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उ० प्र० जल निगम

कार्यालय, टी०सी०-३८-वी, विभूति खण्ड, गोमती नगर, लखनऊ – 226010

Addendum/Corrigendum No.-2

Name of Work: Request for proposals for selection and appointment of consultant for project management and construction supervision services for various projects in the State of Uttar Pradesh and out of state.

With permission of competent authority Corrigendum No.-2 is hereby published for the revision of the following points only. Amendment made vide this corrigendum will supersede the previous version of RfP published vide Notice No. 08/नि-10/निविदा/06 dated 27.09.2019 and all previous Addendum/Corrigendum.

I. As per Original Document Section 2(D) Point-4: “Joint Venture is not allowed.”

Considering request of many interested bidders this condition is being revised. Terms and conditions of Joint Venture are as follows:

4.0 JOINT VENTURE (JV) IN RfP

Participation of Joint Venture (JV) is allowed in RfP. The JV shall satisfy the following criteria:

- 4.1 Separate identity/ name shall be given to the Joint Venture.
- 4.2 Number of members in a JV shall be limited to **two**. In case of JV with foreign members(s), the Lead Member has to be an Indian firm/ company with a minimum stake share of 51%.
- 4.3 A member of JV shall not be permitted to participate either in individual capacity or as a member of another JV in the same RfP.
- 4.4 The RfP form shall be purchased and submitted only in the name of the JV and not in the name of any constituent member.
- 4.5 Earnest Money Deposit (EMD) shall be deposited by JV or authorized person of JV as mentioned in RfP document.
- 4.6 A copy of Memorandum of Agreement (MoA) duly executed by the JV members on a stamp paper, shall be submitted by the JV along with the document. The complete details of the members of the JV, their share and responsibility in the JV etc. particularly with reference to financial, technical and other obligations shall be furnished in the MoA (Format of MoA is attached).
- 4.7 Once the RfP is submitted, the MoU shall not be modified / altered / terminated during the validity of the RfP. In case the bidder fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be liable to be forfeited.
- 4.8 Approval for change of constitution of JV shall be at the sole discretion of the C&DS U.P. Jal Nigam. The constitution of the JV shall not be allowed to be modified after submission of the RfP bid by the JV, except when modification becomes inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. However, the Lead Member shall continue to be the Lead Member of the JV. Failure to observe this requirement would render the offer invalid.

- 4.9 Similarly, after the contract is awarded, the constitution of JV shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc. and minimum eligibility criteria should not get vitiated. Failure to observe this stipulation shall be deemed to be breach of contract with all consequential penal action as per contract conditions.
- 4.10 On award of contract to a JV, a single Performance Guarantee shall be submitted by the JV as per RfP conditions. All the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization Advance, etc. shall be accepted only in the name of the JV and no splitting of guarantees amongst the members of the JV shall be permitted.
- 4.11 On issue of LoA (Letter of Acceptance), the members of the JV to whom the work has been awarded, shall form a legal entity if not already formed, which shall have the same shareholding pattern, as was declared in the MoA/JV Agreement submitted along with the RfP. This entity shall be got registered before the Registrar of the companies under 'The Companies Act-2011' (in case of Company) or before the Registrar/Sub-Registrar under the 'Registration Act, 1908' (in case of Partnership Firm) or under 'The LLP Act 2008' (in case of LLP). A separate PAN shall be obtained for this entity. The documents pertaining to this entity including its PAN shall be furnished to the C&DS U.P. Jal Nigam before signing the contract agreement for the work. In case the RfP bidder fails to observe/comply with this stipulation within 60 days of issue of LoA, contract is liable to be terminated. In case contract is terminated C&DS U.P. Jal Nigam shall be entitled to forfeit the full amount of the Earnest Money Deposit and other dues payable to the Contractor under this contract. This Joint Venture Agreement shall have, inter-alia, following Clauses:
- 4.11.1 Joint And Several Liability – Members of the JV to which the contract is awarded, shall be jointly and severally liable to the C&DS U.P. Jal Nigam for execution of the Project Management and Consultancy (PMC) Services in accordance with General and Special conditions of Contract. The JV members shall also be liable jointly and severally for the loss, damages caused to the C&DS, U.P. Jal Nigam during the contract or due to non-execution of the contract or part thereof.
- 4.11.2 Duration of the Joint Venture Agreement shall be valid during the entire currency of the contract including the period of extension, if any and the maintenance period after the work is completed.
- 4.11.3 Governing Laws – The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.
- 4.12 Authorized Member - Joint Venture members in the JV MoU shall authorize one of the members on behalf of the Joint Venture to deal with the RfP, sign the agreement or enter into contract in respect of the said RfP, to receive payment and similar such action in respect of the said RfP/contract. All notices/correspondences with respect to the contract would be sent only to this authorized member of the JV.
- 4.13 No member of the Joint Venture shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other members and that of the C&DS U.P. Jal Nigam in respect of the said RfP/contract.
- 4.14 Documents to be enclosed by the JV along with the RfP:
- 4.14.1 In case one or more of the members of the JV is/ are partnership firm(s), following documents shall be submitted:

- (a) A copy of the Partnership Deed,
- (b) A copy of consent of all the partners or individual authorized by partnership firm, to enter into the Joint Venture Agreement on a nonjudicial stamp paper of Rs. 100 (Hundred) signed in presence of a public notary,
- (c) A copy of Power of Attorney (duly registered as per prevailing law) in favour of the individual to sign the MoU/JV Agreement on behalf of the partnership firm and create liability against the firm nonjudicial stamp paper of Rs. 100 (Hundred) signed in presence of a public notary.

4.14.2 In case one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed:

A copy of notarized affidavit on Stamp Paper declaring that his/her Concern is a Proprietary Concern and he/she is sole proprietor of the Concern OR he/she is in position of "KARTA" of Hindu Undivided Family (HUF) and he/she has the authority, power and consent given by other partners to act on behalf of HUF.

4.14.3 In case one or more members of the JV is/are companies, the following documents shall be submitted:

- (a) A copy or resolutions of the Directors of the Company, permitting the company to enter into a JV agreement only attested by a public notary,
- (b) A copy of Memorandum and Articles of Association of the Company only attested by a public notary,
- (c) A notarized copy of Authorization/copy of Power of Attorney issued by the Company (backed by the resolution of Board of Directors) in favour of the individual to sign the RfP, sign MoU/JV agreement on behalf of the company and create liability against the company.

4.14.4 All the members of JV shall certify that they are not blacklisted or debarred by C&DS or U P Jal Nigam or any other Ministry / Department / PSU (Public Sector Undertaking) of the Govt. of India/ State Govt. from participation in RfP/ contract on the date of opening of bids either in their individual capacity or as a member of the JV in which they are members.

4.15 Credentials & Qualifying Criteria:

The JV shall satisfy the requirement of "Technical & Financial Eligibility" mentioned in the RfP document. The "Technical & Financial capacity" of the lead partner of JV shall not be less than 51% of the technical & Financial eligibility criteria mentioned in the RfP Document. The arithmetic sum of individual "technical & Financial capacity" of both the members shall be taken as JV's "technical & Financial capacity" to satisfy this requirement.

**MEMORANDUM OF AGREEMENT (MoA) BY JV PARTNERS
TO ENTER INTO JV AGREEMENT**

MEMORANDUM OF AGREEMENT (MoA) signed on this..... day of..... Two Thousand andby..... a company incorporated under the laws of and having its Registered Office at(hereinafter called the "Party No.1" which expression shall include its successors, executors and permitted assigns) and M/s a company incorporated under the laws of and having its Registered Office at(hereinafter called the "Party No.2" which expression shall include its successors, executors and permitted assigns) for the purpose of making a bid and entering into a contract [hereinafter called the "Contract" (in case of award) for project management and consultancy services associated with C&DS U.P. Jal Nigam (hereinafter called the "Owner").

WHEREAS the Party No.1 and Party No.2 intend to enter into a Joint Venture Agreement

AND WHEREAS the Owner invited bids for Selection and appointment of Consultant for project management and construction supervision services stipulated in the bidding documents.

AND WHEREAS Qualification Criteria forming part of the RfP documents, inter-alia, stipulates that two or more qualified partners, meeting the requirements of 'Qualification Requirement of the Bidder', as applicable may bid, provided, they submit a Letter of Intent to enter into Joint Venture Agreement and the Joint Venture Partners fulfil all other requirements 'Qualification of the Bidder' and in such a case, the Letter of Bid (Bid Form) shall be signed by the Partner - In Charge so as to legally bind both the Partners of the Joint Venture, who will be jointly and severally liable to perform the Contract by entering into Joint Venture Agreement as per proforma submitted with the RfP which will be legally binding on both partners and all obligations hereunder.

The above clause further states that this Letter of Intent shall be attached to the bid and the Contract performance guarantee will be as per the format enclosed with the bidding document without any restrictions or liability for either party.

AND WHEREAS the bid is being submitted to the Owner vide proposal No.....dated..... by Party No.1 based on this letter of Intent between all the parties; under these presents and the bid has been signed by all the parties.

NOW THIS UNDERTAKING WITNESSETH AS UNDER:

In consideration of the above premises and agreements all the parties of this letter of Intent do hereby declare and undertake:

1. In requirement of the award of the Contract by the Owner to the Joint Venture Partners, we, the Parties do hereby undertake that M/s..... the Party No.1, shall act as lead Partner and further declare and confirm that we the parties to the Joint Venture shall jointly and severally be bound unto the Owner for the successful performance of the Contract and shall be fully responsible for the Project Management and Consultancy (PMC) Services in accordance with the Contract for which we shall enter into Joint Venture Agreement as per proforma submitted with the Bid which will be legally binding on all partners:

2. If the Contract is awarded to Joint Venture then in case of any breach or default of the said Contract by any of the parties to the Joint Venture, the party(s) will be fully responsible for the successful performance of the Contract and to carry out all the obligations and responsibilities under the Contract in accordance with the requirements of the Contract.
3. Further, if the Owner suffers any loss or damage on account of any breach in the Contract or any shortfall in the performance of the equipment in meeting the performances guaranteed as per the specification in terms of the Contract, the Party(s) of these presents will promptly make good such loss or damages caused to the Owner, on its demand without any demur. It shall not be necessary or obligatory for the Owner to proceed against lead Partner to these presents before proceeding against or dealing with the other Party(s), the Owner can proceed against any of the parties who shall be jointly and severally liable for the performance and all other liabilities/obligations under the Contract to the Owner.
4. The financial liability of the Parties of the Deed of Undertaking to the Owner in the event of award of Contract on the Joint Venture, with respect to any of the claims arising out of the performance or non-performance of the obligations set forth in the Deed of Undertaking, read in conjunction with the relevant conditions of the Contract shall, however not be limited in any way so as to restrict or limit the liabilities or obligations of any of the Parties of the Deed of Undertaking.
5. It is expressly understood and agreed between the Parties to this Letter of Intent that the responsibilities and obligations of each of the Parties shall be as delineated. It is further undertaken by the parties that the above sharing of responsibilities and obligations shall not in any way be a limitation of joint and several responsibilities of the Parties under the Contract in the event of award on Joint Venture.
6. It is also understood that this Letter of Intent is provided for the purposes of undertaking joint and several liabilities of the partners to the Joint Venture for submission of the bid and performance of the Contract if awarded and that this Letter of Intent shall not be deemed to give rise to any additional liabilities or obligations, in any manner or any law, on any of the Parties to this Letter of Intent or on the Joint Venture, other than the express provisions of the Contract.
7. This Letter of Intent shall be construed and interpreted in accordance with the provisions of the Contract.
8. In case of an award of a Contract, we the parties to this MoA do hereby agree that we shall enter into Joint Venture Agreement as per proforma attached herewith which will be legally binding on all partners and we shall be jointly and severally responsible for furnishing a Contract performance security from a bank in favor of the Owner in the currency/currencies of the Contract.

9. It is further agreed that this Letter of Intent shall be irrevocable and shall form an integral part of the bid. It shall be effective from the date first mentioned above for all purposes and intents.

IN WITNESS WHEREOF, the Parties to this Letter of Intent have through their authorized representatives executed these presents and affixed Common Seals of their companies, on the day, month and year first mentioned above.

Common Seal of has been affixed in my/ our presence pursuant to Board of Director's Resolution dated
Name

For Lead Partner (Party No.-1) For and on behalf of M/s

Designation

Signature

Signature of the authorized representative)

WITNESS:

I.....

II.....

Common Seal of has been affixed in my/ our presence pursuant to Board of Director's Resolution dated

For Party No.-2 For and on behalf of M/s

Signature

Signature of the authorized representative)

WITNESS:

I.....

II.....

FORM OF POWER OF ATTORNEY FOR JOINT VENTURE

(On Non-judicial Stamp Paper of Appropriate value to be purchased in the Name of Joint Venture)

KNOW ALL MEN BY THESE PRESENTS THAT WE, the Partners whose details are given hereunder have formed a Joint Venture having our Registered Office(s)/Head Office(s) at..... (hereinafter called the 'Joint Venture' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) acting through M/s being the Partner in-charge do hereby constitute, nominate and appoint M/s..... a Company incorporated under the laws of and having its Registered/Head Office at as our duly constituted lawful Attorney (hereinafter called "Attorney" or "Authorized Representative" or "Partner In-charge") to exercise all or any of the powers for and on behalf of the Joint Venture in regard to work for the bids for which have been invited by, (hereinafter called the 'Owner') to undertake the following acts:

- i) To sign and submit proposal and participate in the aforesaid Bid Specification of the Owner on behalf of the "Joint Venture".
- ii) To negotiate with the Owner the terms and conditions for award of the Contract pursuant to the aforesaid Bid and to sign the Contract with the Owner for and on behalf of the "Joint Venture".
- iii) To do any other act or submit any document related to the above.
- iv) To receive, accept and execute the Contract for and on behalf of the "Joint Venture".

For the above purpose, the person(s) authorized by the Partner In-charge shall be the person(s) authorized to act on behalf of the "Joint Venture" as per the Power of Attorney given to him/her/them by the Partner In-Charge,

It is clearly understood that both the partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms and the Partner In-charge (Lead Partner) shall ensure performance of the Contract(s) and if one or other Partner fail to perform their respective portions of the Contract(s), the same shall be deemed to be a default by both the Partners.

It is expressly understood that this Power of Attorney shall remain valid binding and irrevocable till completion of the entire contract period in terms of the Contract.

The Joint Venture hereby agrees and undertakes to ratify and confirm all the whatsoever the said Attorney/Authorized Representatives/Partner in-charge quotes in the bid, negotiates and signs the Contract with the Owner and/or proposes to act on behalf of the Joint Venture by virtue of this Power of Attorney and the same shall bind the Joint Venture as if done by itself.

IN WITNESS THEREOF the Partners Constituting the Joint Venture as aforesaid have executed these presents on thisday ofunder the Common Seal(s) of their Companies.

For and on behalf of the
Partners of Joint Venture

The Common Seal of the above Partners of the Joint Venture:

The Common Seal has been affixed there unto in the presence of: WITNESS

1. Signature.....
Name..... Designation.....
Occupation.....
2. Signature.....
Name.....
Designation.....
Occupation.....

FORM OF UNDERTAKING BY THE JOINT VENTURE PARTNERS

(On Non-Judicial Stamp Paper of Appropriate Value to be purchased in the Name of Joint Venture)

THIS JOINT DEED OF UNDERTAKING executed on thisday ofTwo

Thousand andby a company incorporated under the laws of and having its Registered Office at..... (hereinafter called the "Party No.1. which expression shall include its successors, executors and permitted assigns) and M/s a company incorporated under the laws of and having its Registered Office at (hereinafter called the "Party No.2" which expression shall include its successors, executors and permitted assigns) for the purpose of making a bid and entering into a contract [hereinafter called the "Contract" (in case of award) for Project Management and Consultancy(PMC) Services associated with the C&DS U.P. Jal Nigam (hereinafter called the "Owner").

WHEREAS the Party No.1 and Party No.2 have entered into an Agreement dated.....

AND WHEREAS the Owner invited RfP for Selection and appointment of Consultant for project management and construction supervision services stipulated in the RfP documents.

AND WHEREAS Qualification Criteria forming part of the RfP documents, inter-alia, stipulate that an undertaking of two qualified partners, meeting the requirements of 'Qualification Criteria of the Bidder', as applicable may bid, provided, the Joint Venture fulfils all other requirements 'Qualification of the Bidder' and in such a case, the Letter of Bid (Bid Form) shall be signed by the Partner - In Charge so as to legally bind all the Partners of the Joint Venture, who will be jointly and severally liable to perform the Contract and all obligations hereunder.

The above clause further states that this Undertaking shall be attached to the bid and the Contract performance guarantee will be as per the format enclosed with the bidding document without any restrictions or liability for either party.

AND WHEREAS the RfP is being submitted to the Owner vide proposal No.....dated..... by Party No.1 based on this Undertaking between all the parties; under these presents and the bid in accordance with the requirements of Qualification Criteria, has been signed by all the parties.

NOW THIS UNDERTAKING WITNESSETH AS UNDER:

In consideration of the above premises and agreements all the parties of this Deed of Undertaking do hereby declare and undertake:

1. In requirement of the award of the Contract by the Owner to the Joint Venture Partners, we, the Parties do hereby undertake that M/s..... the Party No.1, shall act as Lead Partner and further declare and confirm that we the parties to the Joint Venture shall jointly and severally be bound unto the Owner for the successful performance of the Contract and shall be fully responsible to Project Management and Consultancy (PMC) Services in accordance with the Contract.

2. In case of any breach or default of the said Contract by any of the parties to the Joint Venture, the parties do hereby undertake to be fully responsible for the successful performance of the Contract and to carry out all the obligations and responsibilities under the Contract in accordance with the requirements of the Contract.
3. Further, if the Owner suffers any loss or damage on account of any breach in the Contract or any shortfall in the performance of the equipment in meeting the performances guaranteed as per the specification in terms of the Contract, the Party(s) of these presents undertake to promptly make good such loss or damages caused to the Owner, on its demand without any demur. It shall not be necessary or obligatory for the Owner to proceed against Lead Partner to these presents before proceeding against or dealing with the other Party(s), the Owner can proceed against any of the parties who shall be jointly and severally liable for the performance and all other liabilities/obligations under the Contract to the Owner.
4. The financial liability of the Parties of this Deed of Undertaking to the Owner, with respect to any of the claims arising out of the performance or non-performance of the obligations set forth in this Deed of Undertaking, read in conjunction with the relevant conditions of the Contract shall, however not be limited in any way so as to restrict or limit the liabilities or obligations of any of the Parties of this Deed of Undertaking.
5. It is expressly understood and agreed between the Parties to this Undertaking that the responsibilities and obligations of each of the Parties shall be as delineated in RfP. It is further undertaken by the parties that the above sharing of responsibilities and obligations shall not in any way be a limitation of joint and several responsibilities of the Parties under the Contract.
6. It is also understood that this Undertaking is provided for the purposes of undertaking joint and several liabilities of the partners to the Joint Venture for submission of the bid and performance of the Contract if awarded and that this Undertaking shall not be deemed to give rise to any additional liabilities or obligations, in any manner or any law, on any of the Parties to this Undertaking or on the Joint Venture, other than the express provisions of the Contract.
7. This Undertaking shall be construed and interpreted in accordance with the provisions of the Contract.
8. In case of an award of a Contract, we the parties to this Deed of Undertaking do hereby agree that we shall be jointly and severally responsible for furnishing a Contract performance security from a bank in favour of the Owner in the currency/currencies of the Contract.
9. It is further agreed that this Deed of Undertaking shall be irrevocable and shall form an integral part of the bid and shall continue to be enforceable till the Owner discharges the same or upon the completion of the Contract in accordance with its provisions, whichever is

earlier. It shall be effective from the date first mentioned above for all purposes and intents.

IN WITNESS WHEREOF, the Parties to this Deed of Undertaking have through their authorized representatives executed these presents and affixed Common Seals of their companies, on the day, month and year first mentioned above.

Common Seal of has been affixed in my/ our presence pursuant to Board of Director's Resolution dated

For Lead Partner (Party No.-1) For and on behalf of M/s

Name

Designation

Signature

Signature of the authorized representative)

For Party No.-2

For and on behalf of

M/s.....

WITNESS:

I.....

II.....

Common Seal of has been affixed in my/ our presence pursuant to Board of Director's Resolution dated

For Party No.-2 For and on behalf of M/s

Name

Designation

Signature

Signature of the authorized representative)

WITNESS:

I.....

II.....

II. Important Dates of RfP are being revised as tabulated below:

S. No.	Section/ Page No. of RfP	Re-revised Version of RfP as per Corrigendum No.-1		Re-revised Version of RfP as per Corrigendum No.-2	
1	NIT – Bid submission/opening schedule, Page No.-4	Bid Document Downloading End Date	13/11/2019 17:00:00 hrs	Bid Document Downloading End Date	22/11/2019 17:00:00 hrs
		Last Date & Time for Online Receipt of Bids	14/11/2019 17:00:00 hrs	Last Date & Time for Online Receipt of Bids	23/11/2019 17:00:00 hrs
		Physical Submission of documents last Date & Time	15/11/2019 17:00:00 hrs	Physical Submission of Original copy of tender fee and EMD: last Date & Time	28/11/2019 17:00:00 hrs
		Bid Opening Date	18/11/2019 at 12:00:00 hrs (If possible)	Bid Opening Date	29/11/2019 at 12:00:00 hrs (If possible)
2	Section – 2(C), Point 3.0 Criteria, Key Personnel Page -36 & 37	All the key staff proposed shall be regular full time employees of the firm and the age of maximum 65 years shall be considered prior to date of submission of the proposal.		Key staff as mentioned in S. No. 1 and 2 proposed shall be regular full time employees of the firm and the age of maximum 65 years shall be considered prior to date of submission of the proposal. Key staff as mentioned in S. No. 3 to 21 proposed shall be full time employees of the firm prior to date of signing the contract and the age of maximum 65 years shall be considered on date of submission of the proposal.	

**Director,
C&DS, U.P. Jal Nigam**