3 Schedule of Bidding Process

The Authority shall endeavour to adhere to the following schedule:

Event Description	Date
1. Pre-Bid Conference	08-02-2016
2. Authority response to queries latest by	16-02-2016
3. Bid Due Date	26-02-2016 up to 3.00 pm
4. Opening of Bids	26-02-2016 at 4.00 pm
5. Validity of Bids	180 days of Bid Due Date
6. Signing of Concession Agreement	Within 45 days of award of LOA

1.4 Pre-Bid Conference

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

Date: **08-02-2016**

Time: 11.00 am

Venue: Corporation Office.

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1. General terms of Bidding

- 2.1.1 No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.
- 2.1.2 Unless the context otherwise requires, the terms not defined in this RFP, shall have the meaning assigned thereto in the Request for Qualification document for the Project (the “**RFQ**”).
- 2.1.3 The Technical Terms of Reference is being provided only as a preliminary reference document by way of assistance to the Bidders. The Bidders are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in Technical Terms of Reference shall be binding on the

Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of Technical Terms of Reference.

- 2.1.4 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.5 The Bid should be furnished in the format at Appendix – VI, clearly indicating the bid amount in both figures and words, in Indian Rupees, 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.
- 2.1.6 The Bidder shall deposit the Bid Security in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security in the form of a Bank Guarantee acceptable to the Authority, as per format at Appendix–II.
- 2.1.7 The validity period of the Bank Guarantee shall not be less than the Bid Validity Period, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 60 (sixty) days from expiry of the Bid Validity Period, except in the case of the Successful Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement.
- 2.1.8 The Bidder should submit a Power of Attorney as per the format at Appendix–III, authorising the signatory of the Bid to commit the Bidder.
- 2.1.9 In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix–IV.
- 2.1.10 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.12 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.13 The documents including this RFP and all attached documents, provided by the Authority are and shall remain or become the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. 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 provisions of this Clause 2.1.13 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.
- 2.1.14 The Bidder having a conflict of interest that affects the Bidding Process shall not be permitted to participate/continue in the Bidding Process. The Bidder shall be deemed to have a conflict of interest, if:

- (i) the Bidder, a Member of a Consortium or their Associate, as the case may be, (or any constituent thereof) and any other individual Bidder, a Member of another Consortium or any of their Associate thereof, as the case may be, (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 of the Bidder, a Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 25% (twenty five per cent) of the paid up and subscribed equity share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 25% (twenty five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance, company, pension fund or a public financial institution referred to in Section 2 (72) of the Companies Act, 2013. For the purposes of this clause, indirect shareholding held through one or more intermediate persons shall be computed as follows:
 - (a) 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
 - (b) subject always to the sub-clause (a) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or
- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
- (iii) such Bidder, or any Associate thereof 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, its Member or any Associate thereof; or
- (iv) such Bidder has the same legal representative for purposes of this Application as any other Bidder; or
- (v) such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other’s information about, or to influence the Application of either or each other; or
- (vi) such Bidder, or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project. Provided that this clause shall not apply where such advisor was engaged by the Bidder or Respondent, its member or associate in the past but such engagement expired or was terminated 6 (six) months prior to the date of issue of

concerned tender document or where such advisor is engaged after a period of 3 (three) years from the date of commercial operation of the project.

For the purpose of the above clause, in addition to the Bidder, the Consortium Members should also individually comply with the requirements specified. Any Bidder, being a consortium and found to have a conflict of interest may be allowed to continue in the Bidding Process subject to the condition that such an Bidder (consortium) within 10 (ten) days from the Bid Due Date removes the member which suffers such conflict of interest.

- 2.1.15 An Bidder shall be liable for disqualification if any legal, financial or technical adviser of Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the expiry of the Bid Validity Period.

For the purpose of the above clause, in addition to the Bidder, the Consortium Members should also individually comply with the requirements specified.

An individual Bidder including any Member or their Associate, as the case may be, 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 authority or a judicial pronouncement or arbitration award against the individual Bidder, Member or their Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, Consortium Member or Associate. Provided, however, that where an Bidder claims that its disqualification arising on account of any cause or event specified in this Clause is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any willful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Authority for seeking a waiver from the disqualification hereunder and the Authority may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

For purposes of this RFP, the term “Associate” shall mean, in relation to the Bidder/Consortium Member, shall mean, in relation to a specified person, any other person who either directly or indirectly controls, is controlled by or is under the common control with such specified person (for the purpose this definition, the expression “control” (including, with correlative meaning, the terms “controlled by” and “under common control with”) means with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than twenty six percent (26%) of the voting shares of such person and/or the power to direct the management and policies of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise).

2.1.16 This RFP is not transferable.

2.1.17 Any award of the Project to the Successful Bidder pursuant to this RFP shall be subject to the terms of Bidding Documents.

2.2 Change in composition of the Consortium

2.2.1 Change in the composition of a Consortium may be permitted by the Authority, only where:

- (a) the application for such change is made no later than 15 (fifteen) days prior to the Bid Due Date;
- (b) the Lead Member continues to be the Lead Member of the Consortium;
- (c) the substitute is at least equal, in terms of Technical Capacity and Financial Capacity, to the Consortium Member who is sought to be substituted;
- (d) the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for the Bidders; and
- (e) the new Member(s) expressly adopt(s) the Application and Responses already made on behalf of the Consortium as if it were a party to it originally, and
- (f) the new Member(s) is not an Bidder/Member/Associate of any other Consortium bidding for this Project.
- (g) the new Member(s) do not have a Conflict of Interest in terms of the RFP and the Tamil Nadu Transparency in Tenders Act, 1998 and Tamil Nadu Transparency in Tenders (Public Private Partnership Procurement) Rules, 2012.
- (h) The approval for change in the composition of the Consortium shall be at its sole discretion of Authority and shall be communicated to Bidder or Consortium in writing.
- (i) The reconstituted consortium shall submit a revised joint bidding agreement.

Notwithstanding anything to the contrary contained in this Clause 2.2.1, an Bidder may, within 10 (ten) days after the Bid Due Date, remove from its Consortium any Member who suffers from a Conflict of Interest.

2.2.2 Approval for change in the composition of a Consortium shall be at the sole discretion of the Authority and must be approved by the Authority in writing. The Bidder must submit its application for change in composition of the Consortium no later than 15 (fifteen) days prior to the Bid Due Date.

2.2.3 The modified/ reconstituted Consortium shall submit a revised Jt. Bidding Agreement in the form at Appendix – V and a Power of Attorney, substantially in the form at Appendix-IV, prior to the Bid Due Date.

2.2.4 The option of change in composition of the Consortium which is available under Clause 2.2.1 may be exercised by any Bidder who is either a Consortium or a single entity. In the case of a single entity Bidder adding a Consortium Member at the Bid Stage, the single

entity Bidder shall be the Lead Member of the Consortium. Provided, however, that no member of such Consortium shall be a Bidder or the member of a Consortium which has been pre-qualified.

2.3 Change in Ownership

2.3.1 By submitting the Bid, the Bidder acknowledges that it was pre-qualified and short-listed pursuant to the RFQ on the basis of Technical Capacity and Financial Capacity of those of its Consortium Members who shall, until the 2nd (second) anniversary of the date of commercial operation of the Project, hold equity share capital representing not less than: (i) 26% (twenty six per cent) of the subscribed and paid-up equity of the Concessionaire; and (ii) 5% (five per cent) of the Estimated Project Construction Cost. The Members of the Consortium shall together hold at least 51% of the paid up and subscribed equity share capital in the Concessionaire till the expiry of the Concession Period and the Member of the Consortium whose technical experience in Operations and Maintenance (O&M) were considered for qualification during the RFQ stage should hold not less than 11% of the paid up and subscribed equity share capital in the Concessionaire subsequent to the minimum lock in period as stated hereinabove. The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such thereunder. For the avoidance of doubt, the provisions of this Clause 2.3.1 shall apply only when the Bidder is a Consortium.

2.3.2 By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Successful 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 terms of the Concession Agreement and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Contractor. 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 Bidding Documents and/ or the Concession Agreement or otherwise.

2.4 Cost of Bidding

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

2.5 Site visit and verification of information

2.5.1 Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, availability of power and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.

2.5.2 It shall be deemed that by submitting a Bid, the Bidder has:

- (a) made a complete and careful examination of the Bidding Documents;
- (b) received all relevant information requested from the Authority;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5.1 above;
- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
- (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire;
- (f) acknowledged that it does not have a Conflict of Interest; and
- (g) agreed to be bound by the undertakings provided by it under and in terms hereof.

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

2.6 Verification and Disqualification

2.6.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFQ, the RFP or the Bidding Documents and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification, or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

2.6.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

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

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified / rejected. If such disqualification / rejection occurs after the Bids have been opened and the Bidder adjudged successful pursuant to Clause 3.4 gets disqualified / rejected, then the Authority reserves the right to:

- (i) invite the remaining Bidders to submit their Bids in accordance with Clauses 3.4.3 and 3.4.4; or
- (ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

2.6.3 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 pre-qualification conditions 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 Contractor either by issue of the LOA or having executed the Concession Agreement, and if the Successful Bidder has already been issued the LOA or has executed the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Successful Bidder or the Contractor, as the case may be, without the Authority being liable in any manner whatsoever to the Successful Bidder or Contractor. In such an 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 Bidding Documents and/ or the Concession Agreement, or otherwise.

B. DOCUMENTS

2.7 Contents of the RFP

2.7.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.9.

Invitation for Bids

- Section 1. Introduction
- Section 2. Instructions to Bidders
- Section 3. Evaluation of Bids
- Section 4. Fraud and Corrupt Practices
- Section 5. Pre-Bid Conference
- Section 6. Miscellaneous

Appendices

- I. Letter comprising the Bid
- II. Format of Bank Guarantee for Bid Security

- III. Power of Attorney for signing of Bid
 - IV. Power of Attorney for Lead Member of Consortium
 - V. Format of Jt, Bidding Agreement
 - VI. Format for Financial Proposal
- 2.7.2 The draft Agreement and the Technical Terms of Reference provided by the Authority as part of the Bidding Documents shall be deemed to be part of this RFP.

2.8 Clarifications

- 2.8.1 Bidders requiring any clarification on the RFP may notify the Authority in writing by speed post/ courier/ special messenger and by e-mail in accordance with Clause 2.11.2. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Bid Due Date. The Authority will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.
- 2.8.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, 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.
- 2.8.3 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 Bidding Documents. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

2.9 Amendment of RFP

- 2.9.1 At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.
- 2.9.2 Any Addendum issued hereunder will be in writing and shall be sent to all the Bidders.
- 2.9.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Bid Due Date.

C. PREPARATION AND SUBMISSION OF BIDS

2.10 The Format and Signing of Bid and Preparation of the Bid

- 2.10.1 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.

- 2.10.2 The Bid and its copy shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid.
- 2.10.3 The Bid shall comprise of two submissions, the technical proposal and the financial proposal.

Technical Proposal:

The technical proposal shall consist of the following:

- (a) Appendix-I (Letter comprising the Bid);
- (b) Power of Attorney for signing the Bid as per the format at Appendix-III;
- (c) if applicable, Power of Attorney for Lead Member of Consortium as per the format at Appendix-IV;
- (d) if applicable, Joint Bidding Agreement for Consortium as per the format at Appendix-V;
- (e) Bid Security submitted in the form of Bank Guarantee in the format at Appendix-II from a Scheduled Bank;
- (f) A copy of the Concession Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (b) or (c) above, as the case may be.

Financial Proposal:

The financial proposal of the Bidder shall consist of a composite quote for the both the stages of the Project, EPC stage and O&M stage. The financial proposal shall be submitted in the format at Appendix – VI. Along with the financial proposal the Bidder shall also submit a financial plan providing the financial projections, setting forth the capital and operating costs and revenues from the O&M of the additional project facilities to be developed in the Project, including a description of the assumptions and parameters used for making calculations and projections therein.

2.11 Sealing and Marking of Bids

- 2.11.1 The Bidder shall submit the Technical Proposal and the Financial Proposal in separate envelopes in the format specified at Appendix-I and Appendix - VI, and seal it in a large outer envelope and mark the envelope as:

“Bid for Implementation of 24x7 Water Supply System in the City of Coimbatore”

and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of each of the envelopes.

- 2.11.2 Each of the envelopes shall be addressed to:

ATTN. OF: The Commissioner, Coimbatore
City Municipal Corporation

ADDRESS: [•]

E-MAIL ADDRESS [•]

2.11.3 If any of the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted and consequent losses, if any, suffered by the Bidder.

2.11.4 Bids submitted by e-mail shall not be entertained and shall be rejected.

2.11.5 The Bidders shall submit the Technical and Financial proposals in two sets, one being original and the other a true copy. The original and the copy shall be bound together in hard cover and the pages shall be numbered serially, with each page thereof shall be initialled in blue ink by the authorised signatory of the Bidder. The true copy of the Bid shall be placed in a separate envelope and marked “True Copy of Bid for Implementation of 24x7 Water Supply System in the City of Coimbatore”.

2.12 Bid Due Date

2.12.1 Bids should be submitted before [•] hours IST on the Bid Due Date at the address provided in Clause 2.11.2 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified at Clause 2.11.2.

2.12.2 The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders.

2.13 Late Bids

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

2.14 Contents of the Bid

2.14.1 The Bid shall be furnished in the format at Appendix–I and shall consist of both the technical proposal and the financial proposal.

2.14.2 Generally, the Project will be awarded to the Bidder who offers the lowest price.

2.14.3 The opening of Bids and acceptance thereof shall be substantially in accordance with this RFP.

2.14.4 The proposed Concession Agreement shall be deemed to be part of the Bid.

2.15 Modifications/ Substitution/ Withdrawal of Bids

2.15.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the Authority

prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.

- 2.15.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.11, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.
- 2.15.3 Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

2.16 Rejection of Bids

- 2.16.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 2.16.2 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.

2.17 Validity of Bids

The Bids shall be valid for the Bid Validity Period. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising 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 the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

2.19 Correspondence with the Bidder

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

D. BID SECURITY

2.20 Bid Security

- 2.20.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.6 and 2.1.7 hereinabove in the form of a bank guarantee issued by a nationalised bank, or a Scheduled Bank in India, in favour of the Authority in the format at Appendix-II (the “**Bank Guarantee**”) and having a validity period of not less than 240 (two hundred forty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.
- 2.20.2 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive.
- 2.20.3 The Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Successful Bidder or when the Bidding Process is cancelled by the Authority, and in any case within 60 (sixty) days from the expiry of the Bid Validity Period.
- 2.20.4 The Successful Bidder’s Bid Security will be returned, without any interest, upon the Contractor signing the Concession Agreement and furnishing the Performance Security in accordance with the provisions thereof.
- 2.20.5 The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages *inter alia* in any of the events specified in Clause 2.20.6 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 as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.20.6 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 Bidding Documents and/ or under the Concession Agreement, or otherwise, if
- (a) a Bidder submits a non-responsive Bid;
 - (b) a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
 - (c) a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
 - (d) the Successful Bidder 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 Performance Security within the period prescribed therefor in the Concession Agreement.
- (e) the Successful Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.

3. EVALUATION OF BIDS

3.1 Opening and Evaluation of Bids

- 3.1.1 The Authority shall open the Bids at [•] hours on the Bid Due Date in the presence of the Bidders who choose to attend.
- 3.1.2 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.
- 3.1.3 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2 Tests of responsiveness

- 3.2.1 As part of evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of this RFP. A Bid shall be considered responsive if:
 - (a) it is received as per the format at Appendix–I;
 - (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.12.2;
 - (c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.10 and 2.11;
 - (d) it is accompanied by the Bid Security as specified in Clause 2.1.7;
 - (e) it is accompanied by the Power(s) of Attorney as specified in Clauses 2.1.8 and 2.1.9, as the case may be;
 - (f) it contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);
 - (g) it does not contain any condition or qualification; and
 - (h) it is not non-responsive in terms hereof.
- 3.2.2 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. Provided, however, that the Authority may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

3.3 Selection of Bidder

- 3.3.1 Subject to the provisions of Clause 2.16.1, the Bidder whose Bid has been adjudged as responsive as per Clause 3.2 and has submitted the lowest financial proposal shall be adjudged successful pursuant to the RFP (the “**Successful Bidder**”). In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 3.3.2 In case where two or more Bidders quoted the same financial proposal, the Authority shall select the Successful Bidder by taking into account the aggregate technical experience score of each such Bidder in the RFQ stage and the Bidder who has received the highest score in the RFQ stage shall be adjudged the Successful Bidder.
- 3.3.3 After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Successful Bidder and the Successful 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 Successful 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 Successful Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.
- 3.3.4 After acknowledgement of the LOA as aforesaid by the Successful Bidder, it shall cause the Successful Bidder to execute the Concession Agreement within the period prescribed in Clause 1.3.

3.4 Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Authority and/ or their employees/ representatives on matters related to the Bids under consideration.

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 and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Successful Bidder or the other Bidders, as the case may be, if it determines that the Successful Bidder or the other Bidders, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an 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 Bidding Documents and/ or the Concession Agreement, or otherwise.

- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or the Successful 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 or Successful Bidder, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Clause 4, 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 therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under the Clause 2.1.15 of this RFP, 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 CONFERENCE

- 5.1 Pre-Bid Conference(s) of the Bidders shall be convened at the designated date, time and place. Only those persons who have purchased the RFP document shall be allowed to participate in the Pre-Bid Conference(s). A maximum of five representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 5.2 During the course of Pre-Bid Conference(s), 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 in Coimbatore or in the state of Tamil Nadu 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) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 6.4 The Bidding Documents and RFQ are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this RFP, in the event of any conflict between them the priority shall be in the following order:
- (a) the Bidding Documents;
 - (b) the RFQ.

i.e. the Bidding Documents at (a) above shall prevail over the RFQ at (b) above.

Appendices

APPENDIX-I

Letter comprising the Bid
(Refer Clauses 2.1.5 and 2.14)

Dated:

To,

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

Sub: RFP for Implementation of 24x7 Water Supply System in the City of Coimbatore

Dear Sir,

1. With reference to your RFP document dated, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid 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 Contractor 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 Successful Bidder/Concessionaire for the execution of the Project.
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Authority to reject our Bid 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 the Consortium Members[£] or our/ their 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 Bidding Documents, including any Addendum issued by the Authority; and

[£] If the Bidder is not a Consortium, the provisions applicable to Consortium may be omitted.

- (b) I/ We do not have any conflict of interest in accordance with Clauses 2.1.14 and 2.1.15 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 proposals 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 Application in response to the RFQ for the Project were true and correct as on the date of making the Application 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 2.16 of the RFP document.
 9. I/ We believe that we/ our Consortium satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFQ document.
 10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting a Bid for the Project.
 11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their 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/ any Member of the Consortium or any of our/ their 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 acknowledge and undertake that our Consortium was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid-up equity of the Concessionaire; and (ii) 5% (five per cent) of the Net Project Construction Cost. The Members of the Consortium shall together hold at least 51% of the paid up and subscribed equity share capital in the Concessionaire till the expiry of the

Concession Period and the Member of the Consortium whose technical experience in Operations and Maintenance (O&M) were considered for qualification during the RFQ stage should hold not less than 11% of the paid up and subscribed equity share capital in the Concessionaire subsequent to the minimum lock in period as stated hereinabove. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.

15. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that 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 a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
16. I/ We understand that the Successful Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/ 2013, or shall incorporate as such prior to execution of the Concession Agreement.
17. 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.
18. In the event of my/ our being declared as the Successful Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date.
19. I/ We have studied all the Bidding Documents carefully and also surveyed the site and analysed the details of the Project. 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 Concession.
20. I/ We offer a Bid Security of Rs..... (Rupees only) to the Authority in accordance with the RFP Document.
21. The Bid Security in the form of a Bank Guarantee is attached.
22. The documents accompanying the Bid, as specified in Clause 2.11.2 of the RFP, have been submitted in a separate envelope and marked as "Enclosures of the Bid".
23. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.

24. The financial proposal 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.
25. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
26. { We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement in accordance with the terms therein. }
27. I/ We shall keep this offer valid during the Bid Validity Period specified in the RFP.
28. I/ We hereby submit the following Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement.

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/Lead
Member

APPENDIX-II

Format of Bank Guarantee
(Refer Clauses 2.1.7 and 2.20.1)

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 (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 24x7 Water Supply System in the City of Coimbatore** on BTO basis (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 concession 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 Clause 2.1.6 read with Clause 2.1.7 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment 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 Rs. (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 fulfil 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 fulfilment and compliance with the terms and conditions contained in the Bidding Documents 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 Rs. (Rupees only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 240 (two hundred and forty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days 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 fulfilment 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 fulfilment 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 Bank's liability under this Guarantee shall be restricted to Rs. [•] (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 [•].

Signed and Delivered by Bank

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

(Signature of the Authorised Signatory)

(Official Seal)

APPENDIX–III

Power of Attorney for signing of Bid
(Refer Clause 2.1.9)

Know all men by these presents, We, (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Consortium 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 **Implementation of 24x7 Water Supply System in the City of Coimbatore** proposed or being developed by the (the “Authority”) including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders' 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 Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we 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.

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

For.....

(Signature, name,
designation and address)

Witnesses:

- 1.
- 2.

Accepted
Notarised

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

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the 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 Appostille certificate.*

APPENDIX-IV

Power of Attorney for Lead Member of Consortium
(Refer Clause 2.1.10)

Whereas the (the “Authority”) has invited bids from pre-qualified and short-listed parties for the Implementation of 24x7 Water Supply System in the City of Coimbatore (the “Project”).

Whereas,, and (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposals and other connected documents in respect of the Project, and

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

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at, M/s., 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 Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”) and hereby irrevocably authorise the Attorney (with power to sub-delegate) 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 Concession/ Contract, 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)

For

(Signature, Name & Title)

(Executants)

(To be executed by all the Members of the Consortium)

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 – V

Format of Joint Bidding Agreement

(To be executed by and between the Consortium Members, as applicable on Non-Judicial Stamp Paper of Rs.100 and duly notarized.)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of 2015 (the “Agreement”) AMONGST

1. [●], a company incorporated under the (Indian) Companies Act, 1956/2013 and having its registered office at (hereinafter referred to as the “**First Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns);

AND

2. [●], a company incorporated under the (Indian) Companies Act, 1956/2013 and having its registered office at (hereinafter referred to as the “**Second Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. [●], a company incorporated under the (Indian) Companies Act, 1956/2013 and having its registered office at (hereinafter referred to as the “**Third Party**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

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

WHEREAS,

- A. The Coimbatore City Municipal Corporation, hereinafter referred to as “CCMC”) has invited applications by its Request for Qualification No. dated (the “**RFQ**”) for qualifying and selecting applicant for implementing a 24x7 water supply system by upgrading the existing water supply infrastructure in the city of Coimbatore into a 24x7 water supply system to be implemented on build, operate, manage and maintain basis (the “**Project**”) under Build, Transfer and Operate model;
- B. The Parties are interested in jointly bidding for the Project as members of a Consortium (as defined below) and in accordance with the terms and conditions of this RFQ; and
- C. It is a necessary condition under the RFQ that the members of the Consortium shall enter into a joint bidding agreement and furnish a copy thereof with the Application.

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 RFQ.

2. Consortium

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

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the successful bidder pursuant to the Bid Stage and awarded the Project, it shall incorporate a Special Purpose Company under the Companies Act, 2013 for entering into a Concession Agreement with CCMC as required by and in accordance with the RFQ for performing all its obligations as the concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

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

- (a) The First Party shall be the Lead Member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Concession Agreement when all the obligations of the special purpose company shall become effective.
- (b) The Second Part and Third Part shall respectively perform the following obligations in relation to the implementation of the Project:
 - (i).....
 - (ii).....

5. Joint and Several Liabilities

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

6. Shareholding in the Special Purpose Company

- (a) The Parties agree that the percentage of shareholding among the Parties in the Special Purpose Company shall be as follows:
 - First Party:[●]
 - Second Party: [●]
 - Third Party:[●]
- (b) Subject to the terms of the Concession Agreement, the Parties undertake that, except with the prior written consent of CCMC, they shall not permit and ensure that the Special Purpose Company shall not permit a change in the above state shareholding pattern of

the Special Purpose Company so that the Parties are in compliance with the following restrictions:

- (i) Till the achievement of the commercial operation date of the Project, as per the Concession Agreement and until the expiry of 2 years there from each such Member in the Consortium whose financial capacity (net worth) or technical capacity is evaluated for the purposes of this RFQ shall subscribe and continue to hold equity share capital not less than (a) 26% (twenty six percent) of the paid up and subscribed equity share capital in the Special Purpose Company and (b) at least 5% (five percent) of the Net Project Construction Cost;
- (ii) The Members of the Consortium shall together hold at least 51% of the paid up and subscribed equity share capital in the Special Purpose Company till the expiry of the Concession Period and the Member of the Consortium whose technical experience in Operations and Maintenance (O&M) were considered for qualification during the RFQ stage should hold not less than 11% of the paid up and subscribed equity share capital in the Special Purpose Company subsequent to the minimum lock in period as stated in Clause 6 (b) (i) above.
- (c) The Parties undertake that they shall comply with all equity lock-in requirements set forth herein or the Concession Agreement.
- (d) The Parties undertake that all members of the Consortium shall be liable jointly and severally for all obligations of the concessionaire in relation to the Project until the completion of EPC works and the First Party will in any case remain liable until the completion of the O&M Period.

7. 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 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 Agreement for the delegation of power and authority to execute this Agreement on behalf of the Member of Consortium is annexed to this Agreement, and will not, to the best of its knowledge:
 - (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 fulfilment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect till the full and final satisfaction of all obligations under the 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 pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Applicant is not pre-qualified in the Qualification Stage or is unsuccessful in the Bid Stage whereupon the bid security is returned by CCMC, as the case may be.

9. 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 CCMC.

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 the FIRST PARTY by:

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

For and on behalf of SECOND PARTY

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

For and on behalf of THIRD PARTY

(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 Member of Consortium.*
3. *For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized and notarized in the jurisdiction where the Power of Attorney has been executed.*

APPENDIX VI

Format for Financial Proposal

ORIGINAL

Date: [•]

The Commissioner
Coimbatore City Municipal Corporation
Coimbatore

Sub: Project for Implementation of 24x7 Water Supply System in the City of Coimbatore

Ref: RFP No. [•] dated [•]

Sir/Madam,

We have gone through the RFP and having fully understood the Scope of Work for the Project as set out in the RFP, we are pleased to submit the following Financial Proposal:

Composite Quote:

Sl. No	Particulars	Amount in Figure	Amount in Words
1	Composite Quote (Total of EPC Quote and O&M Quote for the Concession Period)		
2	EPC Quote		

Concession (Calculated from Appointed Date)	Year from	O&M Quote (Amount in Figure)	O&M (Amount in Words)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

We have reviewed all the terms and conditions of the RFP and undertake to abide by all the terms and conditions contained therein. We hereby declare that there are, and shall be, no deviations from the stated terms in the RFP.

Yours faithfully,

For and on behalf of (Name of Bidder)

Duly signed by the Authorised Signatory of the Bidder

(Name, Designation and Address of the Authorised Signatory)