

COMPETITIVE CHALLENGE FOR THE
JOINT VENTURE DEVELOPMENT OF THE
BONIFACIO EAST PROPERTY
TAGUIG CITY

TENDER DOCUMENTS

- Instructions to Private Sector Participants
- Volume I –Eligibility Documents
- Annexes of Volume I
- Volume II – Technical and Financial Proposals
- Annexes of Volume II
- Draft Joint Venture Agreement

These Tender Documents describe the procedures that shall be followed in connection with the competitive or Swiss challenge by the National Housing Authority (NHA) and the Bases Conversion and Development Authority (BCDA) of its private partner in an unincorporated joint venture (JV) to undertake the proposed Project for the financing, planning, design and engineering, establishment, construction and development, and operation and maintenance of the **Bonifacio East Project (Project)** in Taguig City.

The property subject of the Project is the 59.62-ha portion of the Bonifacio Housing and Information Technology (BHIT) Park which consists of a 35-ha area that is under the control of the NHA and the 24.6-ha parcel owned by BCDA. The property is now known as the **Bonifacio East (Property)**.

The proposed Project is a mixed-use development which includes an allotted area for socialized housing as mandated by Executive Order 70, Series of 2002, as amended. It is envisioned to become a government's model for an "on-site, in-city" relocation for the affected and qualified Informal Settlers and Families (ISFs)/beneficiaries. To complement the relocation component of the Project, institutional, commercial and commercial-residences shall be developed that will be available for long-term leases.

Proposed as a new landmark in the heart of Manila, the Project features a generous green spaces and city parks which transforms the former blighted area into a vibrant community and a sustainable city.

The development of the Project shall comprise of the following:

- Socialized Housing
- Institutional Areas
- Commercial areas
- Residences and serviced-apartments
- Green spaces and Parks/Public spaces and parkways

The Site Map of the Project is attached as *Annex "A"*.

BCDA received an unsolicited JV proposal (Proposal) for the Project. Pursuant to the Guidelines for the Privatization and Disposition of BCDA Properties — Procedures for Entering into JV Agreement with Private Entities (BCDA JV Guidelines), which BCDA issued in connection with its authority to issue guidelines in the exercise of its primary mandate to dispose of government assets and properties,¹ the Proposal was accepted on 28 February 2018 by BCDA, subject to negotiations and requisite documents for the joint disposition of the Property by NHA and BCDA.

Under the Memorandum of Agreement between NHA and BCDA, NHA agreed to include in the proposed joint venture proposal, the development of the 35-ha area of the Property under the BCDA JV Guidelines thereby designating BCDA as NHA's disposition entity or implementing agency. For which purpose a Joint Venture Selection Committee for the Project (JVSC –Bonifacio East Project) consisting of NHA and BCDA Officials, was created to process the said Proposal and administer either the conduct of competitive selection or competitive challenge, whichever is applicable.

¹ National Economic Development Authority, *Revised Guidelines and Procedures for Entering into Joint Venture (JV) Agreements between Government and Private Entities, Sec. 4.2(b) (2013)*. The Office of the Government Corporate Counsel ("OGCC"), in *Opinion No. 30 dated March 11, 2015 and Opinion No. 145 dated August 13, 2014*, also confirmed that the BCDA has been granted the authority to adopt guidelines for JV activities in their primary mandate to dispose government assets or properties.

Whenever and wherever applicable, “NHA/BCDA” or “NHA and BCDA” and “NHA and/or BCDA” is used to denote a single act of the two agencies or as individual agencies implementing its respective mandate and acts or commits the same action in response to the requirements of the Project, this Tender Process and all other acts related and necessary to implement the agreements related thereto.

By virtue of the MOA between the NHA and BCDA, BCDA undertakes the rest of the conduct of the Bidding for the Project and all official and related correspondence and communications shall be addressed to the BCDA Office as the Official address for the Bid Process.

The acceptance and eventual detailed evaluation of the Proposal ensued negotiations of the terms and conditions of the joint venture arrangements for the Project among NHA, BCDA and the private sector proponent (PSP). On 4 October 2018, NHA and BCDA reached an agreement with the PSP and signed a Certification of Successful Negotiations (CSN) in accordance with the BCDA JV Guidelines. At the same time, both agreed to submit the Proposal to a competitive challenge. NHA/BCDA also found the PSP eligible to undertake the Proposal, and the latter was conferred with Original Proponent Status (OPS).

In compliance with Section 6.3 of the BCDA JV Guidelines, the negotiated terms of the Project shall be subjected to a competitive challenge and other PSPs shall be allowed to submit comparative proposals.

This Tender Documents is issued containing the following:

- Instruction to Private Sector Participant (IPSP);
- Volume I —Eligibility Documents;
- Annexes of Volume I;
- Volume II —Technical and Financial Proposals; and
- Annexes of Volume II
- Draft Joint Venture Agreement

The IPSP contains the general instructions about the Tender or Bid Process. Volume I details the requirements for eligibility of interested private sector participants (**PSP**) while its Annexes prescribes the eligibility forms and documents to be submitted by the PSP. Volume II which details the requirements and procedures for the submission of technical and financial proposals with the end-view of determining to whom the Project shall be awarded. Annexes of Volume II prescribes the forms and documents to be submitted by the PSP.

BCDA reserves the right to amend or supplement this IPSP at any time prior to the submission of the eligibility documents and technical and financial proposal.

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COMPETITIVE CHALLENGE FOR THE
JOINT VENTURE DEVELOPMENT OF THE
BONIFACIO EAST PROPERTY
TAGUIG CITY

- Instructions to Private Sector Participants

INSTRUCTIONS TO PRIVATE SECTOR PARTICIPANTS

1. Governing Law and Definitions

1.1 Governing Law and Rules

The provisions of Republic Act No. 7227, as amended, the BCDA JV Guidelines, and other applicable Philippine laws and rules shall govern all matters not specifically covered by this IPSP.

1.2 Definitions

The following words or terms shall have the following meanings in this IPSP:

“Acceptable Bank” means a universal bank or a commercial bank which is licensed by the *Bangko Sentral ng Pilipinas*

“Affiliate” means a corporation or entity effectively controlled by or controlling the PSP or associated with the PSP under common ownership and Control.

“BCDA” refers to the Bases Conversion and Development Authority.

“BCDA Board” refers to the Board of Directors of BCDA.

“BCDA Supplied Information” means the documents that BCDA will provide to PSPs solely to provide background information on the Project.

“Bid/Bidding Process” or **“Tender Process”** or **“Bidding”** means the process beginning from the publication of the IAESP until the signing of the JV Agreement.

“BIR” refers to the Bureau of Internal Revenue.

“Bonifacio East” –means the Property or the portion of Bonifacio Housing and Information Technology (BHIT) Park, which is descriptive of the location of the property.

“Bonifacio East Project” means the financing, planning, design and engineering, construction, development of the Property, and the operation, maintenance and property management thereof.

“Conflict of Interest” is defined in Section 17.

“Consortium” means an unincorporated association of natural or legal persons bound by contract or law, solidarily undertaking by mutual written agreement a common enterprise which is to participate in the pre-selection and in the Bidding Process for the Project.

“Consortium Member” means any of the natural or legal persons or group of persons comprising a Consortium, each having a definite interest in the common undertaking, solidarily liable with respect to the bid for the Project, and whose interest will be converted into an equivalent equity participation in the corporation that will become the JV Partner if the Consortium is awarded the Project.

“Construction” means all aspects of construction work and activities relating to the Project, as provided in the JV and EPC Agreements.

“Construction Experience Requirement” refers to the Technical Capability Requirements that must be met by a PSP as provided in Section 3.2.1.

“Control” (including, with correlative meanings, the terms **“Controlling”**, **“Controlled by”** and **“under common Control with”**) as used with respect to any corporation, partnership or other legal entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such corporation, partnership or other legal entity, whether through:

- (a) ownership, whether directly or indirectly, of at least fifty percent plus one share (50%+1) of the outstanding voting shares; or
- (b) ownership, whether directly or indirectly, of at least twenty percent (20%) of the outstanding voting shares and (a) possession of at least fifty percent plus one share (50%+1) of the voting rights through voting trust or other voting agreements; or (b) the ability to elect a majority of the members of the Affiliate’s board of directors; or
- (c) any legal agreement or arrangement.

For this purpose, the term “voting shares” includes partnership contribution, membership interests, units of participation, and other similar forms of ownership which are entitled to vote.

“Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice and Restrictive Practice” are each defined in Section 16.

“day” means a calendar day, unless otherwise specified.

“DBP” means the Development Bank of the Philippines.

“Eligible PSP” means a PSP, which complied and passed the eligibility requirements.

“Eligibility Documents” mean the documents required to be submitted by the PSP as provided in Section 4.

“EPF” means eligibility proposal form.

“Eligibility Requirements” means the criteria that a PSP must meet in order to be eligible which includes Legal Capacity Requirements, Technical Capability Requirements, and Financial Capability Requirements.

“EPC Agreement” is defined in the draft JV Agreement/term sheet.

“EPC Contractor” means the PSP, or, in the case of a Consortium, a Consortium Member, or a wholly-owned special purpose corporation of these entities guaranteed by the PSP or the Consortium Member as applicable, which may be engaged by the JV Partner to undertake the Construction, in accordance with the JV Agreement. An EPC Contractor must be a single legal entity registered with the SEC or equivalent body in case of foreign entities.

“EPC Subcontractor” means an entity which may be engaged by the EPC Contractor to undertake a whole or part of the Construction in accordance with the JV Agreement.

“Financial Capability Requirement” refers to the eligibility requirements that must be met by a PSP, as provided in Section 3.3.

“Financial Proposal” refers to the financial proposals to be submitted by a PSP

“Financial Proposal Amount” is defined in Section 5.

“**FPF**” mean financial proposal form

“**Government**” means the Government of the Republic of the Philippines and any agency or instrumentality thereof, including the NHA and/or BCDA.

“**NHA**” means the National Housing Authority

“**IAESP**” means the Invitation to Apply for Eligibility and Submit a Proposal published by the JVSC.

“**Invitation Document**” refers to the IAESP

“**IPSP**” means the Instructions to Private Sector Participants.

“**ISO**” means the International Organization for Standardization.

“**JV**” means joint venture.

“**JV Agreement**” means the contract to be executed among NHA, BCDA and the JV Partner for the Project.

“**JV Guidelines**” shall refer to the *Guidelines on the Disposition and Privatization of BCDA Properties - Procedures for Entering into JV Agreement with Private Entities* issued by BCDA

“**JV Partner**” means the counter-party of the NHA/BCDA under the JV Agreement, which is a duly qualified and selected private entity to undertake the Project, being the Winning PSP and/or a wholly-owned entity formed by the Winning PSP whose obligations under the JV Agreement are fully guaranteed by the Winning PSP.

“**JVSC**” refers to the Joint Venture Selection Committee for the Bonifacio East Project consisting of both the NHA and BCDA Officials

“**Lead Member**” means, for a PSP that is a Consortium, the Consortium Member having the highest percentage of interest in the Consortium, which should not be less than 33¹/₃%, and which should be designated in writing as such by the other Consortium Members.

“**Legal Capacity Requirements**” refers to the eligibility requirements that must be met by a PSP, as provided in Section 3.1.

“**Lock-Up Period**” is defined in Section 12.


“**Lock-Up Rules**” is defined in Section 12.

“**Net Worth**” means with respect to any person, corporation, partnership, or other legal entity, such person or entity’s total assets minus total liabilities calculated in accordance with generally accepted accounting principles.

“**Notice of Award**” means the document issued by the BCDA to the Winning PSP instructing it to comply with conditions precedent for the execution of the JV Agreement and to submit compliance statements with regard thereto.

“**Original Proponent**” refers to Shanghai NanJiang (Group) Co. Ltd. (SNCL), which has been granted an original proponent status by the BCDA.

“**Outstanding Dispute with Government**” is defined in Section 18.



“Performance Security” means the security provided by the Winning PSP to the NHA/BCDA to guarantee (a) the former’s faithful performance of its obligations under the JV Agreement and (b) the faithful performance of the EPC Contractor of its obligations under the EPC Agreement, in the form of an irrevocable on demand letter of credit (or such other form of performance security acceptable to the NHA/BCDA) issued by an Acceptable Bank.

“Pre-Bid Conference” is defined in Section 2.10.

“Project” means the development of the Bonifacio East or the Property, which includes the social housing pursuant to EO 70, Series of 2002 and mixed-use development in accordance with EO 465, Series of 2005, in conformity with the Master Development Plan, Detailed Development Plan, Minimum Performance Standards and Specifications, and other applicable laws, rules and regulations and/ or agreements established for the Project by the Parties.

“Property” means the 59.62-ha Bonifacio East

“Proposal” means the bid letter, the additional requirements for Consortium with new members, the eligibility documents, technical proposal, and the financial proposal to be submitted by the PSPs pursuant to IPSP.

“Provisionally-Eligible PSP” means any PSP that undertakes to submit notarized and/or authenticated documents no later than the three (3) days prior to award of the contract, if and when said proponent is declared the Wining Proponent/Bidder.

“PSP” means a private sector participant which must be a partnership, corporation, other legal entity or Consortium that intends to submit an application to be determined as meeting the Eligibility, Technical and Financial Requirements for the Project pursuant to this Tender Documents.

“SEC” refers to the Securities and Exchange Commission.

“Signing Date” means the signing date of the JV Agreement

“Submission Date” means the day to be set by the JVSC for submission of the Tender Documents.

“Substitution” is discussed in Sections 12.2.2 and 12.2.4.

“Technical Capability Requirements” refers to the eligibility requirements that must be met by a PSP, as provided in Section 3.2.

“Technical Proposals” refers to the technical proposals to be submitted by a PSP

“Unsatisfactory Performance Record” means any of the following:

- a. Within the last five (5) years:
 - (i) failure to satisfactorily perform any of its material obligations on any contract, as evidenced by the imposition of a judicial pronouncement or arbitration award;
 - (ii) expulsion from any project or contract;
 - (iii) termination or suspension of any of its projects or contracts due to breach of its obligations; or

- (iv) material violation of laws and/or regulations applicable to any of its projects or contracts, including but not limited to environmental, health, safety, labor and social welfare laws and regulations;
- b. Inclusion in a blacklist issued by any governmental agency of the Philippines or in the Debarred and Cross-Debarred Firms & Individuals list posted in the World Bank website (www.worldbank.org/debarr), whether as an individual contractor, partnership or corporation or as a member of a joint venture or consortium; or
- c. Involvement in any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice or Restrictive Practice or having Conflicts of Interest.

“Tender Documents” means the IPSP, Volume I -the Eligibility Documents, Volume II -the Technical and Financial proposals, its Annexes, and any supplemental notices and special bid bulletins issued by the JVSC from the date of first publication of the IAESP until the Submission Date. It also means the submitted eligibility documents, technical and financial proposals of the PSPs.

“VAT” means value-added tax.

“Winning PSP” means the PSP or the Original Proponent whose bid is determined by the JVSC as the most advantageous proposal and, thus, granted a Notice of Award for the Project.

“Withdrawal” is defined in Section 8.

2. The Bidding Process

2.1 The JVSC

The JVSC established pursuant to the JV Guidelines shall administer the Bidding Process for the Project. It shall be responsible for the preparation of the Tender Documents, publication of the IAESP, determination of eligibility of the PSPs, conduct of pre-bid conference/s and issuance of supplemental notices, interpretation of rules regarding the Bidding Process, conduct of the Bidding Process, evaluation of Tender Documents and resolution of disputes between or among PSPs.

2.2 Financial Advisor

DBP as the financial advisor of BCDA provided support to BCDA in its negotiations with SNCL and will assist in ensuring a fair and feasible financial arrangement and agreement with SNCL.

2.3 Revisions and Clarifications to the Tender Documents

The JVSC reserves the right to amend, revise, modify, or clarify any section of the Tender Documents at any stage of the Bidding Process. Such amendments, revisions, modifications, or clarifications, if any, shall be communicated, in writing, through special bid bulletins issued by the JVSC to all parties who purchased the Tender Documents. Upon notice or communication to PSPs regarding the issuance of a bid bulletin by the JVSC, the same shall automatically be incorporated into and made an integral part of the particular document to which it relates. Any such notice or communication shall be deemed given when so sent by electronic mail in the electronic mail addresses provided by the PSPs.

(Handwritten signatures and marks)

2.4 Interpretation of the Tender Documents

In case of ambiguities or discrepancies within the Tender Documents, the following rules of interpretation shall apply:

- (a) between two or more Sections of the IPSP and Volumes I and II and Annexes, the provisions of a specific Section relevant to the issue under consideration shall prevail over those in other Sections;
- (b) between the Sections of the IPSP and the Annexes, the Sections shall prevail;
- (c) between any two Annexes, the Annex relevant to the issue shall prevail; and
- (d) between any value written in numerals and that in words, the latter shall prevail.

The rule of construction, if any, that a contract should be interpreted against the party responsible for the drafting and preparation thereof, shall not apply.

2.5 Responsibility of PSPs

Notwithstanding any information and any additional communication given by the BCDA or its JVSC, including supplemental notices and special bid bulletins, it is the sole responsibility of any interested party and PSP to:

- (a) be fully acquainted with the laws, requirements, terms, and conditions of the Bidding Process;
- (b) examine all the Tender Documents and other BCDA Supplied Information, including all instructions, forms, schedules, terms, specifications, and drawings;
- (c) familiarize itself with all existing laws, decrees, acts, rules, and ordinances of the Philippines, whether national or local, which may affect the Project; and
- (d) determine and satisfy itself, at its own cost and risk, and by such means as it considers necessary and desirable, as to all matters pertaining to the execution of the Project, including but not limited to the location and nature of the Project: the terrain, geological, meteorological, and hydrological conditions related to the Project; the requirement and availability of labor, materials, equipment, aggregate sources, water, power, roads, communications and other relevant factors; resource requirements; and risks and contingencies that may affect the cost, duration, execution and completion of the Project.

PSPs (including any Consortium Members, their Affiliates, or proposed EPC Contractors or EPC Subcontractors) shall not be entitled to and shall not make any claim against NHA and/or BCDA, or any other associated party, whether on the basis of contract, quasi-delict or delict, for damages, extensions of time or payments on the following grounds:

- (a) any misunderstanding or misapprehension in respect of the Tender Documents, and the Project; or
- (b) that incorrect or insufficient information relating to the Project given to them by NHA and/or BCDA, or any other associated party.

By submitting the Eligibility Documents, Technical and Financial Proposals, a PSP acknowledges, and warrants that it has fully discharged its responsibilities above and

contained elsewhere in the Tender Documents and that it has examined and accepted all the terms and conditions in all of the Tender Documents and other NHA and/or BCDA Supplied Information.

2.6 Costs and Expenses of Participation

PSPs shall bear all costs associated with their participation in the Bidding Process including the preparation and submission of their Tender Documents and all possible losses or damages resulting thereto. NHA and/or BCDA shall not be held responsible or liable in any way for such costs regardless of the results of the Bidding Process.

Prospective PSPs must pay the fee for the Tender Documents as indicated in the IAESP, payable in cash or manager's check issued by a bank in the Philippines to BCDA, which payment shall be non-refundable. All PSPs, or those PSPs, that have purchased the Tender Documents shall be provided IPSP and Volumes I and II of the Tender Documents.

The person duly authorized under a notarized special power of attorney executed by a PSP to purchase the Tender Documents must present to the JVSC his authorization from a PSP and must provide an electronic mail address where all correspondence of the NHA and/or BCDA to the PSP shall be sent. Upon receipt of payment, the PSP will be issued an official receipt and given copies of the Tender Documents.

2.7 Queries and Supplemental Notices

All parties who purchase the Tender Documents may send any queries on any aspect of these documents in writing by personal delivery or electronic mail to BCDA at the following address and e-mail address:

The Chairperson
JVSC –Bonifacio East Project
Bases Conversion and Development Authority
BCDA Corporate Center
2/F Bonifacio Technology Center
31st Street corner 2nd Avenue, Bonifacio Global City, Taguig City
E-mail: bcda_ngac@bcda.gov.ph
Telephone: (02) 575-1789

2.8 Ownership of Documents

All documents submitted in response to the Invitation Document, shall become the property of NHA and/or BCDA, and any information obtained by NHA and/or /BCDA from such documents may be reasonably used by NHA and/or BCDA subject to the confidentiality clause in Section 2.11.

2.9 Language and Foreign Documents

- (a) The Eligibility Documents, Technical and Financial Proposal, and all submissions to JVSC shall be prepared and written in the English language. Any document written in a foreign language shall be accompanied by an English translation and authenticated by a Philippine consular official. The authentication of such document should follow the authentication rules of the relevant Philippine consular office. In case of conflict, the English translation shall prevail.
- (b) All documents issued by foreign authorities and any and all documents executed outside of the Philippines, which are required to be notarized, shall be

authenticated before a Philippine consular official at the Philippine consulate nearest the place of issue or execution.

- (c) If the document was issued by a foreign authority, the PSP must also submit a certified true copy of such document issued by the same authority, in addition to the authentication by the relevant Philippine consular official.
- (d) The JVSC will accept foreign documents that are not yet notarized and/or authenticated but shall be subject to compliance with the following conditions:
 - (1) the photocopy of the foreign document must be submitted to the JVSC, together with proof that such foreign document had been submitted to and received by the relevant Philippine consulate;
 - (2) the notarized and/or authenticated foreign document must be submitted to the JVSC no later than the three (3) days prior to the award of the contract if and when said proponent was declared the Winning Proponent/Bidder;
 - (3) the notarized and/or authenticated foreign document submitted to the JVSC must be identical to the photocopy of the foreign document previously submitted by the PSP; and
 - (4) the foreign document must be listed in **Annex-EPF1**.
- (e) If a PSP undertakes to submit notarized and/or authenticated documents no later than the three (3) days prior to contract award, it may be provisionally qualified if, based on the Eligibility Documents it meets all of the Eligibility Requirements enumerated under Section 3 and its Technical and Financial Proposal complies with the required technical and financial specifications. However, a provisionally-qualified PSP shall be automatically disqualified if:
 - (1) it fails to submit the notarized and/or authenticated documents within the prescribed period in Section 2.9(d)(2); or
 - (2) there are differences between the contents of the documents submitted on the Submission Date and the subsequently notarized and/or authenticated documents.

A provisionally-qualified PSP that is disqualified under the above circumstances shall not be entitled to a reimbursement of the purchase costs of the Tender Documents containing the IPSP, Volumes I and II, and Annexes.

- (f) In foreign countries where there is no Philippine embassy/consulate, the document issued or executed therein may be notarized by a notary public in the said foreign country and then legalized by the relevant department in the foreign country's Ministry of Foreign Affairs, who must also state in the same document that there is no Philippine embassy/consulate in that foreign country.

2.10 Pre-Bid Conference

The JVSC will conduct a Pre-Bid Conference to further clarify the Tender Documents and to answer any additional questions from interested parties and PSPs. Details of the Pre-Bid Conference are:

Date:	10 October 2018
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Time:	2:00 p.m.
Location:	BCDA Corporate Center, 2/F Bonifacio Technology Center, 31 st Street corner 2 nd Avenue, Bonifacio Global City, Taguig City

The PSPs are encouraged to attend the Pre-Bid Conference to ensure that they fully understand the requirements of NHA and BCDA. Non-attendance at the Pre-Bid Conference will not prejudice a PSP's Proposal; however, the PSP is expected to know the changes and/or amendments to Proposals discussed during the Pre-Bid Conference.

Any statement made at the Pre-Bid Conference shall not modify the terms of this Tender Documents unless such statement is specifically identified in writing as an amendment thereto and issued through a special bid bulletin issued by the JVSC pursuant to Section 2.3.

2.11 Confidentiality

The Tender Documents and any JVSC Supplied Information are made available to PSPs only in connection with the Project and may not be disclosed or used other than for the purposes of the PSP preparing the Eligibility Documents and the Technical and Financial Proposals. Information relating to the examination, clarification, evaluation, and comparison of Tender Documents shall not be disclosed to any of the PSPs or other persons not officially involved in the Bidding Process; provided that the NHA and/or BCDA, through the JVSC, shall not have the obligation to keep any information submitted by a PSP confidential after award of the Project.

By accepting the Tender Documents and other JVSC Supplied Information, each PSP warrants that:

- (i) it has not relied and will not rely upon any of JVSC Supplied Information as being proper, accurate, adequate, suitable or complete for any purpose;
- (ii) it will make its own due diligence activities, independent evaluation, inspection, and investigation of all JVSC Supplied Information and will fully satisfy itself as to any matter or thing disclosed by any JVSC Supplied Information in connection with the Project, including (but not limited to) the accuracy, adequacy, suitability or completeness of any reports, data, test results, samples, geotechnical investigations, opinions, recommendations, findings, summaries, design or other information; and
- (iii) it will not rely upon (or allow any other person assisting or advising it to rely upon) the JVSC Supplied Information in connection with any aspect of the Bidding Process or the Project until it has satisfied itself as to the accuracy, adequacy, suitability and completeness of the Information.

2.12 Acceptance of Criteria and Waiver of Rights to Enjoin Project

By submitting the Tender Documents, particularly the Acceptance of Criteria Waiver of Rights to Enjoin Activity form (Annex EPF-6.), a PSP thereby unequivocally accepts the Bidding Requirements established by the JVSC and irrevocably waives any right it may have to seek and obtain a writ of injunction or prohibition or restraining order, or any other similar remedy or course of action intended to have similar effect, in any jurisdiction against NHA and/or BCDA, the JVSC to prevent or restrain the holding of

pre-selection proceedings, the holding of a Bidding, the carrying out of the awarded contract.

3. Eligibility Requirements

3.1 Legal Capacity Requirements

- 3.1.1 If the PSP is a partnership or corporation, it must be registered with the SEC. If the PSP is a foreign partnership or corporation, it must be registered with the appropriate government agency equivalent to the SEC in the foreign country where the foreign partnership or corporation was registered for creation or recognition of its juridical personality or capacity. The PSP must certify that it, its Affiliates, and contractors whose projects and experience are being submitted as evidence of fulfillment of the Technical and/or Financial Capability Requirements have no Unsatisfactory Performance Record.
- 3.1.2 If the PSP is a Consortium, its members must be partnerships or corporations registered with the SEC. If any member of the Consortium is a foreign partnership or corporation, such member must be registered with the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for creation or recognition of its juridical personality or capacity. Each Consortium Member must certify that it, its Affiliates, and contractors whose projects and experience are being submitted as evidence of fulfillment of the Technical and/or Financial Capability Requirements have no Unsatisfactory Performance Record.

3.2 Technical Capability Requirements

3.2.1 Construction Experience

- (a) The Construction Experience Requirement may be fulfilled by the PSP, a Consortium Member, EPC Contractor, EPC Subcontractor or their Affiliates. Each entity nominated to fulfil the Construction Experience Requirement must have at least ten (10) years of experience in real estate development, design, construction and development of eligible projects similar to the Project.
- (b) The PSP must have completed a similar or related project to the Project costing at least fifty percent (50%) of the Project. The relevant period of the similar or related project shall be within the last fifteen (15) years from 9 November 2018.

The Project cost is Php137 Billion, inclusive of (i) Php17.5 Billion cost for the development of ISF relocation and resettlement area, as the minimum investment commitment of the JV Partner; and (ii) **Php22.7 Billion** as the monetary value of NHA's and BCDA's development and usufructuary rights over the 59.6-ha. Property. The Project includes the development of relocation and resettlement area, an estimated 3.5 million sqm of generated gross floor area, subject to applicable adjustment based on CAAP height restriction, for commercial spaces, commercial and serviced apartment, other residential structures and institutional spaces, and open space at 60:40 ratio with minimum allotment of ten-percent (10%) of buildable area or five (5) hectares for parks. All site development and improvements shall be owned by NHA and BCDA (or its assignee) upon termination of the JV.

The costs for development of the Property and construction of Project shall be funded or financed through equity and debt to be sourced by the JV Partner. NHA's and BCDA's contribution to the JV for the Project shall be its development and

usufructuary rights over 59.6 ha. Property as provided for in the JV Agreement, which shall be valued at **PhP22.7 Billion**, subject to an independent third party appraiser.

- (c) The PSP, a Consortium Member, EPC Contractor, EPC Subcontractor or their Affiliates must have local or international experience in successfully completing the construction of the following projects similar to the Project with minimum costs:

Table 1: Construction Experience Requirements

Category of Completed Similar Projects	Local Currency, if applicable (of the Proponent)	Exchange Rate*	Minimum Total Project Cost (in Millions)
On-site relocation (condominium bldgs.)			PhP12,572
Commercial Offices/Spaces			PhP11,734
Commercial and service apartments			PhP11,036
Residential Towers			PhP18,020
Institutional Area			PhP9,220
Parks and Recreation			PhP4,470
Road Networks			PhP14,947
TOTAL			PhP82,000

*Must be the current rate indicated at the Bangko Sentral ng Pilipinas website a day prior the submission deadline of the eligibility documents or mm/dd/yyyy

The costs of the completed similar projects shall be converted to their equivalent prices in 2018 by applying the official inflation rates of the countries where the projects are located and the foreign exchange rates prevailing as of the documents Submission Date. In submitting past project values to meet the above criteria, each PSP shall submit both the relevant original contract prices and its methodology for determining the equivalent prices in 2018.

- (d) The entity which fulfills this requirement may be:

- (1) if the PSP is a partnership or corporation:

- i. the PSP itself; and/or
- ii. the EPC Contractor; and/or
- iii. an EPC Subcontractor for one or more of the categories of similar projects in Table 1 above; and/or
- iv. an Affiliate of any of the foregoing entities.

- (2) if the PSP is a Consortium:

- i. a Consortium Member; and/or
- ii. an EPC Contractor; and/or
- iii. an EPC Subcontractor; and/or
- iv. an Affiliate of any of the foregoing entities.

- (e) The PSP, by itself or through its Consortium Members, EPC Contractor, EPC Subcontractor or their Affiliates, must show that it has at least one (1) single project for each category of the Construction Experience Requirement that meets the relevant minimum project cost in Table 1.
- (f) If the PSP is declared the Winning PSP and signs the JV Agreement, it may only engage the services the EPC Contractor and EPC Subcontractors that have been nominated and found eligible under Volume 1 — Eligibility Documents of the Tender Documents.
- (g) Each entity whose completed projects are being submitted to fulfill the Construction Experience Requirement, whether the PSP, a Consortium Member, any of their Affiliates, EPC Contractor, or EPC Subcontractor:
 - (a) must certify that they have no Unsatisfactory Performance Record; and
 - (b) must possess the following:
 - i. A valid license issued by the Philippine Contractors Accreditation Board (PCAB) for Large B Classification/License Category AAA, in the case of a Filipino EPC Contractor/EPC Subcontractor; or by an equivalent accreditation institution in the EPC Contractor/EPC Subcontractor's country of origin, in the case of a foreign EPC Contractor/EPC Subcontractor, provided that such foreign EPC Contractor/EPC Subcontractor must secure a license and accreditation from the PCAB after the Winning PSP is awarded the Project;
 - ii. A valid ISO 9001 certification, or an "equivalent" as set forth below; and
 - iii. A valid ISO 14001 certification, or an "equivalent" as set forth below.

The certified true copies of the PCAB license (or its equivalent in the case of a foreign entity) and the ISO certifications (or their equivalent) must be issued by the relevant body issuing such license/certification. However, for determining the eligibility, the JVSC will accept copies of the PCAB license (or its equivalent) and the ISO certifications (or their equivalent), accompanied by a notarized certification issued by the relevant officer of the entity required to submit these documents that such copies are true and faithful reproductions of the original license/certifications. The PSP shall be required to submit the certified true copy of the PCAB license and ISO certifications issued by the relevant body issuing such license/certifications on the document Submission Date. In the event that a PCAB license or ISO certification has expired and an application for its renewal has already been filed and is pending, the relevant entity may, for purposes of determining eligibility, submit a notarized certification which contains (a) a statement that it has applied for the renewal of the license/certification, (b) an undertaking to submit to the JVSC certified true copies of such renewed license/certification within ten (10) days from receipt, and (c) a copy of the expired license/certification.

For purposes of determining eligibility, in lieu of the ISO certifications, the entity proposed to meet any of the Technical Capability Requirements may submit a document, which is an "equivalent" of the required ISO certifications. Such an equivalent could be a notarized certification from the competent regulatory authority stating that:

- (a) it is the regulatory authority in the country where the entity being proposed to meet a particular Technical Capability Requirements was registered for

creation of recognition of its legal personality or capacity and it has jurisdiction over such entity;

- (b) the laws in such country do not require entities like the entity being proposed to meet a particular Technical Capability Requirements to secure ISO certifications;
 - (c) the entity proposed to meet a particular Technical Capability Requirements is in compliance with the relevant policies, procedures, and programs required by applicable laws, rules and regulations of such country; and
 - (d) the entity being proposed to meet a particular Technical Capability Requirements has in place internal procedures and processes equivalent to those required under the relevant ISO certification.
- (6) The entity or entities proposed to meet the Construction Experience Requirement which are declared eligible by the JVSC will be identified in the JV Agreement. The EPC Contractor shall use the entity or entities which are identified in the JV Agreement without need for further consent from BCDA. The use of any entity or EPC Subcontractor other than those identified in the JV Agreement as having been declared eligible by the JVSC will require the prior written consent of BCDA, and will be subject to the JV Partner's demonstration that the proposed contractor meets the requirements as indicated in Section 3.2.1(a).

3.2.2. Qualified Key Personnel

- (a) The PSP, its Consortium Members, EPC Contractor, EPC Subcontractor, or their Affiliates, must have among their personnel, individuals with the following required qualifications and experience:

Table 2. Minimum Qualifications and Experience of Key Personnel

Minimum Qualifications and Type of Experience Required	Years of Experience Required
<p>Individual with experience in the construction supervision of at least three (3) projects enumerated under Section 3.2.1(c), each with a project cost of at least PhP6.56 Billion, and the total project cost of all listed projects should be at least PhP53.3 Billion.</p> <p>He or she must possess a relevant degree from a recognized institution and recognized professional qualification or license in a relevant civil or building engineering discipline.</p>	<p>At least ten (10) years</p>
<p>Individual with local or international experience of having had the overall responsibility for the development (<i>i.e.</i>, planning, coordination,</p>	<p>At least ten (10) years</p>

(Handwritten signatures and initials in blue ink are present at the bottom of the page.)

integration, and/or implementation of the designing, engineering, and construction) of at least three (3) projects enumerated under Section 3.2.1(c), each with a project cost of at least PhP6.56 Billion , and the total project cost of all listed projects should be at least PhP53.5 Billion .	
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He or she must possess a relevant degree from a recognized institution and recognized professional qualification in engineering, finance or management.	
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The personnel identified in Table 2 may be employed or engaged by the PSP, a Consortium Member, EPC Contractor, EPC Subcontractor, or an Affiliate of these entities.

3.3 Financial Capability Requirements

3.3.1 The PSP should have the capability to provide the minimum amount of equity to be used in financing the completion of the entire Project.

(a) To be eligible to bid for the Project, the PSP or a related entity as described below, must meet the following:

- (1) A minimum Net Worth equivalent to at least **PhP20.55 Billion** or its equivalent as of its audited financial statements which must be dated not earlier than December 31, 2017; or a deposit equivalent to fifteen percent (15%) of the minimum investment commitment set aside or earmarked for the Project; and
- (2) A notarized statement/certification from a domestic universal/commercial bank or any international bank recognized by the Bangko Sentral ng Pilipinas attesting that the nominated entity is banking with them, or is in good financial standing, and/or is qualified to obtain credit accommodations from such banks to finance the Project.

(b) The entity which fulfills this requirement may be:

- (1) If the PSP is a partnership or corporation:
 - i. The PSP itself; or
 - ii. An Affiliate of the PSP.
- (2) If the PSP is a Consortium:
 - i. The Lead Member of the Consortium; or
 - ii. An Affiliate of the Lead Member of the Consortium.

- (c) The PSP shall be allowed to nominate only a single entity to meet the Financial Capability Requirement, which entity must meet both the requirements in Section 3.3.1(a) alone.
- (d) The entity being submitted to fulfill the Financial Capability Requirement must certify that it has no Unsatisfactory Performance Record

4. Eligibility Documents. Please refer to Volume I –Eligibility Documents and Annexes

5. Proposals. Please refer to Volume II –Technical and Financial Proposals and Annexes

6. Tender Documents Submission Date

Tender Documents must be received by the JVSC on or before 9 November 2018 at 12:00 noon. For this purpose, the official time to be observed by BCDA shall be the clock/time found at the Reception in its Corporate Office at the address stated in Section 2.7 hereof

7. Late Submission of Tender Documents

Any Tender Documents submitted after the documents Submission Date shall be declared “Late” and shall be returned unopened by the JVSC.

8. Modification and Withdrawal of Tender Documents

8.1 The PSP may modify its Tender Documents after it has been submitted; provided that the modification is received by JVSC prior to the deadline specified in Section 6. The PSP shall not be allowed to retrieve its original Tender Documents, but shall be allowed to submit another set equally sealed, properly identified, linked to its original bid marked as “ELIGIBILITY, TECHNICAL OR FINANCIAL MODIFICATION,” and stamped “received” by the JVSC. Modifications received after the documents Submission Date shall not be considered and shall be returned to the PSP unopened.

8.2 A PSP may, through a letter of withdrawal, withdraw its Tender Documents after they have been submitted, for valid and justifiable reasons; provided that the letter of withdrawal is received by JVSC prior to the documents Submission Date.

8.3 Tender Documents requested to be withdrawn in accordance with this Section 8 shall be returned unopened to the PSP concerned. A PSP that withdraws its Tender Documents shall not be permitted to submit another set, directly or indirectly, for the same Project.

9. Opening of Tender Documents and Evaluation of Proposals

9.1 After the deadline to submit Proposals on documents Submission Date, the JVSC shall proceed to open and examine the contents of the Tender Documents to determine whether it contains all of the documents required in Sections 4 and 5. The Tender Documents shall be opened one at a time, in the order in which the Proposals were received.

9.2 Each PSP and the Original Proponent may send a representative to witness the opening of Proposals. Such representatives shall sign the register confirming their attendance. PSPs and the Original Proponent who do not send a representative to witness the opening of Proposals shall be deemed to have waived the opportunity to witness the opening.

9.3 The First Envelope containing the Eligibility Documents shall be opened first. If the contents of the Eligibility Documents are found to be incomplete or non-responsive, the JVSC shall automatically disqualify the entire Proposal, and immediately return the Proposal Security (and the unopened Second Envelope if applicable) to the PSP concerned.

9.4 The eligibility of each PSP shall be determined as either “eligible” or “ineligible” by examining each of its eligibility requirements or statements against a checklist of requirements as stated in Section 4 hereof, using a non-discretionary “pass/fail” criterion, as stated in this IPSP, in Volume I — Eligibility Documents and Annexes. If a PSP submits the specific Eligibility Document required, it shall be rated “passed” for that particular requirement. In this regard, failure to submit a requirement, or an incomplete or patently insufficient submission, shall be considered “failed” for the particular eligibility requirement concerned. If a PSP is rated “passed” for all the eligibility requirements, it shall be considered eligible to participate and continue in the Bidding, and the JVSC shall mark the set of Eligibility Documents of the PSP concerned as “eligible” and shall proceed to open the Second Envelope containing the Technical and Financial Proposals.

If the PSP proposed more than one EPC Contractor to fulfill the Construction Experience Requirement, the JVSC shall also notify said PSP as to which of the EPC Contractors it proposed were rated “passed”.

In opening the Tender Documents, the following shall be read out and recorded:

- (a) the name of the PSP; the date and time of receipt of the Tender Documents;
- (b) whether there is a modification or substitution; and
- (c) the presence or absence of each document comprising the Eligibility Documents vis-à-vis a checklist of the required documents and the Technical and Financial Proposals.

If a PSP is rated “failed” in any of the eligibility requirements, he shall be considered ineligible to participate and continue in the Bidding, and the JVSC shall mark the set of eligibility documents of the PSP concerned as “ineligible”. In either case, the JVSC chairperson or his duly designated authority shall countersign the markings.

9.5 During the examination and evaluation of the contents of a PSP’s Tender Documents, the JVSC may request such PSP to clarify certain portions of its Eligibility Documents and Technical and Financial Proposals. The JVSC shall make all requests for clarification in writing. Clarifications shall be limited to providing explanations and/or supporting documentation for information included as part of the PSP’s Tender Documents, but shall not include the submission of additional elements by the PSP concerned, nor its modification in any way.

9.6 If the JVSC determines after its detailed evaluation of the Tender Documents that the PSP has complied with all the requirements for the Eligibility, Technical and Financial Proposals in Sections 4 and 5, the PSP shall be rated “Complying”, otherwise, it shall rate the PSP as “Non-Complying.”

9.7 The JVSC shall notify in writing all the PSPs as to whether or not their Proposals were

rated as "Complying" or "Non-Complying." PSPs with Non-Complying Proposals shall be informed of the reason/s why their Proposals were considered as "Non-Complying."

9.8 The JVSC shall return to the disqualified PSPs their Proposals and Proposal Securities, unless the ground for their disqualification was any of the events listed in Section 11 in which case the Proposal Security shall be forfeited.

9.9 All PSPs whose Proposals were found to be "Complying" shall be considered on equal footing insofar as the Proposals are concerned. Hence, the Winning PSP shall be determined exclusively on the basis of the better amount or the most advantageous to the NHA and BCDA.

9.10 The Proposals that meet the requirements of Sections 4 and 5 shall be ranked by the JVSC based on the Financial Proposal Amount alone and the JVSC shall determine the best complying Financial Proposal Amount (**Best Proposal**). The PSP that provides the NHA and BCDA the highest Variable Share as indicated in this Tender Documents, such proposal shall be considered the Best Proposal.

9.11 In the event of a tie, the procedure for breaking the tie shall be done through drawing of lots.

9.12 Letters of withdrawal, if any, shall be read out and recorded during the opening of Tender Documents, and the envelope containing the corresponding withdrawn Tender Documents shall be returned unopened to the withdrawing PSP. If the withdrawing PSP's representative is present during the opening, the original Tender Documents and all copies thereof shall be returned to the representative during the opening of the Tender Documents. If no representative is present, the Tender Documents shall be returned unopened by registered mail.

10. Notification of Results of Evaluation of Tender Documents

NHA/BCDA, through its JVSC, shall within seven (7) calendar days after the deadline set for the submission of the Tender Documents, complete the evaluation of the Tender Documents of the PSPs, and shall rank the PSPs based on their Proposals. Accordingly, the JVSC shall duly inform the PSPs within seven (7) calendar days of the results of such evaluation.

11. Grounds for Disqualification

A PSP may be disqualified for any of the following reasons:

- a. late submission of the Tender Documents or any part thereof;
- b. material or willful misrepresentation in the Bidding Process;
- c. any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice or Restrictive Practice as described in Section 16;
- d. any form of political or other lobbying with respect to the Bidding Process;
- e. illegal conduct or attempt to influence the JVSC's evaluation of the Tender Documents or the Bidding Process;
- f. any Conflict of Interest that would give it any unfair advantage in the Bidding Process as described in Section 17;
- g. any Outstanding Dispute with Government as described in Section 18;
- h. failure to comply with any of the terms, conditions and instructions of the Invitation Documents and the Tender Documents.

12. Lock-Up Rules during the Bidding Process

The following rules (“**Lock-Up Rules**”) shall apply from the documents Submission Date until the issue date of the Results of Evaluation of the Tender Documents (“**Lock-Up Period**”):

12.1 Corporation and Partnership

12.1.1 For a PSP that is a corporation, partnership or other legal entity, no restrictions shall be imposed on the ownership structure of such a PSP.

12.1.2 However, if a PSP which is a corporation, partnership or other legal entity proposes an Affiliate to meet any of the Eligibility Requirements, the proposed Affiliate must remain as such in accordance with the criteria for Affiliates as provided in Section 1.2.

12.2 Consortium

12.2.1 A Consortium Member, except for the Lead Member, may leave the Consortium and not be replaced by any other entity (**Withdrawal**), subject to the following conditions and compliance with the requirements of Section 12.2.4:

(a) A Consortium Member proposed to meet the Technical Capability Requirements cannot withdraw from the Consortium, except in the event of a Substitution as provided in Section 12.2.2 below.

(b) Withdrawing Consortium Members cannot join any other PSP that has been determined to have complying Proposals.

12.2.2 A Consortium Member, except for the Lead Member, may be replaced by another entity not previously identified in the Consortium’s Business Structure under **Annex EPF-3B (Substitution)**, subject to the following conditions and compliance with the requirements of Section 12.2.4:

(a) If the Consortium Member leaving the Consortium is the only entity that is proposed to meet a particular Technical Capability Requirement, then the substitute should meet the particular Technical Capability Requirement that such Consortium Member was proposed to meet and the Legal Capacity Requirements.

(b) The substitute should not be a Consortium Member (or an Affiliate of such entities) identified in the Business Structure of another Private Proponent.

12.2.3 A Consortium Member may increase or reduce its committed percentage equity interest in the Consortium, subject to the following conditions and compliance with the requirements of Section 12.2.4.

Any Consortium Member can increase or reduce its committed percentage equity interest in the Consortium as specified in Business Structure, provided that, the Consortium Member fulfilling the Financial Capability Requirement shall not be allowed to reduce its committed percentage equity interest in the Consortium to a level below the minimum required.

12.2.4 In the event of a Withdrawal, Substitution, or change in equity interest in a Consortium, the following requirements must be met:

- (a) The Lead Member must always own the highest percentage interest in the Consortium.
- (b) No Consortium Member, on its own or together with its Affiliates, shall own a greater percentage interest in the Consortium than the Lead Member, on its own or together with its Affiliates.
- (c) Any change in the composition of the Consortium or its ownership structure must be approved by the JVSC.
- (d) An application reflecting such change must be submitted to the JVSC no later than seven (7) days before the Signing Date. Together with its application, the PSP should submit the relevant Eligibility Documents revised to reflect the proposed changes. The proposed changes shall only be approved if the PSP complies with all of the Eligibility Requirements, and if such change does not delay the submission of relevant documents prior to the Signing Date.
- (e) In the event of a Withdrawal, the PSP must inform the JVSC in writing, and in accordance with Section 8.2, on or prior to the document Submission Date.
- (f) If the proposed Consortium composition change is not approved by the JVSC in the JVSC's discretion, the applying PSP may revert to the original Consortium composition or proposed Consortium ownership structure, as provided in its Eligibility Documents.

12.2.5 No change in Control or the Lead Member of a Consortium shall be permitted without the prior written approval of the JVSC.

12.3 Contractors

12.3.1 None of the nominated EPC Contractors fulfilling the Technical Capability Requirement may withdraw from a PSP during the Lock-Up Period, unless:

- (a) If the EPC Contractor withdrawing from the PSP is the only entity which is proposed to meet a particular Technical Capability Requirement, then the PSP shall nominate a replacement EPC Contractor that meets or exceeds the particular Technical Capability Requirements, which such withdrawing EPC Contractor was proposed to meet.
- (b) If the EPC Contractor withdrawing from the PSP is not the only entity which is proposed to meet a particular Technical Capability Requirement, then the other EPC Contractors proposed by the PSP to meet the applicable Technical Capability Requirement shall confirm in writing that they remain willing to participate in the Project with the applicable PSP.
- (c) An application reflecting such change must be submitted to the JVSC no later than seven (7) days before the Signing Date, the PSP should submit the relevant Eligibility Documents revised to reflect the proposed changes. The proposed changes shall only be approved if the PSP complies with all of the Eligibility Requirements and the other terms and conditions in the IPSP, Volume I — Eligibility Documents and Annexes, and if such change does not affect the submitted and evaluated Proposals.

12.4 Additional Consortium Members and Contractors

12.4.1 Other than in connection with a Withdrawal or Substitution as provided in Section 12.2 above or the withdrawal of a EPC Contractor as provided in Section 12.3 above, in the event that any PSP adds a EPC Contractor or any Consortium adds additional Consortium Members, an application reflecting such change must be submitted to the JVSC no later than seven (7) days before the Signing Date. Together with its application, the PSP should submit the relevant Eligibility Documents revised to reflect the proposed changes. The proposed changes shall only be approved if the PSP complies with all of the Eligibility Requirements and the other terms and conditions in the IPSP, Volume I — Eligibility Documents and Annexes, and if such change does not affect the submitted and evaluated Proposals.

12.5 Consequence of Violation of Lock-Up Rules

Any violation of the Lock-Up Rules shall be a ground for disqualification.

13. Failure of Bidding Process

JVSC may declare a failure of the Bidding when:

- (a) No Tender Documents are received from PSPs; or
- (b) No Eligible PSP/s is/are able to comply with technical and/or financial requirements.

In which case, the Bidding may be cancelled, suspended, re-launched or proceed to award the JV contract or agreement to the Original Proponent.

14. Right to Reject Eligibility Documents, Waive Minor Defects, and Not Proceed with the Bidding

The NHA and/or BCDA reserves the right to accept or reject all or any Application to be Declared Eligible and Bid without assigning any reason whatsoever.

The NHA and/or BCDA reserves the right to waive any minor defects in the Eligibility Documents of any PSP.

At any time, the NHA and/or BCDA reserves the right not to proceed with the Bidding Process and the execution of the JV Agreement without prior notice or liability, and without any obligation to give any reason not to proceed.

15. General Conditions and Prohibitions

By submitting Tender Documents and participating in the Bidding Process, the PSP acknowledges and agrees that:

- a. it, including all Consortium Members, proposed EPC Contractors, their Affiliates, and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the entirety of the Bidding Process;
- b. it, including all Consortium Members, proposed EPC Contractors, their Affiliates, and their respective officers, employees, agents, and advisers will not engage in any form of political or lobbying with respect to the Project or attempt to influence the outcome of the Project;

- c. it accepts all the terms and conditions of the Invitation and Tender Documents; and
- d. the JVSC has the right to amend, revise, modify or clarify any of the Tender Documents at any time.

16. Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice and Restrictive Practice

The following terms shall have the meaning hereinafter respectively assigned to them:

- a. **“Corrupt Practice”** means any behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the Bidding or in contract execution; this also includes similar acts punishable under the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019);
- b. **“Fraud”** means a misrepresentation of facts in order to influence the Bidding to the detriment of the government, and includes collusive practices among PSPs (prior to or after bid submission) designed to establish financial offers or prices at artificial, non-competitive levels and to deprive the government of the benefits of a free, transparent and open competition;
- c. **“Collusion”** means a scheme or arrangement between two or more PSPs, with or without the knowledge of the government, designed to establish financial offers or prices at artificial, non-competitive levels;
- d. **“Coercion”** means harming or threatening to harm, directly or indirectly, persons, or their property to influence their involvement in the Bidding Process, or affect the execution of the JV Agreement;
- e. **“Undesirable Practice”** means (i) establishing contact with any person connected with, employed or engaged by NHA or BCDA or any member of the JVSC with the objective of canvassing, lobbying or (ii) in any manner influencing or attempting to influence the Bidding Process, the evaluation of Tender Documents or proposals, or the implementation of the JV Agreement; and
- f. **“Restrictive Practice”** means any act, scheme, plan or agreement such as forming a group, clique, cartel, trust, syndicate, combine, pool and the like or arriving at any understanding or arrangement among PSPs, Consortium Members, or EPC Contractors with the objective of restricting, subverting or manipulating a full and fair competition in the Bidding Process.

Aside from being disqualified from the Bidding, any person found to be engaging in any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice or Restrictive Practice shall incur civil and criminal liability under the applicable laws and regulations and shall be prohibited from participating in any bidding conducted by NHA and/or BCDA.

17. Conflict of Interest

PSPs, Consortium Members, including their EPC Contractors, and Affiliates in the Project, must not have any Conflicts of Interest. Any of the following will be considered a **“Conflict of Interest”**:

- a. A PSP, any of its Consortium Members, or any of their Affiliates (of either a PSP or any of its Consortium Members) is a member of another Consortium, or an Affiliate of a member of another Consortium.
- b. A PSP, any of its Consortium Members, or any of their Affiliates (of either a PSP or any of its Consortium Members) is proposed/nominated as an EPC Contractor of another PSP.
- c. A PSP, any Consortium Member (if the PSP is a Consortium), or any of their Affiliates (of either a PSP or of the Consortium Member) has ownership interest of twenty percent (20%) or more in any other PSP, any Consortium Member of any other PSP, or any of its Affiliates that is nominated to fulfill any of the Eligibility Requirements.
- d. A member of the board of directors, partner, officer, employee, or agent of a PSP, any Consortium Member (if the PSP is a Consortium), or any of their Affiliates, who is directly involved in any capacity related to the Bidding Process of such PSP, any Consortium Member (if the PSP is a Consortium), or any of their Affiliates is also directly involved in any capacity related to the Bidding Process for the Project for another PSP, any Consortium Member of another PSP, or any of their Affiliates.

The phrase “**directly involved in any capacity**” shall refer to actual participation in the deliberations and/or decision-making for the bidding process of the PSP or access to the documents related thereto, that would give the director, partner, officer, employee, or agent knowledge or information regarding the bid of such PSP, including the act of voting on any matter related to the Bidding Process of two or more PSPs, such as but not limited to the approval of the relevant entity’s participation in the Bidding.

The same conflict of interest arises for consulting firms acting as professional advisors, EPC Contractors, in each case, to the extent such entities are engaged by more than one PSP in any capacity related to the Bidding Process, unless said EPC Contractor, or professional advisor discloses such fact in writing to each relevant PSP, submits a Conflict Management Plan to such PSPs and submits to the JVSC a written consent from each such PSP stating that such PSP has been notified of the potential conflict of interest, has reviewed and approved the Conflict Management Plan prepared by such EPC Contractor or professional adviser and the parties consent to such EPC Contractor or professional adviser’s engagement by the other relevant PSP.

Each affected PSP must secure the written consent of JVSC stating that the Conflict Management Plan is sufficient prior to proposing or nominating such EPC Contractor in its Eligibility Documents or seeking professional advisory services from said professional advisor.

18. Outstanding Dispute with Government

An “**Outstanding Dispute with Government**” refers to any pending dispute or alternative dispute before the courts or arbitral tribunal, including suspension or blacklisting proceedings, between the PSP, any Consortium Member, their Affiliates, or EPC Contractor proposed by the PSP, on the one hand, and the NHA and/or BCDA, on the other, in connection with any project or contract of the NHA and/or BCDA.

19. Right to Outbid

19.1 Pursuant to Section 16.12 (k) of the BCDA Guidelines, the Original Proponent is given the right to outbid the Eligible PSP that has submitted the Best Proposal if the NHA and BCDA determines that the offer made by the Eligible PSP with the Best Proposal is superior or more advantageous to the Government than the Original Proposal.

19.2 The Original Proponent shall be given the right to outbid the Best Proposal within seven (7) calendar days from receipt of notification from the BCDA of the results of the Bidding. The Original Proponent's right to outbid shall be exercised by submitting an offer that is, at least, ten percent (10%) more than the Best Proposal. The Original Proposal's better offer shall be contained in one (1) original letter using the Outbidding Form attached hereto, and placed in a sealed envelope and

19.3 labelled as follows:

- (a) marked as "**EXERCISE OF RIGHT TO OUTBID**";
- (b) addressed to the JVSC –Bonifacio East Project:

JOSHUA M. BINGCANG

Chairperson

JVSC –Bonifacio East Project

Bases Conversion and Development Authority

2/F Bonifacio Technology Center, 31st Street, corner 2nd Avenue

Bonifacio Global City, Taguig City

- (c) contain the name of the contract to be bid in capital letters and bear the specific identification of this Project:

BONIFACIO EAST PROJECT

- (d) bear the name and address of the Original Proponent in capital letters.

19.4 In the event that the Original Proponent fails to submit a better offer within the prescribed period, the Project shall be awarded to the PSP that has submitted the Best Proposal.

19.5 If the Original Proponent submits a better offer than that of the PSP that has submitted the Best Proposal, the Project shall be awarded to the Original Proponent.

20. Award and Approval of Contract

20.1 After the JVSC determines who between the PSP that has submitted the Best Proposal or the Original Proponent has submitted a better offer, the JVSC shall recommend the award of contract to the proponent with a better offer and making it the Winning PSP.

20.2 The memorandum of the JVSC recommending the award shall contain its recommendation, the minutes of negotiation meetings duly signed by its members and the JVSC evaluation/assessment report on the proposals explaining in clear terms the basis of such recommendation.

20.3 Within a period not exceeding seven (7) calendar days from approval of the JVSC recommendation, the award shall be manifested by the BCDA signing and issuing the Notice of Award to the Winning PSP.

20.4 The Notice of Award to be issued shall contain, among others, an instruction to the Winning PSP to comply with conditions precedent for the execution of the JV Agreement within seven (7) calendar days from receipt of the Notice of Award. These documents include:

- (a) Notice of Award signed by the authorized representative of the Winning PSP;
- (b) In case the JV Agreement will be signed by a wholly-owned special purpose corporation of the Winning PSP:
 - (i) evidence of the incorporation of such special purpose corporation consisting of certified true copies issued by the SEC of the Certificate of Incorporation, Articles of Incorporation and By-Laws of the special purpose corporation and the general information sheet and a photocopy of the page(s) showing entries in the special purpose corporation's stock and transfer book, certified true by its corporate secretary, wherein the shareholders of the special purpose corporation is the Winning PSP; and
 - (ii) the original copy of the signed parent company guarantee using the form attached to the JV Agreement;
- (c) Certified true copy of a valid Tax Clearance Certificate (**TCC**), issued by the appropriate office in the BIR, pursuant to Executive Order No. 398 (series of 2005) as implemented by Revenue Regulations Nos. 1-2016 and 8-2016, certified by a notary public or the relevant entity's chief financial officer as a true copy of the original, is to be submitted by the PSP, or in the case of a Consortium, to be submitted by each Consortium Member. For non-resident corporations not doing business in the Philippines and not able to obtain a TCC, PSPs must submit, in lieu of a TCC, a Delinquency Verification Certificate issued by the appropriate office in the BIR, certified by a notary public or the relevant entity's chief financial officer as a true copy of the original, and a sworn statement, signed by the relevant officer of the said PSP or Consortium Member, attesting to the fact that it is not doing business nor subject to any form of tax in the Philippines.
- (d) Certified true copies issued by the authorized officer of the Winning PSP, duly notarized, of resolutions adopted by the board of directors of the Winning PSP: (a) attesting that the Winning PSP conducted an organizational meeting of its stockholders and elected its regular board of directors and corporate officers and (b) authorizing the execution, delivery and performance of the JV Agreement, EPC Agreement, and the Parent Company Guarantee (if applicable);
- (e) Posting of a Construction Performance Security in favor of BCDA to replace the Proposal Security.

20.5 Failure to duly submit the requirements under this Section or a finding by the JVSC that the requirements submitted are false shall be grounds for the forfeiture of the Proposal Security described in Volume II: Technical and Financial Proposals and the withdrawal of the Notice of Award.

21. Next Best Complying Bid

21.1 In the event that the Original Proponent which is issued a Notice of Award does not comply with the requirements of the Notice of Award within the timeframe specified in Section 20.4, or for any reason the Notice of Award is withdrawn due to the fault of the Original Proponent which is issued a Notice of Award, then the Eligible PSP which submits the Best Proposal shall be issued a Notice of Award, and shall comply with its

requirements.

21.2 If the PSP that is issued a Notice of Award does not comply with the Post-Award Requirements within the timeframe specified in Section 20.4, or for any reason the Notice of Award is withdrawn due to the fault of the PSP with the Best Proposal, then the PSP with the next best complying Financial Proposal Amount shall be declared the new PSP with the Best Proposal and the Original Proponent shall be given the right to outbid the Best Proposal following the procedure under Section 19.

21.2.1 The foregoing process may again be repeated with the third best complying Proposal and so on.

21.2.2 If there is no other Proposal left, then the JVSC shall recommend that the Original Proponent be issued a Notice of Award.

22. Reservation Clause

22.1 Notwithstanding the post-qualification of a Winning PSP, NHA and/or BCDA reserves the right to review its qualifications at any stage of the Bidding if it has reasonable grounds to believe that a misrepresentation has been made by the said Winning PSP, or that there has been a change in the Winning PSP's capability to undertake this Project from the time it submitted its Tender Documents. Should such review uncover any misrepresentation made in the Tender Documents, statements or documents, or any changes in the situation of the Winning PSP which will affect its capability to undertake the Project so that it fails the requirements indicated in the Tender Documents, the JVSC shall consider the said Winning PSP as ineligible and shall disqualify it from obtaining an award or contract.

22.2 Based on the following grounds, NHA and/or BCDA reserves the right to reject any and all proposals, declare a failure of Bidding at any time prior to the award of the Project, or not to award the Project, without thereby incurring any liability, and to make no assurance that a contract shall be entered into as a result of the Bidding:

- (a) if there is *prima facie* evidence of collusion between appropriate public officers or employees of NHA and/or BCDA or between the JVSC and any of the PSPs, or if the collusion is between or among the PSPs themselves, or between a PSP and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;
- (b) if BCDA's JVSC is found to have failed in following the prescribed Bidding procedures;
or
- (c) for any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the NHA and BCDA as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the Project no longer economically, financially or technically feasible as determined by the BCDA Board;
 - (ii) If the Project is no longer necessary as determined by the BCDA Board; and
 - (iii) If NHA's and BCDA's contribution to the Project is increased through no fault of NHA and/or BCDA.

In such case, the Project shall be immediately awarded to the Original Proponent.

23. Signing of the JV Agreement

23.1 The authorized signatory(ies) of the Winning PSP, NHA and BCDA shall execute and sign the JV Agreement upon PSP's compliance with the conditions precedent to the execution of the JV Agreement as referred to in the Tender Document and the JV Agreement.

23.2 The following documents shall form part of the contract:

- (a) JV Agreement and its schedules and annexes;
- (b) Invitation Documents;
- (c) Winning PSP's Proposal, including the Eligibility, Technical and Financial Proposals, and all other documents/statements submitted;
- (d) Construction Performance Security;
- (e) Notice of Award; and
- (f) Other contract documents that may be required by existing laws.

23.3 The refusal, inability or failure of the Winning PSP to enter into a contract with NHA and BCDA within the time provided therefore shall constitute sufficient ground for the annulment of the award and forfeiture of the Proposal Security.

24. Performance Security

24.1 To guarantee the faithful performance by the Winning PSP or Original Proponent of its obligations under the JV Agreement, the Winning PSP or Original Proponent shall post a Performance Security within a maximum period of seven (7) calendar days from the receipt of the Notice of Award from BCDA and in no case later than the signing of the JV Agreement.

24.2 The Performance Security to be issued by an Acceptable Bank, shall be in the form of any of the following:

- Cash or manager's check, irrevocable letter of credit or bank draft – at least of two-percent (2%) of the private sector participant's (PSP) contribution to the JV activity;
- Bank Guarantee – at least five-percent (5%) of the PSP's contribution to the JV activity;
- or
- Surety Bond – at least ten-percent (10%) of the PSP's contribution to the JV activity

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COMPETITIVE CHALLENGE FOR THE
JOINT VENTURE DEVELOPMENT OF THE
BONIFACIO EAST PROPERTY
TAGUIG CITY

- Volume I — Eligibility Documents

ELIGIBILITY DOCUMENTS

On Submission Date, the PSP must submit its application to be declared as an Eligible PSP. It shall consist of the following Eligibility Documents enumerated in this Section 1, using the relevant forms in the Annexes.

1. Legal Capacity Documents

1.1 Notarized Application to be Declared Eligible and Bid (using the form in **Annex EPF-1**) to be submitted by the PSP.

1.2 For partnership, corporations or other juridical entities, Notarized Authority to Apply to be Declared Eligible and Bid and Designation of Authorized Representative (using the form prescribed in **Annex EPF-2A**) to be submitted by PSP.

For Consortia, Consortium Member's Notarized Authority to Participate in the Consortium and Apply to be Declared Eligible and Bid, and Designation of Lead Member and Authorized Representative of Consortium (using the form prescribed in **Annex EPF-2B**).

1.3 Business Structure (using the form in **Annex EPF-3A** for partnerships, corporations or any other juridical entity, or in **Annex EPF-3B** for Consortia). The Business Structure must also indicate the entities that fulfill the Technical Capability and Financial Capability Requirements in Sections 3.2 and 3.3 of the IPSP; and any Affiliates of these entities whose projects, experiences, or financial qualifications are being submitted to comply with the Eligibility Requirements.

Further, if the PSP is a Consortium, the Business Structure must show the Lead Member and all Consortium Members, such that the sum total of the percentage interest of all Consortium Members must add up to one hundred percent (100%). Further, it must also submit a Consortium Agreement using the form in **Annex EPF-3C**.

1.4 Basic Information Sheet (using the form in **Annex EPF-4**) to be submitted by all entities listed in all sections of the Business Structure.

(a) Required attachments:

- (1) Certified true copy of its latest General Information Sheet, stamped "received" by the SEC or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for recognition or creation of its legal personality or capacity.

The certification may come from either the SEC or its equivalent in a foreign country, the entity's corporate secretary, or any officer of the entity duly authorized to make such certification. If it comes from the entity's corporate secretary or duly authorized officer, the certification must be under oath and notarized. If the certification is issued or notarized outside the Philippines, it must be authenticated before a Philippine consular official at the Philippine consulate nearest the place of issue.

If in a particular foreign jurisdiction there is no document equivalent to the GIS, an officer of the entity registered in such foreign jurisdiction may instead submit

a notarized certification stating that there is no document equivalent to the GIS in the foreign country where it is registered. The notarized certification should also provide the information required under the GIS.

- (2) Certified True Copy of SEC Certificate of Incorporation, or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for recognition or creation of its legal personality or capacity. The SEC Certificate of Incorporation or the equivalent document for a foreign entity must be certified by the SEC, its equivalent in a foreign country, or the entity's corporate secretary, or any officer of the entity duly authorized to make such certification. If it comes from the entity's corporate secretary or duly authorized officer, the certification must be under oath and notarized. If the certification is issued or notarized outside the Philippines, it must be authenticated before a Philippine consular official at the Philippine consulate nearest the place of issue. If in a particular foreign jurisdiction the Certificate of Incorporation is issued by the registrar of the corporation, then the JVSC will accept a certified true copy of the Certificate of Incorporation issued by the registrar of the corporation.
- (3) Certified true copy of the latest Articles of Incorporation or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for recognition or creation of its legal personality or capacity. The Articles of Incorporation or the equivalent document for a foreign entity may be certified either by the SEC, its equivalent in a foreign country, or the entity's corporate secretary, or any officer of the entity duly-authorized to make such certification. If it comes from the entity's corporate secretary or duly authorized officer, the certification must be under oath and notarized. If the certification is issued or notarized outside the Philippines, it must be authenticated before a Philippine consular official at the Philippine consulate nearest the place of issue.
- (4) Certified true copy of the latest By-Laws or for a foreign entity, the equivalent document submitted to and acknowledged by the appropriate government agency equivalent to the SEC in the foreign country where the foreign entity was registered for recognition or creation of its legal personality or capacity. The By-Laws or the equivalent document for a foreign entity may be certified either by the SEC, its equivalent in a foreign country, or the entity's corporate secretary, or any officer of the entity duly authorized to make such certification. If it comes from the entity's corporate secretary or duly authorized officer, the certification must be under oath and notarized. If the certification is issued or notarized outside the Philippines, it must be authenticated before a Philippine consular official at the Philippine consulate nearest the place of issue.

If an officer other than the Corporate Secretary certifies the General Information Sheet, Certificate of Incorporation, Articles of Incorporation or By-Laws, a notarized certification authorizing such officer to certify the aforementioned documents must be submitted.

1.5 Notarized Certification of Absence of Unsatisfactory Performance Record (using the form in **Annex EPF-5**) to be submitted by all entities listed in all sections of the Business Structure.

- 1.6 A Notarized Acceptance of Criteria and Waiver of Rights to Enjoin Activity (using the form in **Annex EPF-6A** for partnerships, corporations or any other juridical entity, or in **Annex EPF-6B** for Consortia).
- 1.7 An Authorization Letter (using the form in **Annex EPF-7A** for partnerships, corporations or any other juridical entity, or in **Annex EPF-7B** for Consortia).
- 1.8 A Notarized Certification Relating to Eligibility Documents (using the form in **Annex EPF-8**).

2. Technical Capability Documents

- 2.1 Construction Experience Requirement (using the form in **Annex EPF-9**) to be submitted by the entity or entities that fulfill the Construction Experience Requirement in Section 3.2.1 of the IPSP, as identified in the Business Structure.

Required attachments:

- (1) Notarized Certificate of Project Completion from the project's owner, or an entity authorized to issue such certificate on behalf of the project's owner. A copy of the original Certificate of Project Completion will be accepted, provided that it is accompanied by a notarized certification issued by the relevant officer of the project owner or the relevant officer of the EPC Contractor that such copy is a true and faithful reproduction of the original Certificate of Project Completion.
- (2) If the project was completed by an Affiliate of the entity which fulfills the Construction Experience Requirement, evidence of such affiliation.
- (3) Certified true copy of a valid license issued by the PCAB for Large B Classification/License Category AAA, in the case of a Filipino entity or, in the case of a foreign entity, an equivalent license issued by an equivalent accreditation institution in the foreign entity's country of origin, provided that such foreign entity must secure a license and accreditation from the PCAB after the Winning PSP is awarded the Project. The certified true copy of the PCAB license (or its equivalent in the case of a foreign entity) must be issued by the relevant body issuing such license/certification. However, for the purpose of determining eligibility, a copy of the PCAB license (or its equivalent) will be accepted, provided that it is accompanied by a notarized certification issued by the relevant officer of the entity required to submit this document that such copy is a true and faithful reproduction of the original license. The PSP shall be required to submit the certified true copy of the license issued by the relevant body issuing such license on the document Submission Date. In the event that a PCAB license has expired and an application for its renewal has already been filed and is pending, the relevant entity may, for purposes of determining eligibility, submit a notarized certification which contains (a) a statement that it has applied for the renewal of the license, (b) an undertaking to submit to the JVSC certified true copies of such renewed license within ten (10) days from receipt, and (c) a copy of the expired license.
- (4) Certified true copy of a valid ISO 9001 or an "equivalent" as set forth below.
- (5) Certified true copy of a valid ISO 14001 or an "equivalent" as set forth below.

The certified true copies of the ISO certifications (or their equivalent) must be issued by the relevant body issuing such certification. However, for the purpose of determining eligibility, a copy of the ISO certifications (or its equivalent) will be accepted, provided that it is accompanied by a notarized certification issued by the

relevant officer of the entity required to submit this document that such copy is a true and faithful reproduction of the original ISO certifications. If the PSP is deemed eligible, such entity shall be required to submit the certified true copy of the ISO certifications issued by the relevant body issuing such ISO certifications on the Proposals Submission Date. In the event that an ISO certification has expired and an application for its renewal has already been filed and is pending, the relevant entity may, for purposes of determining eligibility, submit a notarized certification which contains (a) a statement that it has applied for the renewal of the certification, (b) an undertaking to submit to the JVSC certified true copies of such renewed certification within ten (10) days from receipt, and (c) a copy of the expired certification.

In lieu of the ISO certifications, the relevant entity may submit a document that is an "equivalent" of the required ISO certifications. Such an equivalent may be a notarized certification from the competent regulatory authority stating that:

- (a) it is the regulatory authority in the country where the entity being proposed to meet a particular Technical Capability Requirements was registered for creation of recognition of its legal personality or capacity and it has jurisdiction over such entity;
- (b) the laws in such country do not require entities like the entity being proposed to meet a particular Technical Capability Requirements to secure ISO certifications;
- (c) the entity proposed to meet a particular Technical Capability Requirements is in compliance with the relevant policies, procedures and programs required by applicable laws, rules and regulations of such country; and
- (d) the entity being proposed to meet a particular Technical Capability Requirements has in place internal procedures and processes equivalent to those required under the relevant ISO certification.

2.2 Statement of Willingness to Participate In, and Capacity to Undertake the Construction, and Commitment to Enter into an Agreement with the EPC Contractor to Undertake the Construction (using the form in **Annex EPF-10**) to be submitted by the Consortium Member designated as the EPC Contractor, and each EPC Subcontractor proposed by the PSP to meet the Construction Experience Requirement.

2.3 List of Key Personnel with appropriate curriculum vitae (using the form in **Annex EPF-11**) to be submitted by the PSP. More than one name can be submitted for each position.

3. Financial Capability Documents

3.1 Notarized Statement of Financial Capability (using the form in **Annex EPF-12**) to be submitted by the entity that fulfills the Financial Capability Requirement as identified in the Business Structure.

Required attachments:

- (a) Certified true copy of latest audited financial statements which must be dated not later than December 31, 2017, stamped "Received" by the BIR or for foreign entities, the appropriate government agency equivalent to the BIR in the foreign country where the foreign entity was registered for recognition or creation of its legal

personality or capacity. The certified true copy of the latest audited financial statements may be issued by the relevant officer of the entity that fulfills the Financial Capability Requirements. However, such certified true copy must be stamped "received" by the BIR (or the equivalent agency in the case of the foreign entity).

Alternatively, if the entity proposed to comply with the Financial Capability Requirements has made a deposit equivalent to the minimum equity required set aside or earmarked for the Project, a certification from the relevant bank that such a deposit has been made.

- (b) Notarized statement/certification from a domestic universal/commercial bank or any international bank recognized by the Bangko Sentral ng Pilipinas attesting that the nominated entity is banking with them, is in good financial standing, and is qualified to obtain credit accommodations from such banks to finance the Project.

4. One PSP, One Submission

Each PSP may submit only one application to be declared as an Eligible PSP. A PSP may not be a member of another Consortium, nor have an Affiliate that is a member of another Consortium. No Consortium Member may be a member of more than one Consortium, nor have an Affiliate that is a member of another Consortium.

To ensure a level playing field and a competitive Bidding Process, there are restrictions on the extent of affiliation and ownership between PSPs and members of different Consortia. These are described in greater detail in Section 17 of the IPSP.

These restrictions, however, do not cover or limit the participation of proposed EPC Contractors, which may be proposed by more than one PSP provided such EPC Contractors (1) are not themselves (or through their Affiliates) (i) PSPs, (ii) Consortium Members or (iii) Affiliates of any of the PSPs or Consortium Members and (2) comply with the applicable requirements set forth in Section 17 of the IPSP, with regard to EPC Contractors.

5. Format and Signing of Eligibility Documents

5.1 PSPs shall submit their Eligibility Documents through their duly authorized representative on or before the documents Submission Date.

5.2 The Eligibility Documents shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the PSP.

5.3 The Eligibility Documents must be printed in standard A4 paper and bound together in ring binders or folders of appropriate size. Documents must be paginated and text must be at least font size twelve (12). The requirements relating to paper and font size shall only apply to prescribed forms provided in this Volume I — Eligibility Documents, its Annexes and to any other documents, which may be reasonably made to comply with these requirements.

5.4 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the PSP.

6. Sealing and Marking of Eligibility Documents

6.1 Each PSP shall submit one (1) original and one (1) copy of its Eligibility Documents.

6.2 PSPs shall enclose their original Eligibility Documents described in Section 1 in a sealed envelope marked as "ORIGINAL — ELIGIBILITY DOCUMENTS" for the original set and "COPY — ELIGIBILITY DOCUMENTS" for the copy set. The words "ORIGINAL — ELIGIBILITY DOCUMENTS" and "COPY — ELIGIBILITY DOCUMENTS" shall be typed or written in indelible ink and shall be signed by the PSP's duly authorized representative. The envelopes containing the original and the copies shall then be enclosed in one single envelope or box.

6.3 The PSP shall also submit two (2) clear electronic or scan copies of the Eligibility Documents in CDs/DVDs/USBs. The electronic copies of the Eligibility Documents must be in Portable Document Format (PDF) files arranged in exactly the same sequence as those of the original set of Eligibility Documents. Where practicable, the PSP shall also provide searchable PDF copies of its Eligibility Documents. The CDs/DVDs/USBs must be placed in a sealed envelope and marked "ELECTRONIC COPY — ELIGIBILITY DOCUMENTS", and such envelope shall be placed in the envelope or box together with the original set.

6.4 All envelopes shall be labeled as follows:

(a) marked in accordance with 6.2 above;

(b) addressed to the JVSC –Bonifacio East Project:

JOSHUA M. BINGCANG

Chairperson

JVSC –Bonifacio East Project

Bases Conversion and Development Authority

2/F Bonifacio Technology Center, 31st Street, corner 2nd Avenue

Bonifacio Global City, Taguig City

(c) contain the name of the contract to be bid in capital letters and bear the specific identification of this Project:

BONIFACIO EAST PROJECT

(d) bear the name and address of the PSP in capital letters;

(e) bear a warning "**DO NOT OPEN BEFORE 1:00 PM / 9 November 2018**" the time and date for the opening of Eligibility Documents.

6.5 If the Eligibility Documents are not sealed and marked as required, BCDA will assume no responsibility for its misplacement or premature opening, and the same may be a ground for disqualification.