



RAVI URBAN DEVELOPMENT AUTHORITY

Housing Urban Development & Public Health Engineering Department
Government of the Punjab



The Ravi Urban Development Authority (RUDA) Public Private Partnership Regulations ,2020 (Amended)

Notification No. CEO/RUDA/16-11-2022/02/05: In exercise of the powers conferred under section 55 of The Ravi Urban Development Authority Act 2020 (amended), the Board of The Ravi Urban Development Authority is pleased to frame the following regulations with effect from 16th November 2022:

1. **Short title and commencement.** - (1) These Regulations may be called The Ravi Urban Development Authority (Public Private Partnership) Regulations 2022.

(2) They shall come into force at once.
2. **Application.** - These Regulations shall apply to any schemes or projects or part thereof to be undertaken by the Authority on a Public Private Partnership (PPP) basis under the Act.
3. **Definitions.** - (1) In these Regulations:
 - (a) "**Act**" means The Ravi Urban Development Authority Act 2020 (XVCI of 2020), including any amendments thereto made from time to time;
 - (b) "**Area**" means the area as defined in section 2(b) of the Act;
 - (c) "**Authority**" means the Authority as defined in section 2(c) of the Act;
 - (d) "**Bid**" means a technical and financial proposal submitted by a person who is eligible under the Act and these Regulations to undertake a scheme or project;
 - (e) "**Board**" means the Board of the Authority as defined in section 2(ca) of the Act;
 - (f) "**CEO**" means the chief executive officer of the Authority;
 - (g) "**Contract Administration Wing**" means the contract administration wing of the Authority constituted under Regulation 22A of these Regulations;
 - (h) "**Consortium**" means two or more persons who have entered into a legally enforceable contractual arrangement for the purposes of submitting a bid and undertaking a scheme or part of a scheme or project pursuant to a PPP Agreement;
 - (i) "**Government**" means Government of the Punjab;
 - (j) "**Government Entity**" means (i) a department or an attached department of the Federal Government or the Government, (ii) a body corporate, statutory authority or a corporation owned or controlled by the Federal Government or the Government, or (iii) a local government body;
 - (k) "**Government support**" shall have the meaning ascribed thereto in Regulation 7;





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- (l) **"Person"** includes a company, entity, firm, association of persons, body of individuals, or a sole proprietor, other than a Government Entity, except such governmental organizations which are mandated to perform commercial functions or activities;
- (m) **"Private Party"** means a person who enters into a PPP Agreement with the Authority;
- (n) **"Public Private Partnership" or "PPP"** means a commercial agreement between the Authority and a private party pursuant to which the private party:
 - i. Undertakes a scheme or part of a scheme or project on behalf of the Authority by, amongst other things, planning, designing, constructing, financing, operating, insuring, marketing or maintaining such a scheme or project or part thereof; or
 - ii. Assumes substantial financial, technical, operational or environmental risks in connection with undertaking the development or implementation of such a scheme or project or any part thereof; or
 - iii. Receives a benefit for performing the Authority's functions or from undertaking a scheme or project or part of a scheme or project on behalf of the Authority, by way of collecting charges or fees from any person in consideration of works, goods or services provided to them, or otherwise;
- (o) **"PPP Agreement"** means any and all agreements in writing between the Authority and any private party for the purposes of any project or scheme undertaken on a PPP basis;
- (p) **"PPP Bidding Committee"** means the bidding committee constituted by the Board for the purposes of conducting PPP bidding processes;
- (q) **"Regulations"** mean these Ravi Urban and Development Authority (Public Private Partnership) Regulations 2022;
- (r) **"Risk Management Unit"** means the risk management unit of the Authority constituted under Regulation 5A of these Regulations;
- (s) **"Scheme"** means a scheme as defined in section 2(cc) of the Act;
- (t) **"Solicited Proposal"** shall mean a proposal / bid for a scheme approved in accordance with Regulations 6 and 8;
- (u) **"Unsolicited Proposal"** shall have the meaning ascribed thereto in Regulation 19;
- (v) **"User Levy"** means a levy including but not limited to annuity, charge, fee, tariff, toll which may be collected under the PPP Agreement;
- (w) **"Viability Gap Funds (VGF)"** means the funds or other assets of the Government or the Authority which are made available to the private party to support the scheme or project including funds for covering revenue shortfalls by means of grants, subsidies, guarantees





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or any other mode approved by the Board.

(2) All other terms and expressions used but not defined in these Regulations shall have the same meaning as ascribed to them in the Act.

4. Role of Authority and Delegation by the Board.—

(1) Subject to the terms of the Act, the Authority shall, *inter alia*—

- (i) Identify suitable schemes or projects (or parts thereof) for PPP arrangements, and identify their respective levels of priority in relation to the goals and long-term plans of the Authority;
- (ii) Conduct pre-feasibility studies through the Commercial Wing of the Authority, and take all other steps for the preparation of proposals for schemes or projects or parts thereof that have been identified as suitable for PPP arrangements;
- (iii) Where necessary, hire transaction advisors and consultants for the preparation of proposals and tendering of schemes or projects;
- (iv) Submit a detailed proposal for the scheme or project or part thereof (in accordance with the provisions of these Regulations) to the Board for approval;
- (v) Conduct a tendering process (including pre-qualification assessment and bidding by pre-qualified bidders) for any scheme or project approved by the Board, in order to select a suitable private party for the execution of the relevant scheme or project;
- (vi) Carry out bid evaluation;
- (vii) Negotiate and sign the PPP Agreement with the selected private party;
- (viii) Monitor and evaluate implementation and operation of the Scheme or project or part thereof;
- (ix) Assess regulatory and social impediments involved in the planning, development, financing, implementation, management, supervision, and delivery of the scheme or project and adopt mitigation measures;
- (x) Manage the scheme or project throughout its life cycle,





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from the time of identification of the scheme / project, through the bidding process, implementation of the scheme / project, and takeover of the scheme / project in accordance with its relevant PPP Agreement;

- (xi) Review and re-negotiate PPP Agreement, if the need for such review and renegotiation arises;
 - (xii) Establish a Complaint Cell for speedy redressal of complaints of general public relating to PPP projects or schemes.
- (2) Any actions or functions that are to be performed by the Authority under these Regulations may be performed on the directions of the CEO by such departments/wings of the Authority as are relevant for the purposes of these functions,;

The Board may delegate its powers and functions to relevant departments/wings of the Authority, to such extent and in such manner as may be necessary to give effect to this sub-regulation.

5. Constitution of Committees.- The Board may constitute one or more committees or sub committees in accordance with section 6 (xxvi) of the Act for the purposes of undertaking public private partnerships under the Act and these Regulations

5A. Risk Management Unit. – (1) The Board shall establish a Risk Management Unit in the Authority to act as a fiscal guardian for schemes or projects.

- (2) The Risk Management Unit shall:
- a) Develop risk management guidelines for Board approval;
 - b) Provide support and advice to the Authority with regard to risk management in a scheme or project through public private partnership;
 - c) Examine, in consultation with other relevant wings/departments of the Authority whether requests for government support and the proposed risk sharing arrangements are consistent with the Act and rules and regulations made thereunder, and are fiscally sustainable;
 - d) Make recommendations to the Board in respect of public private partnerships;





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- e) Monitor direct and contingent liabilities of the Authority incurred through schemes or projects; and
- f) Perform such other functions as the Board may assign.

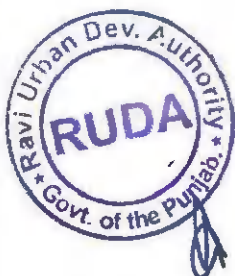
6. Scheme Identification and Preparation. -

- (1) The Commercial Wing of the Authority shall identify and conceptualize potential schemes or projects which relate to development activities falling within geographical area jurisdiction of the Authority.
- (2) The Commercial Wing of the Authority shall identify and prepare a scheme or project proposal using criteria such as supply and demand gaps, social and economic benefits, financial attractiveness, and readiness for implementation.
- (3) The Risk Management Unit shall assess the risks and uncertainties involved in the potential scheme or project.
- (4) A scheme or project proposal shall consist of at least the following elements:
 - (i) An analysis of feasibility and sustainability of the scheme or project including a detailed business case and financial model justifying the scheme or project's financial and economic viability over the expected duration of scheme or project or part of scheme or project as applicable,
 - (ii) Initial environmental examination or environmental impact assessment, risk analysis, analysis of the need for government support, determination of suitable PPP modalities;
 - (iii) Analysis of the demand for the goods or services to be provided as a result of the proposed scheme or project, and the economic and social benefits to the area of the proposed scheme or project;
 - (iv) Draft bid documents including a draft PPP Agreement;
 - (v) Details of government support as delineated in Regulation 7.

A scheme or project proposal may consist of such other additional elements as the Authority may deem fit to include, or as the Board may direct.

- (5) A scheme or project proposal prepared and approved in the manner stated in Regulation 6 shall be known as a "Solicited Proposal."

- ### 7. Government support for schemes. -
- (1) The Commercial Wing in consultation with the Risk Management Unit shall include all





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requests for government support, along with their justification and eligibility, analysis of fiscal impact of the related direct and contingent liabilities, as an integral part of a scheme or project proposal.

(2) The Authority may set up a Viability Gap Fund which may be funded through any permissible sources under the Act.

(3) Government support shall mean and include any support or assistance to be provided by the Government or a Government Entity for the execution or maintenance of a scheme or project approved and executed under these Regulations. Government support may include, *inter alia*:

- a) Administrative support to the private party in obtaining licenses and other statutory and non-statutory clearances from the Government or a Government Entity, for purposes of the scheme or project on such terms and conditions as may be determined;
- b) Provision of utility connections for power, gas and water at scheme site; clearance of right of way or acquisition of land necessary for the scheme; and rehabilitation and resettlement necessitated because of the execution of the scheme;
- c) Government equity, in the form of land or infrastructure facilities owned by the Government or a Government Entity, to be calculated with reference to the current market value of land or infrastructure or future value of discounted cash flows accruing or arising from asset to be offered, with reference to the project cost and its capital structure or debt equity ratio;
- d) Direct financial assistance from the Viability Gap Fund: such support may be offered for projects which, in the opinion of the Board, are economically and socially viable, but may not be financially attractive enough for investment;
- e) Guarantees issued by the Government or Government Entities for political risks under the Government's control such as changes in the law, delay of agreed user levy adjustments, early termination of the PPP Agreement owing to no fault of the private party, and expropriation provided that these will not include force majeure risks, i.e. risks occasioned by force majeure such as floods, earthquakes or other natural disasters or civil commotion, riots and unrest. For avoidance of doubt, the PPP Agreement shall provide for consequences of force majeure





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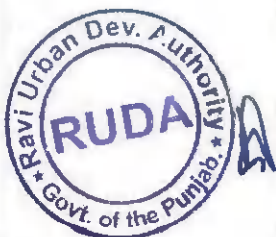
- f) Guarantees issued by the Government or a Government Entity for other risks such as demand risk, and default by Authority on payments due under a PPP Agreement.

8. Board Approval. – (1) The proposal, including all documents and elements of the proposal specified in Regulation 6, as well as details of the government support proposed for the scheme / project shall be submitted to the Board for approval.

(2) The Board shall review and consider for approval the proposal for a scheme or project submitted under sub-regulation (1) in accordance with the requirements of section 15 of the Act, and any rules or regulations as may be prescribed under the Act for the approval of schemes or projects proposed thereunder.

(3) The Board shall record its reasons in writing for its decision with respect to each proposal submitted to it under sub-regulation (1), with reference to the following criteria: (i) demand for the goods and services offered pursuant to the scheme or project and the expected social and economic benefits of the execution of the scheme or project, (ii) feasibility analysis of the scheme or project, including financial viability, (iii) risk analysis and environmental impact analysis of the scheme or project, (iv) such other factors as the Board may consider relevant in light of the Authority's functions and long-term goals, and (v) any other factors the Board may be required to consider pursuant to any rules or regulations made under the Act. In the event that the Board does not approve a proposed scheme or project, the Board may, in its sole discretion, direct the submission of an amended proposal for the scheme or project, and may re-consider such amended proposal on the basis of the criteria stated in this sub-regulation (3).

(4) In the process of reviewing each scheme or project proposal, the Board shall evaluate the extent and nature of government support which the scheme or project will require, and will approve specified government support for each scheme that it approves. After such approval by the Board of a scheme / project and its government support, the scheme / project shall be deemed "provisionally approved." After provisional approval of the scheme / project, the Board shall forward the proposal for approval of the government support specified for the purposes of the scheme / project to the Government (or such Government Entity (ies) as may be relevant for the purposes of the specified government support).





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(5) After approval of the specified government support by the Government / relevant Government Entity, the scheme / project shall be deemed finally approved.

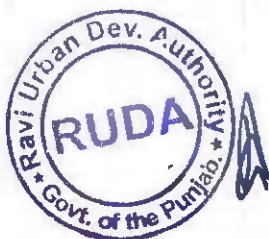
(6) Each scheme / project finally approved in accordance with this Regulation 8 shall be published in the official Gazette in accordance with section 15 of the Act.

9. Selection of the private party. – (1) After the approval of a scheme or project proposal by the Board, the Authority shall select a private party, with whom a PPP Agreement will be entered into for the execution of that scheme or project, through competitive public tendering, using a process of pre-qualification (if required) and bidding.

(2) Subject to the exceptions specified in Regulation 22, the Authority shall not enter into negotiations, or sign a PPP Agreement, with any person other than a person selected through competitive public tendering in accordance with these Regulations.

10. Pre-Qualification. – The Board shall constitute a PPP Bidding Committee which shall conduct prequalification where it considers necessary to do so, keeping in mind the complexity of the scheme or part thereof for which a private party is being selected. Where prequalification is deemed necessary, it shall be carried out in the following manner:

1. The PPP Bidding Committee shall, keeping in view the particulars of the scheme or project for which the pre-qualification is being conducted, create and publish on the website of the Authority a set of criteria on the basis of which the Authority will determine whether each person who participates in the pre-qualification process is pre-qualified to bid for the scheme or project or not;
2. A public notice, inviting participation in pre-qualification for undertaking a scheme or project, shall be published on the website of the Authority, and also in at least two national newspapers for national competitive bidding and additionally in one international newspaper for international competitive bidding providing at least fifteen (15) days for national competitive bidding and thirty (30) days for international competitive bidding for preparation and submission of pre-qualification application.



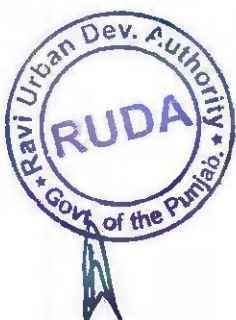


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3. A person who intends to participate in the pre-qualification process shall provide information regarding its legal, technical, managerial and financial capacity to undertake the advertised scheme / project in such form, along with such particulars, as may be specified by the Authority;
4. In case the person is a consortium, its members and their roles and proposed shareholding shall be disclosed at the pre-qualification stage, and the consortium shall provide a written and legally enforceable undertaking from its members to be jointly and severally liable for the performance of obligations under the contract, if awarded;
5. The PPP Bidding Committee shall examine the information and other particulars submitted by each person participating in pre-qualification and shall, within thirty (30) days, or as expeditiously as may be possible thereafter, decide as to whether such person fulfills the criteria for pre-qualification published by the PPP Bidding Committee for the purposes of the relevant scheme or project;
6. A person who fulfills the criteria shall be a pre-qualified person;
7. If less than three persons are pre-qualified, the Authority may analyze the reasons for such response and either proceed for bidding after recording the reasons, or revise scheme/project structuring, and reinitiate the prequalification process for additional participants;
8. If a pre-qualified person is a consortium, the lead consortium member shall not be replaced during the applicable lock-in period, to be prescribed in the bidding documents, without the prior approval, in writing of the Authority. No such approval shall be given unless the consortium finds a suitable replacement which in the sole and absolute discretion of the Authority is both suitable and has equal or better qualifications than the withdrawing member;
9. Subject to prior written approval by the CEO, any other member of a consortium may, prior to execution of the PPP Agreement or during the term of the PPP Agreement, withdraw, provided that the remaining members are, in the sole and absolute discretion of the Authority, legally, technically and financially capable of successfully carrying out the implementation and operation of the scheme/project, or that a suitable substitute with equal or better qualifications is available to replace the withdrawing member;
10. Any change in the shareholding, including any rights attached to such shareholding, of the consortium shall also be subject to the prior written approval of the CEO; and
11. If the consortium fails to comply with the requirement of sub-regulation (8), (9) or (10) of this Regulation 10, the consortium shall





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cease to be a prequalified person.

11. **Bidding.** - (1) After the selection of pre-qualified persons the PPP Bidding Committee shall, within thirty (30) days from the completion of the pre-qualification process, issue bid documents to the pre-qualified persons and shall give adequate time not exceeding sixty (60) days to such pre-qualified persons for preparation and submission of their bids.

(2) Where prequalification is deemed not necessary by the PPP Bidding Committee, in its sole and absolute discretion, the Authority shall within thirty (30) days from the approval of the scheme/project or part thereof, issue bid documents and shall give adequate time not exceeding sixty (60) days for preparation and submission of bids.

(3) The bid documents shall include:

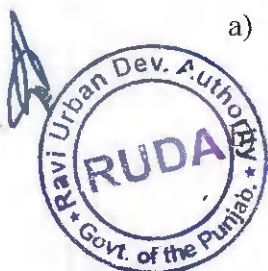
- a) Instructions to bidders;
- b) Minimum design and performance standards and specifications;
- c) Draft PPP Agreement;
- d) Bid form, specifying the information required to evaluate the bid and the bid evaluation criteria;
- e) Bid security form and performance bond form; and
- f) Any other document deemed relevant by the PPP Bidding Committee, in its sole and absolute discretion, to the scheme/project, including but not limited to the feasibility study and environmental impact assessment.

(4) To provide clarifications to bidders and to discuss the terms and conditions of the PPP Agreement, the PPP Bidding Committee may, within such period as is deemed reasonable, conduct a pre-bid meeting with the bidders and may, if necessary, issue addendum(s) to the bidding documents.

(5) If only one valid bid is received up to the last date for submission of bids, the PPP Bidding Committee may evaluate it, and depending on the results of such evaluation and after recording reasons-

- a) Negotiate or enter into the PPP Agreement with the said single bidder; or

After market research to ascertain the reasons for the poor response to the call for bids, restructure the scheme/project proposal and/or the



proposed government support and submit the revised proposal.

(6) The PPP Bidding Committee shall deal with the revised proposal in the same manner as is prescribed for a new proposal for a scheme or project.

12. Procedures of Open Competitive Bidding. - Save as otherwise provided in these Regulations, a single stage two envelope bidding procedure, or a single stage three envelope bidding procedure or a two stage two envelope bidding procedure may be approved by the PPP Bidding Committee to conduct open bidding for the selection of a private party. The PPP Bidding Committee may select and approve which bidding procedure to use based on what it deems suitable for the scheme or project for which bidding is being conducted.

13. Single Stage Two Envelopes Bidding Procedure. - The procedure for single stage two envelopes bidding shall be as follows:

- a. The bid shall be a single package consisting of two separate envelopes, containing separately the financial and the technical proposals;
- b. The envelopes shall be marked as "Financial Proposal" and "Technical Proposal";
- c. Envelope containing the financial proposal shall also be marked with a caution - "Not to be opened unless the technical proposal is opened";
- d. In the first instance, the "Technical Proposal" shall be opened and the envelope marked as "Financial Proposal" shall be retained unopened in the custody of the PPP Bidding Committee;
- e. The PPP Bidding Committee shall evaluate the technical proposal in accordance with the criteria advertised in the bid documents, without reference to the price and shall reject any technical proposal which does not conform to the specified requirements and is thus technically non-responsive;
- f. During the technical evaluation no amendments in any technical proposal by the bidder having submitted such technical proposal shall be permitted;
- g. After the evaluation and approval of the technical proposals, the PPP Bidding Committee shall open the financial proposals corresponding to the responsive technical proposals, publicly at a time, date and venue announced and communicated to the bidders in advance which shall be within the bid validity period;
- h. The financial proposal of the bids found technically non-responsive shall be **retained unopened and shall be returned to the relevant bidder either on the expiry of the bid validity or upon the decision of the complaint**, if any, filed by the non-responsive bidder before the Grievance Committee constituted



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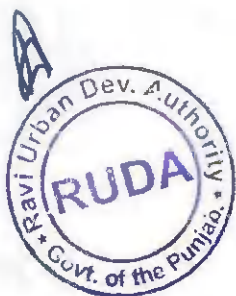


pursuant to these Regulations, whichever is later:

- i. Provided that the PPP Bidding Committee may return the sealed financial proposal earlier if the disqualified or non-responsive bidder submits an affidavit, through an authorized representative, to the effect that he is satisfied with the Authority's declaration of his bid as non-responsive and does not wish to challenge the Authority's decision on the matter; and
- j. The bidder with the most advantageous bid shall be awarded the contract as specified in Regulation 16.

14. Single Stage Three Envelope Bidding Procedure: - The PPP Bidding Committee may decide to merge the processes of pre-qualification and bidding. In such an event, the PPP Bidding Committee shall adopt a Single Stage Three Envelope Bidding Procedure, which shall be carried out in the following manner:

1. The processes of issuing a public notice to invite bids, and the issuance of bidding documents, shall be the same as that for proposals where the pre-qualification stage is separate, with necessary adjustments as the Authority may in its discretion deem fit;
2. The bid shall comprise a single package containing three separate envelopes, two containing separately the financial and the technical proposals and third one shall contain pre-qualification documents as required in the bid documents;
3. The envelopes shall be marked as "**FINANCIAL PROPOSAL**" and "**TECHNICAL PROPOSAL**" and "**PRE-QUALIFICATION**";
4. The PPP Bidding Committee shall open all bids submitted at a scheduled time, in the presence of all bidders who choose to be present at the bid opening. The PPP Bidding Committee shall communicate the time, date and venue of the bid opening to the bidders, in advance, provided that the time so communicated, shall not be beyond the bid validity period. The bid opening proceedings shall not be deemed incomplete or defective if a bidder, although invited, does not attend the bid opening proceedings for any reason whatsoever;
5. Initially, the envelope marked as "**PRE-QUALIFICATION**" shall be opened;
6. The envelopes marked as "**FINANCIAL PROPOSAL**" and





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"**TECHNICAL PROPOSAL**" shall be retained in the custody of the PPP Bidding Committee without being opened;

7. The PPP Bidding Committee shall evaluate the pre-qualification documents in accordance with the criteria published by the Authority for pre-qualification, in advance, and shall reject any proposal which does not conform to the specified requirements;

8. After pre-qualifying the bidders, the PPP Bidding Committee shall return un-opened the envelopes containing the technical or financial proposals to the bidders who fail to pre-qualify;

9. The PPP Bidding Committee shall next open the technical proposals of the pre-qualified bidders;

10. The PPP Bidding Committee shall follow the same procedure for opening of technical and financial proposals and selection of the private party as contained in Regulation 13;

11. After submission of the bid documents, the PPP Bidding Committee shall not permit any amendment in the prequalification application, or the technical or financial proposals.

15. Two Stage Two Envelope Bidding Procedure:- (I) The PPP Bidding Committee may adopt a two stage two envelope bidding procedure for a scheme, which the Authority after approval of the CEO deems large and complex, or where it is of the view that technically unequal proposals are likely to be encountered, or where being aware of its options in the market it is of the view that for a given set of performance requirements, there are two or more equally acceptable technical solutions available to the Authority.

(2) In a two-stage two envelopes bidding process, there shall be two bid openings, one at each stage. For each bid opening, the PPP Bidding Committee shall open all bids submitted at a scheduled time, in the presence of all bidders who choose to be present at the bid opening. The PPP Bidding Committee shall communicate the time, date and venue of the bid opening to the bidders, in advance, provided that the time so communicated, shall not be beyond the bid validity period. The bid opening proceedings shall not be deemed incomplete or defective if a bidder, although invited, does not attend the bid opening proceedings for any reason whatsoever.





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(3) In case of a two stage two envelopes bidding procedure, the PPP Bidding Committee shall adopt the following steps:

First Stage

- a. The bid shall comprise a single package containing two separate envelopes containing the financial proposal and the technical proposal;
- b. The envelopes shall be marked as "**FINANCIAL PROPOSAL**" and "**TECHNICAL PROPOSAL**";
- c. First only the envelope marked as "**TECHNICAL PROPOSAL**" shall be opened;
- d. The envelope marked as "**FINANCIAL PROPOSAL**" shall be retained in the custody of the PPP Bidding Committee without being opened;
- e. The technical proposal may be discussed with the bidders with reference to the Authority's technical requirements;
- f. The bidders willing to meet the requirements of the Authority may be allowed to revise their technical proposals following discussions; and
- g. Bidders not willing to revise or adapt their technical proposal to the requirements of the Authority may be allowed to withdraw their respective bids without forfeiture of their bid security.

Second Stage

- a) After agreement between the PPP Bidding Committee and the bidders on technical requirements, bidders who are willing to conform to the revised technical specifications and whose bids have not already been rejected shall submit a revised technical proposal and supplementary financial proposal;
- b) The revised technical proposal along with the original financial proposal and supplementary financial proposal will be opened and evaluated in accordance with the procedure stipulated in Regulation 16, provided that the financial proposal and supplemental financial proposal shall be opened at the same time and read together;
- c) In setting the date for the submission of the revised technical proposal and supplementary financial proposal, the PPP Bidding Committee shall allow to the bidders such time as it in its discretion deems sufficient to incorporate the agreed changes in the technical





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proposal and to prepare the required supplementary financial proposal.

16. Bid Evaluation. - (1) The PPP Bidding Committee shall, within fifteen (15) days from the receipt of the bids, or as soon as it may be possible thereafter, evaluate the bids.

(2) On receipts of bids, the PPP Bidding Committee shall assess the technical, operational, and environmental responsiveness of the bids received, according to the requirements, criteria, minimum standards, and basic parameters specified in the bid documents, and shall reject non-responsive bids.

(3) After the technical evaluation of the bids, the Authority may conduct a financial evaluation of the responsive bids; and, depending on the type of the scheme or project, it may use one or more of the following criteria for evaluation:

- a) Lowest proposed tariff, toll, fee or charge at the start of operation of the scheme / project if a parametric formula for periodical tariff adjustment is specified in the bid documents;
- b) Lowest present value of the proposed tariffs, tolls, fees and charges for the period covered under the PPP Agreement if there is no such formula;
- c) Lowest present value of payments from the Authority and/or Government;
- d) Lowest present value of Government subsidy to be provided for the period covered under the PPP Agreement;
- e) Highest present value of the proposed payments to the Authority, such as concession fees, lease or rental payments, fixed or guaranteed payments or variable payments and percentage shares of revenues for the period covered by the PPP Agreement; or
- f) Such other criteria as may be determined by the PPP Bidding Committee.

(4) Notwithstanding anything contained in these Regulations, direct negotiations may be resorted to when there is only one complying bidder left as defined hereunder:

- i. If, in response to advertisement, only one interested bidder responds for prequalification, and meets the pre-qualification criteria;
- ii. If after advertisement, more than one interested bidders respond for pre-qualification but only one of them meets the prequalification criteria;





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- iii. After pre-qualification, more than one interested bidders respond, and only one of them submits a bid, which is found by the Authority to be complying;
- iv. After pre-qualification, more than one interested bidders submit the bid, but only one is found by the Authority to be compliant.

(5) The PPP Bidding Committee may, for reasons to be recorded in writing, reject a speculative or unrealistic bid as non-responsive but such rejection of a bid shall not lead to the termination of the bidding process.

(6) If the result of bidding process leads to a bid conforming to the scheme estimate, type of PPP Agreement and government support approved by the Authority, the Authority may proceed with execution of the PPP Agreement.

(7) If the lowest bid is higher than the scheme estimates or in case there is a need to restructure the scheme or type of PPP Agreement, the same shall be reconsidered.

(8) The bidder with the most advantageous bid may at its own motion without any negotiations by the Authority, voluntarily reduce the bid amount at any stage before entering into the PPP Agreement. However, such voluntarily reduction must not affect any change in the approved terms and conditions of the bidder's pre-qualification and financial bid.

(9) The PPP Bidding Committee shall announce the results of the bidding process and issue a notice for execution of PPP Agreement to the selected private party after ten (10) days from the announcement of the bid evaluation report,

Provided that, in the event that a complaint is filed against the bid evaluation report before the Grievance Committee pursuant to Regulation 18(2), the time period for issuing a notice under this sub-regulation may be extended until such time as the Grievance Committee makes a final decision with respect to the complaint.

(10) Notwithstanding anything contained in these Regulations, the CEO on behalf of the Authority may reject all bids or proposals prior to the acceptance of a bid or proposal. The Authority shall upon request communicate to any bidder who submitted a bid or proposal, the ground for its rejection of all bids or proposals but is not required to justify those grounds. In such circumstances, the Authority shall incur no liability towards bidders who have submitted bids or proposals. Notice of the rejection of all bids or proposals shall be given promptly to all bidders that submitted bids or proposals.

17. Bid Security-(1) A pre-qualified person shall deposit with the Authority the bid security along with financial bid equivalent to an amount to be determined by the PPP Bidding Committee based on the project cost.





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(2) The Authority shall within thirty days after the award of the PPP Agreement, return the bid security amount to all unsuccessful bidders without any interest or mark-up.

18. Grievance Committee & Appellate Committee:

- (1) The CEO shall constitute a Grievance Committee comprising an odd number of persons, with proper powers and authorizations, to address the complaints of bidders that may occur prior to the entry into force of the PPP Agreement.
- (2) Any bidder feeling aggrieved by any act of the Authority after the submission of his bid may lodge a written complaint concerning his grievances not later than ten (10) days after the announcement of the bid evaluation report.
- (3) The committee shall investigate and decide upon the complaint within fifteen (15) days of the receipt of the complaint.

19. Unsolicited Proposal.

- (1) A proposal submitted by any person to the Authority for a scheme or project or part of scheme or project, together with written communication that it is economically viable shall be considered as an Unsolicited Proposal and may be processed in accordance with these Regulations.
- (2) An Unsolicited Proposal will be accompanied by a feasibility study, social and environmental impact statement/assessment, and a draft PPP Agreement, analysis of need for government support and determination of the public private partnership modalities.
- (3) The Authority through, inter alia, its Commercial Wing and Risk Management Unit, may consider an Unsolicited Proposal from all aspects including technical, environmental and financial aspects, and in case of requirement of additional information, the Authority may request for the submission of an amended or modified proposal.
- (4) Within ten (10) days from the receipt of an Unsolicited Proposal or as soon as it may be possible thereafter, the Authority may require the person to submit details about legal, technical, managerial and financial capability of the person, as well as the cost of preparing the Unsolicited Proposal with relevant supporting evidence for its consideration and such information shall be submitted to the Authority within fifteen (15) days from the receipt of such requirement.
- (5) Within fifteen (15) days from the receipt of information required under sub-regulation (3) or sub-regulation (4), as the case may be, or as soon



as it may be possible thereafter, the Authority through its relevant wings/departments may evaluate the Unsolicited Proposal and, if it is found to be economically, technically and environmentally feasible and the information submitted by the person about his own legal, technical, managerial and financial capability is satisfactory, the Unsolicited Proposal may onwards be submitted to the Board for approval. The Commercial Wing/ Risk Management Unit of the Authority may communicate the Board's decision with regard to the Unsolicited Proposal in writing to the person who submitted the same within fifteen (15) days of the receipt of the decision of the Board. The Board shall consider and evaluate the Unsolicited Proposal in the same manner as it is required to evaluate a scheme or part thereof proposed under Regulation 8.

- (6) If the Board approves the Unsolicited Proposal, the PPP Bidding Committee shall invite competitive bids for the scheme or part thereof identified in such Unsolicited Proposal by following the bid procedure described in Regulation 20 and, if pre-qualification is conducted, the person submitting the Unsolicited Proposal shall not be required to be prequalified and may directly participate in the bidding process.
- (7) The PPP Bidding Committee shall give the person who made the Unsolicited Proposal five percent additional weightage in technical scoring and first right to match or improve the best bid received in response to the call for bids, if its bid is not the best bid.
- (8) If the person who submitted the Unsolicited Proposal fails to match the best bid, the PPP Bidding Committee shall direct the successful bidder to reimburse to the person who submitted the Unsolicited Proposal the amount specified in the bid documents as the cost of preparing the Unsolicited Proposal provided that the reasonableness of the cost of preparation of Unsolicited Proposal will be determined by the PPP Bidding Committee, in its sole and absolute discretion.
- (9) If the other valid competitive bids, except the bid of the person who submitted the Unsolicited Proposal, are not received, the Authority may negotiate (through the PPP Bidding Committee) and enter into the PPP Agreement with the person who submitted the Unsolicited Proposal or decide to undertake the bidding process afresh.
- (10) In case more than one Unsolicited Proposals are submitted for a specific scheme/project to the Authority, the Authority shall accept the best case option out of said proposals on the recommendations of the PPP Bidding Committee.
- (11) Failure to observe the timelines stated in this Regulation will not have the effect of invalidating any action or decision taken by the Authority after the lapse of the time provided for such decision or action.



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- (12) Notwithstanding anything contained in these Regulations, the CEO may in the public interest and for reasons to be recorded in writing extend the timelines for various steps or actions as set out in these Regulations.

20. Time Frame to Invite Tenders of Unsolicited Proposal. - (1) A public notice, inviting offers for participation for undertaking a scheme or project will be posted on the website of the Authority and published in at least two national newspapers in case of national competitive bidding and in one international paper in case of international competitive bidding for prequalification or selection of bidders to undertake the scheme or project.

- i. The PPP Bidding Committee may allow minimum of fifteen (15) days to the parties for national competitive bidding and thirty (30) days for international competitive bidding to submit documents.
- ii. The pre-qualification may be undertaken according to the procedure stated in Regulation 10 above.
- iii. The PPP Bidding Committee shall complete the evaluation process within thirty (30) days of the last date of submission of the documents or as soon as it may be possible thereafter.
- iv. The PPP Bidding Committee will issue bidding documents as described in Regulation 11 above.
- v. In case the PPP Bidding Committee is not inclined to carry out the pre-qualification process separately then it may adopt the "Single Stage Three Envelopes" bidding procedure.
- vi. The PPP Bidding Committee may hold one or more pre-bid meeting(s) within a reasonable time depending upon the complexity of the scheme or project but preferably within fifteen (15) days from the date of issuance of bid documents.
- vii. The PPP Bidding Committee will give adequate time to the bidders for due diligence, preparation and submission of bids.
- viii. The PPP Bidding Committee will complete the technical evaluation process preferably within fifteen (15) days.
- ix. The PPP Bidding Committee shall publicly open the financial proposals on the date and time already communicated to the bidders.

- (2) The PPP Bidding Committee shall complete the financial evaluation process





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preferably within fifteen (15) days from the last day fixed for submission of bids.

21. Preparation and Negotiation of PPP Agreement:

1. The draft PPP Agreement shall be prepared by the PPP Bidding Committee in consultation with the Legal Wing of the Authority. The draft PPP Agreement which forms part of the bid documents shall clearly define the legal relationship between the Authority and the selected private party, their rights and responsibilities including the specific government support for the scheme or project.
2. The draft PPP Agreement may contain the following provisions, where applicable:
 - a) Type of the scheme or project;
 - b) General terms and conditions of contract;
 - c) Special conditions of contract;
 - d) Scope of works and services to be provided under the scheme or project;
 - e) Main technical specifications (where applicable, construction standards including seismic resistance standards) and performance standards;
 - f) Environmental and safety requirements;
 - g) Implementation milestones and completion date of the scheme or project;
 - h) Cost recovery scheme through appropriate means including user levies and mechanism for their periodical adjustment;
 - i) Performance bonds for construction works and operation;
 - j) Minimum insurance coverage;
 - k) Acceptance tests and procedures;
 - l) Rights and obligations of the parties including risk sharing;
 - m) Type and amount of government support;
 - n) Transfer of assets, if any, at the conclusion of the term of the PPP Agreement;
 - o) Warranty period and procedures after the transfer;
 - p) Requirements and procedure for variations of the PPP Agreement;
 - q) Grounds for and effects of termination of the PPP Agreement including force majeure;
 - r) Procedures and venue for disputes resolution;
 - s) Financial reporting by the private party; and
 - t) Supervision mechanism of the Authority.
3. The PPP Bidding Committee may ensure conclusion of contract negotiations with the selected private party within sixty (60) days of notification of award of contract or as soon as it may be possible





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thereafter.

4. The negotiations shall focus on the terms and conditions not specified in the bid documents but no post-bid changes in the terms and conditions mentioned in the bid documents as binding and which formed part of the bid evaluation maybe allowed as a consequence of contract negotiations.

Notwithstanding the foregoing post-bid changes may be allowed which have the effect of reducing the cost of the scheme or project to be borne by the Authority, or a Government or the public without adversely altering or affecting the scope of work or the performance standards.

22. Negotiated Procurement of a scheme or project. – Notwithstanding anything contained in these Regulations, the CEO may authorize entering into a negotiated procurement of a PPP, where the scheme or part of a scheme or project is being undertaken as a result of international obligations, commitments or arrangements of Government arising out of an international agreement or arrangement with a foreign state or states, or any international multilateral financial institutions.

22A. Contract Administration Wing. - The Board shall establish a Contract Administration Wing in the Authority for post signing of contract issues.

23. Scheme Implementation and Operation. - (1) Before signing the PPP Agreement with the Authority, the private party may establish, without changing its shareholding and subject to conditions set forth in the bidding documents, a special purpose vehicle for implementation and operation of the scheme or project and such special purpose vehicle shall assume all the rights and obligations of the private party under the PPP Agreement.

- (2) The private party shall prepare a detailed design and implementation plan in accordance with the technical specifications contained in the PPP Agreement and shall submit these to the Contract Administration Wing of the Authority for its consent prior to the start of work. The private party shall execute the scheme or project in accordance with the performance standards and technical specifications contained in the PPP Agreement and the design and implementation plans approved in accordance with the PPP Agreement.

(3) If required by the Authority:

- a) to guarantee its performance of the construction or other works/services, the private party shall submit a bond or furnish a bank guarantee, as the Contract Administration Wing may require for an amount specified by the Contract Administration Wing in consultation with the Finance Wing, which shall be valid up to the acceptance of the completed works/services by the Authority; and





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- b) for schemes or projects which include operation and maintenance by the private party, the private party shall also post or furnish another performance bond or bank guarantee, for an amount specified by the Contract Administration Wing in consultation with the Finance Wing, upon the acceptance of the completed works/services to guarantee compliance with the operational and maintenance parameters and standards specified in the PPP Agreement.

The PPP Agreement may provide for progressive reduction or adjustment of such performance bond or bank guarantee subject to the satisfactory completion of specified obligations and milestones, by the private party, under the PPP Agreement.

- (4) Within three hundred and sixty five (365) days of the signing of the PPP Agreement or such other period as may be specified in the PPP Agreement, the private party shall achieve financial closure for the scheme or project.
- (5) The Authority may not allow variations in the PPP Agreement during the implementation and operation of the scheme or project unless following conditions are met:
- i. There is no increase in the agreed tariffs except the periodic formula-based tariff adjustments, unless the scope of works or performance standards are increased;
 - ii. There is no reduction in the scope of works or performance standards, fundamental change in the contractual agreement or extension of the term of the PPP Agreement, except in cases of breach by the Authority of its obligations, provided that a reduction in scope of works may be allowed in appropriate circumstances, where the Authority considers it necessary in the public interest, on the basis of practical and/or commercial considerations;
 - iii. There is no additional guarantee by the Government or a Government Entity or increase in the financial exposure of the Government, a Government Entity or the Authority;
 - iv. The variation in the PPP Agreement is necessary due to an unforeseeable event beyond the control of the Authority or the private party; and
 - v. Any such change is approved by the Board.

- (6) The Contract Administration Wing of the Authority shall monitor and evaluate the scheme / project during its implementation and operation to ensure its conformity with the plans, specifications, performance standards and user





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levies set forth in the PPP Agreement, and to assess its outcomes.

- (7) The Contract Administration Wing of the Authority shall submit biannual reports on project performance to the Board.

24. Setting and adjustment of user levies. - (1) The PPP Bidding Committee in consultation with the Finance Wing of the Authority shall set the user levies at levels that ensure financial viability of the scheme by fully covering the capital, operation and maintenance costs plus a reasonable rate of return to the private party or the Authority.

Provided that the Authority may utilize any other method, in substitution to or in addition to imposition of user levies, to achieve the aforesaid object.

(2) Notwithstanding anything contained in any other law, the private party will have the right to receive or collect tariffs or payments in accordance with and at the rates set forth in the PPP Agreement, either from end users or from the Authority.

(3) Unless specified in the bid documents, the Authority will determine the user levies through bidding and the user levies shall be adjusted periodically during the term of the PPP Agreement accordance with the terms and conditions of the PPP Agreement.

(4) If the Authority keeps the user levies at lower levels to make the services provided by the scheme affordable to the end users, the Authority will compensate the private party for the difference by making appropriate payments if so agreed in the PPP Agreement.

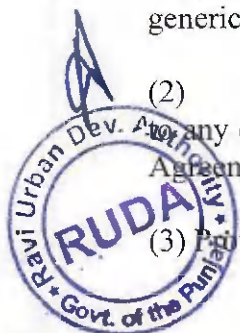
25. Record of Proceedings. - The PPP Bidding Committee shall maintain a record of any proceedings undertaken for the purposes of entering into a PPP Agreement along with all associated documentation for a minimum period of ten (10) years;

26. Transparency. - Subject to Regulations 27(3) and 29(4), the PPP Bidding Committee shall, immediately upon entering into a PPP Agreement make the evaluation report of the bid, if applicable, and the PPP Agreement public by posting these on the website of the Authority.

27. Disclosure of generic risks. - (1) The Authority shall, as far as possible, provide in the PPP Agreement, or any other ancillary or additional agreement(s), a list of generic risks involved in the project along with allocation and treatment of such generic risks.

(2) The Government, any Government Entity or the Authority shall not be liable for any claim of the private party for a generic risk which is not specified in the PPP Agreement or any other ancillary or additional agreement(s).

(3) Provided that where the PPP Bidding Committee is satisfied that disclosure of any





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information related to the PPP Agreement is against the public interest or may jeopardize national security, it may in its sole and absolute discretion withhold such information from public disclosure, subject to the prior approval of the CEO.

28. Integrity Pact. -The Authority shall, for every scheme or project, enter into an integrity pact with the private party along with the PPP Agreement.

29. Public disclosure.— (1) A PPP Agreement or any other ancillary or additional agreement shall be a public document.

(2) The Contract Administration Wing of the Authority shall make arrangements for inspection or provision of copies of a PPP Agreement or any other ancillary or additional agreement(s).

(3) Any person may, subject to the payment of the prescribed fee and any other reasonable restriction, inspect or obtain copies of a PPP Agreement or any other ancillary or additional agreement(s).

(4) The Board may, by recording reasons in writing, declare the whole or part of a document not to be a public document.

30. Vesting of the project in the private party.— The scheme or project, once completed, may vest in the private party for a period not exceeding thirty years and on expiry of such period, the project shall vest in the Authority. The PPP Agreement shall specify the time period for which the scheme or project shall vest in the private party.

31. Transfer of the scheme. – If a scheme or project is transferred to the Authority in accordance with the provisions of the PPP Agreement, all the rights granted under the PPP Agreement to the private party in respect of the scheme or project shall stand transferred to the Authority.

32. Indemnity by the Private Party. -The private party shall indemnify the Authority against any defect in design, construction, maintenance or operation of the scheme or project and be liable to reimburse all costs, charges, expenses, losses and damages suffered by the Authority or an end user due to any such defect.

33. Recovery of Costs, Dues and Fees. - The Authority may recover any sum due from a private party as arrears of land revenue in accordance with applicable laws.

34. Valuation of Land. - Subject to any specific regulations that may be prescribed by the Authority in this regard, for the purposes of assessing the value of any land to be provided or procured for a scheme or project or part of scheme or project, the Authority shall obtain latest land value through at least two (2) reputable land evaluators on the panel of Pakistan Bankers Association/State Bank of Pakistan.

35. Protection of Action taken in Good Faith. -No suit, claim or other legal proceedings shall lie against the Authority or any member, officer, servant, adviser or representative of the Authority in respect of anything done or intended to be done in good faith under these Regulations.

36. Extension of Time. - Notwithstanding anything contained in these





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Regulations, the Authority may in the public interest and for reasons to be recorded in writing extend the timelines for various steps or actions as set out in these Regulations.

37. Dispute Resolution - In case of any dispute between Authority and a private party in relation to or arising out of the PPP Agreement, the parties shall resolve the dispute in the following manner:

- a) The parties shall first deliberate to achieve a consensus.
- b) If no consensus is achieved, the parties shall settle the dispute in an amicable manner by mediation by an independent and impartial person appointed by the CEO of the Authority.
- c) If after two months of mediation no consensus is received, the dispute may be submitted to arbitration under the Arbitration Act, 1940. The dispute resolution clause in the PPP Agreement shall stipulate the specific terms and conditions of arbitration.

38. Repeal and savings.—(1) The Ravi Urban Development Authority Public Private Partnership Regulations 2020 are hereby repealed.

(2) Notwithstanding repeal of the Ravi Urban Development Authority Public Private Partnership Regulations 2020, anything done or any action taken or purported to have been done or taken under the said regulations shall, in so far as it is not inconsistent with the provisions of these Regulations, be deemed to have been done or taken under the corresponding provisions of these Regulations.

39. Termination of the PPP Agreement.—The PPP Agreement may be terminated in the following circumstances:

- (i) If the Authority fails to comply with any material obligation in the PPP Agreement, and such failure is not remediable or, if remediable, remains un-remedied for a period of time as set out in the PPP Agreement, the private party may terminate the agreement with written notice to the Authority as provided in the PPP Agreement and, in the event of such termination, the project shall be transferred to the Authority and the private party shall be entitled to compensation by the Authority as provided in the PPP Agreement; or
- (ii) If the private party fails to perform the PPP Agreement, or fails to achieve the prescribed technical and performance standards, or fails to comply with any material obligations in the PPP Agreement, and such failure is not remediable or, if remediable, remains un-remedied for a period of time as set out in the PPP Agreement, the Authority may terminate the PPP Agreement with written notice to the private party as provided in the PPP Agreement and, in such a case, the Authority shall either take over the project and assume all related liabilities or allow lenders of the private party to exercise their rights and interests as specified in the loan agreements relating to the project; or





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- (iii) (a) If, either party to PPP Agreement is unable to perform in whole or in part(s) its obligations as set forth in the PPP Agreement due to *force majeure*, then such party shall give the other party prompt written notice of such cause, and shall be relieved of those obligations to the extent it is unable to perform for as long as such cause continues or for a period as set forth in the PPP Agreement, whichever is less;
- (b) If after expiry of such period, the party affected by such *force majeure* is unable to continue performance of its obligations, the PPP Agreement may be terminated in accordance with procedure laid down in the PPP Agreement;
- (c) In case of termination due to *force majeure*, the allocation of the risk and compensation formulae to be applied in such instance shall be set forth in the PPP Agreement.

(IMRAN AMIN)

Chief Executive Officer

Ravi Urban Development Authority

