

**PUBLIC INTERNATIONAL TENDER**  
**Invitation for Expression of Interest**

**Batižele d.o.o.**

**CALLS FOR A**

**Public International Tender**

in order to select the Development Partner for the project:

**“Šibenik Brownfield Urban Regeneration – Project Batižele”**

**and invites**

in accordance with the terms herein, all interested parties to submit an Expression of interest during Phase A of the selection procedure for the selection of the Development Partner for the above project.

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### Article 1: Definitions and Interpretations

**1.1.** For the purposes of this Invitation for the Expression of Interest, the terms mentioned below will have the following meaning:

**1.1.1. "Tender":** is the procedure that begins with the publication of this document on Contracting Authority's website and ends with the selection of the Development Partner.

**1.1.2. "Invitation for Expression of Interest" or "EOI"** refers to this document - the Invitation for Expression of Interest, together with its Appendices.

**1.1.3. "Project":** is the overall subject of this tender, i.e., the sale of real estate and the establishment of Rights of construction for the future development of the Batižele zone.

**1.1.4. "Location" or „Batižele Real Estate":** is the land with an area of 220.839 m<sup>2</sup> owned by Batižele d.o.o., which includes real estate with surface of 31.500 m<sup>2</sup> that will be singled out in favour development by the Public Stakeholders.

**1.1.5. "Contracting Authority "** is the company Batižele d.o.o.

**1.1.6. "CoŠ"** is the City of Šibenik.

**1.1.7. "Public stakeholders"** are the City of Šibenik and Šibenik-Knin County.

**1.1.8. "RoC":** is the Republic of Croatia.

**1.1.9. "Interested Party"** is any legal entity that is interested in participating in this Tender.

**1.1.10. "Candidate":** any legal entity or Consortium that submits an Expression of Interest.

**1.1.11. "Candidate's members":** in the case of a consortium, the legal entities that together constitute the Applicant with a percentage share that must be specified in the Applicant's Expression of Interest.

**1.1.12. "Representative of the Candidate":** a person authorized by the Candidate, in accordance with Article 18. of this Invitation.

**1.1.13. "Consortium":** is any informal association of Candidates, including a temporary partnership of legal entities, created for the purpose of applying in this tender procedure.

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- 1.1.14. "Legal representative"** is the natural person who is legally authorised to represent a Candidate. In the event that there are several legal representatives, the signing of documents specified here can be done by one of them, unless the power of representation is jointly granted.
- 1.1.15. "Proxy"**: is the contact person designated as such on behalf of the Candidate, as prescribed in this Invitation.
- 1.1.16. "Phase A"** is the preselection phase, which will be conducted in accordance with the provisions of this Invitation, and will end with the nomination of Preselected.
- 1.1.17. "Preselected"**: is any Candidate who will be selected after the end of Phase A of the competition.
- 1.1.18. "Qualification procedure"**: is the procedure during phase A of the tender.
- 1.1.19. "Phase B"** represents the phase of the Tender that follows the selection of Preselected and lasts until the end of the process, that is, the selection of the Development Partner.
- 1.1.20. "Phase B Notification"**: is the notification which shall be sent by the Contracting Authority to the Preselected Candidates for their participation in Phase B of the tender, together with the Legal, Financial and Technical Dossier and technical specifications for the Multipurpose Hall.
- 1.1.21. "Binding Bid" or "Bid"**: is the bid, which shall be submitted by the Preselected to the Contracting Authority, within the framework of this Tender, during the Phase B of the Tender, and is binding for the Candidate.
- 1.1.22. "Bidder"**: Preselected who submitted a binding bid during Phase B of the tender.
- 1.1.23. "Data Room"** meaning virtual data room, is an online repository of information, where Preselected will be able to study documents, data and information material related to the legal, financial and technical status of the location, have access to Q&A and communicate with the T.C..
- 1.1.24. "Financial Statements"**: are the audited consolidated financial statements, or, if the preparation of consolidated financial statements is not obligatory, audited standalone financial statements (including a

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statement of financial position as at the end of the period, a statement of profit and loss and other comprehensive income for the period, a statement of changes in equity for the period, a statement of cash flow for the period and notes to the financial statements), for accounting periods, prepared in line with the relevant accounting standards (IFRS or local GAAP, as required by relevant law of the State of place of business). In the absence of a statutory obligation for publication and / or audit of financial statements, in addition to the unpublished and / or unaudited Financial Statements, a relevant solemn declaration regarding the absence of the obligation for publication and / or audit must be submitted, together with all the information required according to this Invitation. Such declaration must be certified by a notary public, or another competent judicial or administrative authority in the country of the Candidate's place of business. In the case of a foreign Candidate or a member thereof, the Financial Statements shall be accompanied by an official translation of the information incorporated in the Financial Statements required by this Invitation.

**1.1.25. "Financial Statements of the Last Three (3) Accounting Years":** are the Financial Statements of the last three (3) consecutive accounting years, which have expired prior to EOI submission date. In the event that the Financial Statements of an accounting year have not been published, a Solemn Declaration shall be submitted, stating the reasons for the non-publication as well as the audited unpublished Financial Statements, together with all the information required pursuant to this Invitation. Also, in the event that the last accounting year expired prior to EOI Submission date and the Financial Statement of the last fiscal year have not been drafted and/or audited until the EOI Submission date, a Solemn Declaration shall be submitted stating the reasons for the non-drafting or/and non-auditing of the Financial Statements for the three (3) consecutive accounting years immediately preceding the last fiscal year. Such Declaration must be certified by a notary public, or another competent judicial or administrative authority in the country of the Candidate's place of business. In the case of companies operating for less than three (3) years, all Financial Statements existing until the EOI Submission date shall be submitted, and the required economic data will be obtained via these, for the years these companies operate. In the event that additional financial information needs to be submitted for the purposes of Article 15.1.1. iii) (Operating revenue), Financial Statements for the last three (3) fiscal years will be extended to a maximum of five (5) and ten (10) fiscal years accordingly.

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- 1.1.26. "Bid Bond":** is an irrevocable, non-objectionable, unconditional and payable on first call bank guarantee confirming the seriousness of the offer contained in the binding offer during phase B of the tender, in the amount of 10% of the Binding Bid for the purchase of real estate, with a validity period of at least 12 months from the submission of the Bid and the Development Partner is required to extend the validity of the Bid Bond until the signing of the Real Estate Purchase Agreement and the Right of Construction Agreement. The Bid Bond must be issued in accordance with the "International Chamber of Commerce Uniform Rules for Demand Guarantees (URDG) Revision 2010, ICC Publication No. 758" in such a way that any objections of the Preselected towards the Contracting Authority arising from the basic agreement do not affect the bank's obligation to pay as guarantor, if the bank as guarantor determines that the Contractor's payment request meets the conditions of the guarantee. It must be issued by a first-class bank which in the year preceding the year in which this Invitation is published has a credit rating of at least BBB according to the Standard and Poor's Bank Rating Guide or a bank operating in the Republic of Croatia and which, based on audited financial statements on December 31, 2022, reported the value of total assets greater than 2,000,000,000 Euros.
- 1.1.27. "Public facilities":** refers to a kindergarten, an elementary school, a music and dance school, and a fire station, financed and built by the Public Stakeholders on land that will be separated from the Company's property after the adoption of the UPU.
- 1.1.28. "Tender Committee" or "T.C":** is the collective advisory body which, in Phase A reviews the Expression of Interest Files and evaluates them, as well as reviews the submitted Binding Bids at the Tender's Phase B, and proposes the selection of the Development Partner.
- 1.1.29. "Consultants":** are consultants hired by the Contracting Authority for the Project, including those listed in Article 2.9 of this Invitation.
- 1.1.30. "Right of construction":** is, as defined by the Article 280. of the Ownership and Other Real Rights Act (Official Gazette 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14, 81/15, 94/17) a limited real right on a real estate that authorizes the holder of such right to own a building above or under the surface of that real estate, while the everyday owner of the real estate is required to recognize and accept such ownership of the building.

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- 1.1.31. "Development Partner":** is the Preselected, to whom the outcome of the Tender will be awarded, upon completion of Phase B thereof, and who will be required to set up a Special Purpose Vehicle company, which shall sign the MDFA with the Contracting Authority. The Development Partner shall be responsible for any and all obligations of the SPV towards the Contracting Authority and shall co-sign the MDFA as the solidary debtor.
- 1.1.32. "MDFA":** meaning Master Development Framework Agreement to be entered into between the Contracting Authority and the SVP, and co-signed by the Development Partner upon successful conclusion of this Tender.
- 1.1.33. "MDFA Effectuation":** is the date on which the MDFA will enter into force, in accordance with what is specified hereof.
- 1.1.34. "SPV" or "the Investor":** is the company, which will be set up by the Development Partner, exclusively and solely for the purposes of execution of the MDFA, which shall have its registered seat in Croatia. The Development Partner(s) will be the founder(s) –shareholder(s) of the SPV.
- 1.1.35. "Heads of Terms" or "HOTS":** Is a document outlining the draft and the main conditions of MDFA, and contains most relevant provisions related to the sale and purchase of Batižele real Estate, the Right of construction, and other contractual relations. HOTS represent Annex 1 to this Invitation. HOTS are not subject of negotiations with the Candidates, but represent the conditions unilaterally determined by Batižele.
- 1.1.36. "Right of construction agreement":** is the agreement to be signed and executed between Batižele d.o.o and the SPV, and which will be signed after the adoption of the UPU, by which Batižele d.o.o. will establish a Right of construction on part of the Batižele area designated for construction of Hotels, Public garages, Multipurpose Hall and other facilities proposed by the Development Partner in accordance with its vision, for a period of 75 years from the date of signing, for the benefit of the SPV.
- 1.1.37. "Long-stop date"** is the deadline for the fulfilment of the Condition Precedents, as defined in the Heads of Terms. If the Condition precedents are not fulfilled by the Long-stop date, the Contracting Authority and/or the Development Partner and/or the Investor will

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have the right to terminate the MDFA, in accordance with the liability for non-performance.

In this Invitation for the Expression of Interest, unless otherwise stated within the text:

- (1) Headings are only given for the purpose of material organization and do not affect interpretation.
- (2) The definitions contained in this article or in specific terms hereof apply in its entirety.
- (3) The use of the singular form is considered to include the plural form and vice versa, whereas the use of a gender is considered to include other genders.
- (4) Any reference to days shall be deemed to be in calendar days, unless it is expressly stated to be working days.
- (5) The calculation of the deadlines set will take place in accordance with the provisions of the Croatian Obligations Act (articles 300. and 301.), on the determination of the rules applicable to deadlines, dates, and time limits.

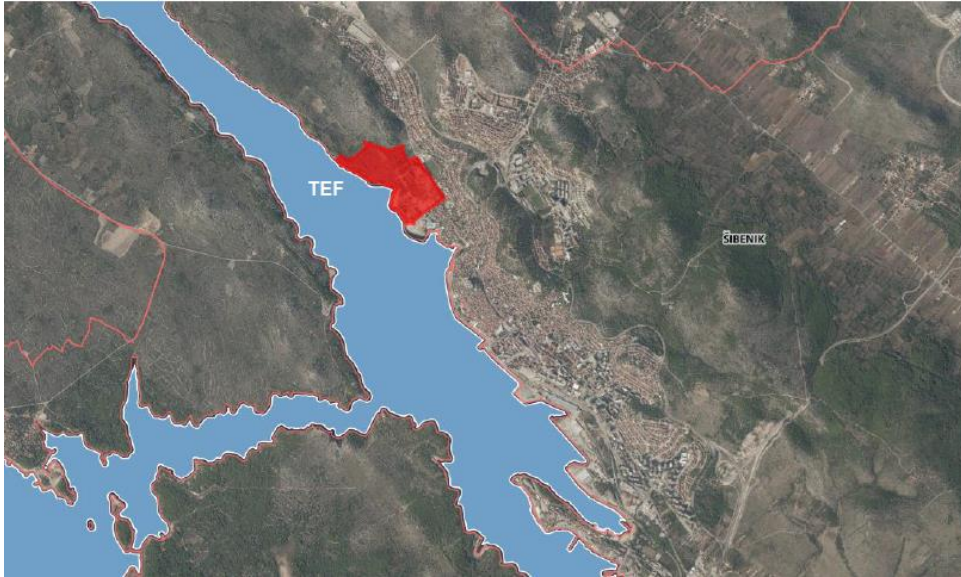
### Article 2: General Information

#### 2.1. Tender Announcement

Batižele d.o.o., real estate management company (hereinafter “**Batižele d.o.o.**” or the “**Company**”), calls for an international tender for the selection of a Development Partner for the performance of the project under the title “Šibenik Brownfield Urban Regeneration – Project Batižele’ for development of the brownfield area owned by the Company (hereinafter the “**Project**”) and invites any persons interested to submit an Expression of Interest (Phase A of the Tender) in accordance with the terms of this Invitation and the accompanying Annexes, so that those selected in Phase A can participate in the continuation of the Tender.

The Location is owned by Batižele d.o.o., a real estate management company which is directly or indirectly publicly owned by the City of Šibenik and the Republic of Croatia. The Company is the 1/1 owner of the Location, representing a mixed-use building land at the site of the former TEF factory (Electrodes and Ferroalloys Factory) on the seafront, located next to the historical Šibenik city centre.





This Invitation was approved by the General Assembly of Batižele d.o.o., on the proposal of the Management Board of Batižele, on the date 19<sup>th</sup> December 2023.

**2.2. Contracting Authority - Batižele d.o.o.**

Company Name	Batižele d.o.o.
Postal Address	Prilaz tvornici 39
Address for communication related to this Invitation	Trg palih branitelja Domovinskog rata 1 (office of CoŠ)
City	Šibenik
Postal Code	22000
Country	Croatia
PIN/OIB	73841169007
Contact Details	e-mail [ <a href="mailto:natjecaj@batizele.hr">natjecaj@batizele.hr</a> ] web [ <a href="http://www.new-sibenik.com">www.new-sibenik.com</a> ]
Contact Person	Ms. Nina Kursar

The information provided in the table above represent official communication details for the Contracting Authority for the purposes of this Invitation.

**2.2.1.** Batižele d.o.o. is a real estate management company owned by the City of Šibenik as a majority shareholder with a 67.94% shareholding stake, followed by the Republic of Croatia with a 22.64% shareholding stake, the Environmental Protection and Energy Efficiency Fund (“EPEEF”) owning an

8.72% shareholding stake and the Croatian Water company (“Hrvatske vode”) owning the remaining 0.70% shareholding stake.

**2.2.2.** The Company has been established in 2018 within division proceedings of TEF, through establishment of a new company, Batižele therefore being a partial successor of TEF. The Company has a Supervisory Board consisting of three members, while the Management board consists of one director – Ms. Nina Kursar.

**2.2.3.** Batižele land includes real estate entered in total of five land registry excerpts, and the inscribed surface for all amounts to 221,697 m<sup>2</sup>. That area will be reduced by 858 m<sup>2</sup> in the process of registering the boundaries of ports open for public traffic and special purpose ports, therefore the final area, being disposed with by the Contracting Authority in this tender amounts to 220.839 m<sup>2</sup>. All of the real estate are located in the cadastral municipality of Šibenik and inscribed with the land registry of the Municipal court in Šibenik.

### **2.3. Subject of the offer**

This Project represents the development of Batižele, future city neighbourhood, lying on the western entrance to the city of Šibenik, one of the leading tourist destinations in Croatia and the third largest city in the Dalmatian region.

The Location includes plots inscribed in total of five land registry excerpts, all in the cadastral municipality of Šibenik, no.:

- 3492, consisting of plots: 685/9, 685/10, 685/11, 685/12, 685/13, 685/14, 685/15, 685/16, 685/17, 685/18, 685/19, 685/20, 685/21, 685/22, 685/23, 685/24, 685/25, 685/26, 685/27, 685/28, 685/70;
- 8900, consisting of plots: 685/29, 685/30, 685/31, 685/33, 685/42, 685/43, 685/44, 685/45, 685/46, 685/47, 685/48;
- 8901, consisting of plots: 685/49 and 685/50;
- 8902, consisting of plots: 671/1, 671/2, 672/1, 676, 677, 678, 679/1, 681, 682, 683, 684/1, 685/1, 685/2, 685/3, 685/4, 685/5, 685/6, 685/7, 685/8 and 685/93;
- 8903, consisting of plots: 685/59, 685/60, 685/61 and 685/62.

Part of the plot no. 684/1, with the surface of 35 m<sup>2</sup>, part of plot no. 685/1 with the surface of 744 m<sup>2</sup> and a part of plot no. 685/1 with the surface of 79 m<sup>2</sup> will be incorporated to the port open to public traffic, and/or the special purpose port, as a result of which the area of the Location will be reduced by the previously mentioned 858 m<sup>2</sup>.

**The subject of Invitation is therefore the land with the surface of 220,839 m<sup>2</sup>.**

The Location does not include the plot no. 671/3, surface area of 421 m<sup>2</sup>, plot no. 672/2, surface area of 263 m<sup>2</sup>, plot no. 679/2, surface area of 9 m<sup>2</sup>, plot no. 684/2, surface area of 17 m<sup>2</sup>, plot no. 685/94 surface area of 2006 m<sup>2</sup> and plot no. 685/95 surface area of 219 m<sup>2</sup>, which plots are registered in land registry excerpt no. 8902, as in the future they will be registered as maritime domain.

Construction possibilities are prescribed by the General Urbanistic Plan („GUP“) (Official Gazette of the City of Šibenik, No. 8/2016 and 01/2017) and the Spatial plan of development (“Spatial plan”) for the City of Šibenik (Official Gazette of the City of Šibenik, No. 3/03, 11/07, 5/12, 9/13, 8/15, 9/17). Spatial plans of the city of Šibenik provide for the mandatory drafting of an urban development plan (“UPU”) for the mixed-use construction zone "Batižele". According to the GUP provisions on usage and purpose, most of the Location is classified as “M”, being a mixed (residential, commercial and touristic) usage zone. It is classified as “undeveloped area - urban transformation (3.1.)” meaning it must be subject to urban regeneration.

The UPU has not yet been adopted for the zone, and after the conclusion of this tender procedure, the CoŠ will start the process of creating the UPU, which will be financed by CoŠ as part of this process. The UPU will be prepared in accordance with the Development Partner's Masterplan, the provisions of the GUP, the Spatial Plan and the applicable regulations on spatial planning. The creator of the UPU shall be chosen using a public procurement procedure.

During Phase B, the Preselected will be provided with a statement from the mayor of the City of Šibenik, confirming that CoŠ, through its bodies, will prepare a UPU proposal that will be in accordance with the Development Partner's Masterplan. Given that every lower-level plan must be in accordance with higher-level plans, in the event of any differences and inconsistencies between that Masterplan and the provisions of higher-level spatial plans and applicable regulations, the City of Šibenik shall retain the right to resolve any and all differences and inconsistencies (of the Masterplan in relation to applicable regulations) in order to achieve an accepted solution of the UPU that will be in accordance with plans of the higher order. The administrative bodies of the CoŠ will request consent from the competent Ministry, and will recommend the City council to adopt the UPU in line with the Masterplan provisions. Therefore, in the unlikely event that the UPU adoption proposal does not receive the necessary approval from the competent Ministry, i.e. if it is not adopted by the City Council, the CoŠ and the Contracting Authority shall bear no responsibility towards the Development Partner.

The existing GUP allows for construction of 5% of “high buildings” (as defined in the GUP) in the Batižele area, and the Contracting Authority expects that those buildings

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are located further away from the seafront, in proximity of the Ivana Meštrovića street and the intersection with the Tvornički put street.

The seafront part adjacent to the Location is not the subject of this Invitation for expression of interest, as that land is considered maritime domain. In Republic of Croatia, maritime domain is a general good of interest to the Republic of Croatia, enjoys special protection, and the seashore is considered maritime domain. The plots with a total area of 220.839 m<sup>2</sup> square meters disposed with through this Tender do not represent maritime domain. Some of the neighbouring plots represent maritime domain, and are not subject of this tender. The plots that do represent maritime domain will be a subject of a separate concession tender, in the form of a public procurement process issued after the successful adoption of the UPU. The concession for the maritime domain (or concession for commercial use of the maritime domain) shall be issued either by the Republic of Croatia, the Šibenik-Knin county, or by the city of Šibenik (if such authorisation is given to it by county), according to provisions of the Maritime domain and Seaports Act (Official Gazette 83/2023).

The maritime domain bordering the Location will be an integral part of the scope of the future UPU, as that is defined by the GUP, regardless of the fact that it is not the subject of this Invitation. Accordingly, during the preparation of the Masterplan, the Development Partner will propose the future arrangement of the maritime domain in the future UPU, which proposals will be considered by the CoŠ during the preparation of the UPU, but CoŠ is no way bound or conditioned with this proposal.

A part of the Location, with surface of approximately 31,500 m<sup>2</sup> will be carved out, and the Contracting Authority will enter into separate contracts with the Public stakeholders to regulate their mutual relationships specifically for that part. That part of the real estate will be used for development of the Public Facilities. The exact location for the Public Facilities will be agreed upon between the Contracting Authority and the Development Partner after the successful conclusion of the tender and before drafting of the UPU. Public Facilities that are to be built on the site and financed by the Public stakeholders, include a kindergarten, an elementary school, a music & dance school, fire station, as well as the associated communal infrastructure. Therefore, land intended for Public Facilities will be carved-out and transferred to Public stakeholders. The Public Facilities together with their corresponding communal infrastructure will not have financial implications on the Project.

### **2.4. Development**

The main objectives that the Contracting Authority and its shareholders seek to achieve with this project are:

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- Development of a new integrated open neighbourhood of the city,
- Brownfield urban regeneration of large waterfront site in a central city location.
- Provision of necessary public infrastructure and facilities.
- Using the potential of the location while minimizing the risk for the Contracting Authority.
- Generation of recurring revenues for Contracting Authority, either as revenues in the form of direct payments from private partner (e.g. Right of construction fee) or implicit revenues paid to the CoŠ and RoC (e.g. taxes, contributions).

It is the intention of the Contracting Authority to develop the Batižele zone through two parallel models, with the choice of model aligned to the type of content planned to be built, namely through: a) sale and purchase of real estate, and b) establishment of a Right of construction on parts of Location in favour of the Development Partner.

The transfer of ownership and the Right of construction establishment will take place after the UPU has been adopted by the City Council of Šibenik and the fulfilment of the other Condition Precedents as defined in the HOTS. Location will be divided into new plots, each corresponding to the intended components. All components, except for the land needed for the Public Facilities which will be transferred to the Public stakeholders, and the Right of construction plots that will remain ownership of Batižele d.o.o., will be transferred to Development Partner. The Right of construction, to be established by an agreement between the Contracting Authority and the Development Partner will be granted for a period of 75 years from the signing of the Right of construction Agreement.

During the construction phase, the Development Partner is required to align the development dynamics on the land intended for the Right of construction with the percentage of development of the land being sold, in such a way that the land under the Right of construction must not have a lower percentage of development than the land sold (but may have a higher percentage of development).

Further details regarding development of the Location can be found in the HOTS, which outlines indicative terms for the MDFA and represents Annex 1 to this Invitation.

Binding Bids must include a commitment to construct the following facilities:

### **2.4.1. Residential component**

The Residential component will be developed through sale and purchase of the real estate, meaning that the Development Partner will gain control of this part of the real

estate by acquiring ownership. The Preselected are invited to offer their vision for the surfaces and exact position of this component in line with spatial plans and other tender requirements.

### 2.4.2. Hotels

The Project must have at least two hotels with a minimum of 380 rooms in total. One hotel must have 5\* categorization and the other hotel must have at least 4\* categorization.

Hotels will be developed through establishment of Right of construction on the Batižele Real Estate, while the exact location of the Hotels shall be determined during preparation of the UPU.

### 2.4.3. Retail component

The Retail component may be developed through sale and purchase of the real estate (as for the Residential component), and / or as a secondary component on the land intended for development through Right of construction models (e.g. shops on the ground floor of the Multipurpose Hall).

### 2.4.4. Other facilities

Other facilities include:

- **Multipurpose Hall**, to be built and operated by the Development Partner, and which will be used for: the needs of sports clubs, holding sports events, for recreational purposes, fairs, congresses, concerts, exhibitions and other cultural events. The minimum capacity requirement for the Multipurpose Hall is 3,000 seats (fixed and telescopic as well as movable seats). The GFA for Multipurpose Hall may also include retail content like shops, restaurants, coffee bars and similar. Multipurpose Hall shall be developed through the Right of construction model. Further details regarding Multipurpose Hall shall be shared with the Preselected during the Phase B of the Tender.

- **Public garage(s)** with a minimum capacity of 570 parking spaces. The public garage will be built and operated by the selected Development Partner. Public garage will be developed through the Right of construction model, and the intention is to serve the needs of the public in the future neighbourhood.

- Other facilities (as permitted under the GUP) within the Location, subject to the Development Partner's vision.

### 2.4.5. Communal infrastructure

Communal infrastructure includes green areas, roads, public spaces and other public infrastructure as defined by Article 59 of the Communal Economy Act (Official Gazette 68/18, 110/18, 32/20). Exact location of Communal infrastructure will be determined on the Location upon adoption of the future UPU. The Development Partner is expected to build or finance the construction of that infrastructure by entering into either the Agreement on financing of communal infrastructure construction (regulated by provision 167. of the Physical Planning Act) or Agreement on construction of communal infrastructure, with the CoŠ (regulated by provision 165. of the Physical Planning Act). In case of Agreement on financing of communal infrastructure, the constructor is selected through a public tender published by CoŠ.

After purchasing the land for communal infrastructure, the Development Partner will transfer the ownership of the land for the communal infrastructure to the CoŠ free of charge. If the City of Šibenik and the Development Partner enter into an agreement on the financing of the construction of communal infrastructure, the Development Partner will, under certain conditions, be freed from the obligation of paying communal contributions for development of all facilities on its part of the Location (apartments, hotels etc.), up to the amount of the construction costs of the communal infrastructure, paid on the basis of the agreement on financing the construction of communal infrastructure.

### 2.5. Sustainable urban development

Batizele d.o.o requires that the proposed development concept is ambitious and in line with best practice for sustainable urban development. Two specific aspects that will need to be complied with by the Development Partner are the energy efficiency and green performance of individual buildings, and the sustainability of the urban development as a whole.

It is anticipated that the Development Partner will be subject to compliance with EU Corporate Sustainability Reporting Directive (CSRD) during the MDFA execution. Regardless of applicable jurisdictions, under the MDFA the successful bidder will be expected to commit to meeting the EU Taxonomy energy efficiency screening criteria for all new buildings built in accordance with the agreement (Primary energy demand certified at least 10% lower than Nearly Zero Energy Building (NZEB) standards for Croatia).

At the Project level, Bidders are expected to commit to principles of sustainable neighbourhood design as reflected in international certification frameworks such as LEED for Neighbourhood Development v4 (July 2018) or the Arup and C40 Cities Green and Thriving Neighbourhoods Guidebook (July 2021).

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Outline masterplans should include a concise Sustainable Urban Development design statement (no more than 4,000 words) describing how the project will address the priority points below, in each case stating how the development will meet or surpass the minimum requirements in accordance with the legislation of the Republic of Croatia.

- i) Connected and permeable road network (eg interconnected and permeable street network),
- ii) Heat island reduction and solar effects reduction (eg. strategies for heat island reduction in roof coverage and ground level paving, and optimal spatial orientation of blocks).
- iii) Walkable streets (eg. majority of buildings with direct access onto the circulation network, continuous pavements, active ground floor frontages with minimal proportion allocated to garages or service bays, low speed road design, and trees or shading structures at regular intervals)
- iv) Bicycle facilities (eg. Provision of spaces for bicycles in residential and commercial properties, and clear provision of spaces for bicycles in public realm)
- v) Access to public space and sports/recreation facilities (eg. public spaces within short walking distance of majority of residential units, and sports and recreation facilities within reasonable walking distance of the same)
- vi) Optimum use of parking spaces in accordance with relevant spatial planning regulations and a commitment to effective cooperation with local transport authorities to ensure that public transport stops are integrated into new developments,
- vii) Community outreach and involvement (eg commitment by development team to lead community engagement during design stages and on an ongoing basis following implementation).
- viii) Diversity of housing types (eg. diversity of housing sizes and types located in proximity to one another, and a percentage of rental or for-sale units that will be more accessible to local population).
- ix) Housing and jobs proximity (eg. substantial number of employment opportunities in proximity to residential units)
- x) Green buildings (eg. a significant proportion of the total area will be occupied by green buildings with a low carbon footprint)
- xi) On-site energy generation and district heating/cooling (eg. a proportion of the site's energy consumption generated through on-site non-polluting renewable sources)
- xii) Water consumption, waste water management, and rainwater management (eg. substantial proportion of residential units using components delivering indoor water saving measures, retention and re-use of a substantial



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- proportion of waste water generated on site, delivery of a landscape / public realm that does not require a permanent irrigation system, and effective management of all rainwater run-off on site through sustainable urban drainage systems)
- xiii) Energy efficient infrastructure (eg. public realm and communal infrastructure components with substantially lower primary energy consumption than baseline equivalents')
  - xiv) Waste collection and management (eg. provision of on-site segregated waste and waste management, collection services for hazardous wastes, local composting stations)
  - xv) Light pollution reduction (eg. low-level lighting (or no lighting if appropriate) in public areas)
  - xvi) Construction activity pollution prevention (eg. development and implementation of erosion and sedimentation control plan for all construction activities)

In light of the above, the selected Development Partner shall be expected to use its best endeavours to design and implement the development in accordance with LEED for Neighbourhood Development system. In case of conflict between the previously mentioned criteria and the legislation of the Republic of Croatia and/or spatial plans of a higher order at the Location, the Development Partner is not required to fulfil the mentioned criteria.

### **2.6. Project objectives**

In relation to the Project, the Candidate is expected to provide the Expression of Interest and other files according to terms and conditions provided for in this Invitation.

If the Preselected is chosen as the Development Partner, it shall establish a SPV, which will enter into the MDFA, according to terms outlined in this Tender and the HOTS. By submitting the Binding Bid, the Preselected agrees and accepts that they shall guarantee for all obligations of the SPV under the terms of the MDFA, and shall secure the Project's financing through equity or debt arrangements, if they are chosen as the Development Partner.

SPV and the Development Partner shall jointly ensure the timely requests for issuance of all authorizations and approvals needed for the construction, total completion, and operation of the Project.

**2.6.1.** The Development Partner, under the threat of MDFA termination, shall be required to complete the final remediation of the Location prior to the start of, or simultaneously with, construction works in accordance with the conclusions of

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environmental analysis provided by the Contracting Authority (Arup 2023), and the aforementioned analysis represents Annex no. 3. to this Invitation. Final remediation works are defined in the Arup analysis in the following manner:

- works to remove approximately 30,000 m<sup>3</sup> of slag from the site,
- additional works on three locations, specified in detail in the Oikon report detailing works undertaken in 2018, and accordingly demonstrate that the remediation was successfully completed as specified, all in order to fulfil the requirements of the regulator set by the Remediation Program and the Supplement to the Remediation Program,
- works to remove any localized contamination discovered during construction work,
- coverage of all soft-landscaping with clean imported soil layer with minimum depth of 600mm,

The works defined in the Arup analyses are necessary to remediate the land fully, in line with international best practice and specifically the relevant benchmark standards from the Netherlands (Dutch Soil Remediation Circular, 2013), which will be the standard required under the MDFA.

All earthworks that are not subject to remediation are considered regular earthworks (e.g., removal of obstacles on the land) during the construction process.

The Development Partner shall be entitled to make their own choice in relation to removal of the in-ground obstructions.

Remediation of the beach area, which in nature represents a maritime domain and which is not subject of this tender, will be carried out in the future by one of the public stakeholders and/or future concessionaires and does not represent an obligation of the Development Partner.

If the Preselected express an interest in making their own analyses related to the quality of land/groundwater/sea, Batižele will enable them to do the same after the start of Phase B, when they will be able to submit a request for access to the Location for conducting investigative activities.

**2.6.2.** In case of archaeological sites discovery, it is necessary to act in accordance with the Law on the Protection and Preservation of Cultural Property ("Official Gazette", no. 69/99, 151/03, 157/03, 100/04, 87/09, 88/10., 61/11., 25/12., 136/12., 157/13., 152/14., 98/15., 44/17. and 90/18.)

**2.6.3** The deadline for the start of the Project's construction is estimated at a maximum of one (1) year in total, starting from the date of the UPU adoption.

### 2.7. Alterations

Any alteration, transformation, substitution or succession of the Contracting Authority or the bodies and services referred to in this Invitation does not affect the progress of the awarding process. In such event, the Contracting Authority shall inform the participants during the assignment procedure.

### 2.8. Personal Data

The Contracting Authority acts as the data processor for the personal data of individuals, which will be collected during the Tender and the processing of such data will be carried out in accordance with the provisions of the data protection legislation, as each time applicable. Such personal data may be communicated to institutions, to which the Contracting Authority assigns the execution of a specific project on its behalf, namely to its directors, officers, and its employees in general, provided that in any case the confidentiality is upheld, within the framework of their lawful activities, as well as to public bodies and judicial authorities, within the framework of their competences. The processing's purpose is to assess the Expression of Interest Files, to fulfil the statutory obligations of the Contracting Authority, to inform Candidates on the assessment of the Expression of Interest File submitted by each one of them and to protect and secure the transactions in general. Natural persons who submit an Expression of Interest File as legal representatives of a legal entity that is a Candidate or as a representative of a Consortium that is a Candidate, consent to the processing of their personal data, as above, for the purposes specified and retain all their statutory rights of access, correction, objection to the processing and revocation of their consent (Annex 4 of this Invitation).

### 2.9. Advisors

The Contracting Authority, for the needs of the Tender, is supported by specialized consultants, providing assistance in financial, legal and technical matters until the completion of the entire tender process (Phase A and Phase B of the Tender).

Mazars Group is the head of the Consortium (which consists of the following parties: "Mazars S.A.", "Mazars LLP", "Mazars Cinotti Consulting d.o.o." (Lead), "Slaughter and May", "Colliers Advisory d.o.o.", and the company "Law firm Šooš Maceljjski, Mandić, Stanić & Partners d.o.o.").

EBRD (European Bank for Reconstruction and Development) is funding the Consultants' work under a donor-funded consultancy services agreement from the CREATE fund.

### Article 3: Selection Process Procedure

**3.1.** The selection process of the Tender is divided into two phases, Phase A (pre-selection phase) and Phase B (Submission of Binding Bids).

a) **Phase A** of the Tender shall last for **6-8 weeks**. At the beginning of this Phase the Contracting Authority will publicly announce this Invitation for Expression of Interest File together with corresponding Annexes. During this Phase the Candidates shall submit the following documents:

- (i) Expression of Interest (Annex 2 to this Invitation),
- (ii) Good standing Files, namely:
  1. GDPR (Annex 4 to this Invitation),
  2. Information about the candidate and his representatives (Annex 5 to this Invitation),
  3. Declaration on Good standing criteria (Annex 6 to this Invitation),
- (iii) Financial capacity Files, namely:
  1. Financial Data (Annex 7 to this Invitation),
  2. Financial Statements,
  3. Financing Plan,
- (iv) Technical capacity (Evidence of successful implementation of projects in accordance with Article 16 to this Invitation)
- (v) Legal Documents as per Article 18. of the Invitation for Expression of Interest

In the Financing Plan, the Candidates will explain how they intend to finance the development of the Project.

b) Within **3 weeks** following the end of Phase A the T.C. will draw up a Report on the evaluation of the submissions, based on which the Contracting Authority will decide on the selection of the Preselected. The Contracting Authority shall send the Phase B Notification to the Preselected Candidates, notifying them of the start and end date of Tender Phase B. Together with the Phase B Notification, the Preselected shall be provided with list of documentation in the Data Room, which shall include in minimum the Legal, Financial and Technical Dossiers and Technical specifications for the Multipurpose Hall.

c) Phase B of the Tender shall last for **12-21 weeks**, and it represents the deadline for submission of Binding Bids. Before the expiry of that term the Preselected are required to send their Binding Bids which shall consist of:

- (i) Commercial Terms File,
- (ii) Outline Masterplan,
- (iii) Business Plan Proposal,

### (iv) Bid Bond.

Preselected in Phase B are also required to submit the documents provided for in the provisions of Art. 14.7. of this Invitation (Certificate of Criminal Record and Certificate of Non-Existence of Tax and Social Security Contribution Debts, no older than 45 days)

d) Selection of the Development Partner according to received Binding bids shall last for **6 weeks**. During the Selection the Bidders will receive scores for their Binding Bids, based on the following criteria:

- (i) Financial score, combining individual scores for:
  1. Residential land purchase price;
  2. Right of construction fee;
- (ii) Technical Score, combining individual scores for:
  1. Phase A (technical capacity) score;
  2. Outline Masterplan - Architectural design and solutions;
  3. Multipurpose Hall;
  4. Market positioning;

Starting purchase (bidding) price of residential land amounts to 562,68 euros per m<sup>2</sup>. Starting purchase (bidding) price of land intended for the construction of communal infrastructure per m<sup>2</sup> amounts to 186,53 euros per m<sup>2</sup>.

Starting bidding fee for the Right of construction amounts to 2,24 euros/m<sup>2</sup> annually.<sup>1</sup>

The fee amount for the establishment of the Right of construction will be adjusted every 3 (three) years from the date of the beginning of the obligation to pay the fee for the Right of construction in accordance with changes in the real estate market, and according to the publicly published index of price movements on the real estate market in the Republic Croatia.

**3.2.** Additional information/specification relating to the Outline Masterplan and the Business Plan Proposal will be shared by the Contracting Authority with the Preselected together with the Phase B notification.

## **Article 4: Applicable Legislation, Procedure Overview, Assignment Criterion.**

### **4.1. Applicable Legislation**

References to any law, decree, regulation or other legal text or any decision of regulatory or other content are deemed to regard this same law, decree, regulation,

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<sup>1</sup> The starting purchase prices and Right of construction fees have been determined in accordance with the prescribed legal framework.

other legal text or decision in the content applicable at the date of this Invitation for Expression of Interest and include the amendments thereto.

### 4.2. Procedure Overview

The tender procedure shall proceed in two phases, as follows:

- **Phase A: Preselection**
- **Phase B: Submission of Binding Bids**

During Phase A, the Interested Parties will be able to submit questions via the Contracting Authority's e-mail address [natjecaj@batizele.hr](mailto:natjecaj@batizele.hr), to which the Contracting Authority will respond within 5 working days. The answers will be published on the website of the Contracting Authority, without mentioning the identity of the Interested Party. All inquiries must contain the information of the Interested Party which is making the inquiry (Interested Party's name, address, contact information). The Contracting Authority is not required to respond to the Interested Party's inquiries that have already been answered previously, that do not contain information about the Interested Party, or inquiries that are not sufficiently explained to be considered materially relevant in the context of this public tender.

During Phase B, only the Preselected will be able to ask questions through Questions and Answers (Q&A) through the official data room described in Article 8. of this Invitation. The purpose of the Q&A will be to determine any possible ambiguities and clarify the models through which the Contracting Authority's needs can be optimally met. Answers will be posted in the data room and available to all Preselected.

**4.2.1. During Phase A (Preselection),** Interested Parties must exhibit their interest in writing by submitting an Expression of Interest File, together with Annexes in accordance with the specific provisions of this Invitation for Expression of Interest. The preselection of Candidates shall take place following the examination of the Expression of Interest Files together with Annexes as stipulated in provisions of this Invitation. Based on data submitted through the Expression of Interest File, through the Committee, the Contracting Authority shall preselect during Phase A any number of Candidates that are deemed acceptable on the basis of Phase A Expression of Interest Files with Annexes, and shall invite them to participate in Phase B of the Tender.

#### 4.2.2. Phase B of the Tender includes the Submission of Binding Bids

Preselected bidders will be invited to participate in Phase B of the Tender by way of Phase B notification, and will be provided with the Legal, Financial and Technical Dossier and technical specifications for the Multipurpose Hall.

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If necessary, the Contracting Authority shall conduct a Q&A session (live or through means of electronic communication) with each of the Preselected regarding the basic technical, financial and legal aspects of the Project, and may, at the Contracting Authority's discretion, discuss all aspects of the HOTS and the future MDFA. Each such meeting can only be held if all members of the Tender Committee are present, it will be recorded, and minutes will be drawn up. Answers and explanations after each such meeting will be made public, without specifying the identity of the Preselected.

**4.2.3.** Throughout the Q&A, the Contracting Authority shall ensure equal treatment of all Preselected by providing the same information to all the Preselected and by publicly posting all materially relevant information in the Data Room.

The data and information that the Preselected submit in their bids or during the meeting are considered business secrets until the results of the tender are published in accordance with Article 20 of the Data Privacy Protection Act (Official Gazette 108/96), and in connection with Article 34 of the Data Privacy Act (Official Gazette 79/07, 86/12).

**4.2.4.** The Preselected shall submit their Binding Bids within a time frame defined in the Phase B notification (until the end of Phase B).

**4.2.5.** The Contracting Authority reserves its right, if it sees fit, to request clarifications by the Bidders on their Binding Bids or to invite the Preselected to complete their Binding Bids, provided that such clarifications or completions:

- do not require any amendments to the Binding Bid's key elements,
- do not cause distortion of competition and
- do not prejudice against any Bidder.

**4.2.6.** Together with the submission of the Binding Bid in Phase B of the Tender, the Preselected are required to submit the Bid Bond letter of guarantee as defined by this Invitation.

### **4.3. Criterion of assignment of the MDFA**

The criterion which applies to the assignment of the MDFA is the "best price-quality ratio", in accordance with provisions of this document governing scoring in Phase B. In any event, the price criterion shall be of particular gravity, as determined by the provisions of this Invitation.

**4.4.** Candidates are required, at their own expense, to obtain all information about the wider area of land where the Project will be developed; by submitting an Expression of Interest, it is considered that the Candidates have acquired complete information about the conditions and peculiarities that prevail in respective areas.

### **Article 5: Language of the procedure and Certification**

**5.1.** Croatian is the official language of the procedure and all documents issued by the Contracting Authority shall be drafted in the Croatian language, while this Invitation, together with some other materially important documents and notices during the tender, will also be published in English. In case of any discrepancies between the Croatian and English versions, the tender documentation in the Croatian language is deemed as the official one.

**5.2.** All documents submitted by the Preselected must be drafted in Croatian language and Latin script. Exceptionally, the graphics of the Masterplan may be submitted exclusively in English if they are originally written in that language, however the textual part of the Masterplan must be written in Croatian

**5.3.** All public documents and other documentation concerning valid establishment and authorization for representation of foreign persons that shall be submitted by Candidates through this procedure, shall be lawfully certified if such obligation is prescribed by the Law on the Legalization of Documents in International Traffic (Official Gazette no. 53/91), either by the competent Consulate of the foreign country in question or by placing the Apostille Stamp under the Hague Convention of 05<sup>th</sup> October 1961, so as to certify their authenticity and shall be accompanied by an official translation into the Croatian language. The provisions of Regulation (EU) 2016/1191 of the European Parliament and of the Council of July 6, 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) no. 1024/2012 apply to candidates from EU member states. It is hereby clarified that this requirement applies to any documents considered as public documents pursuant to Article 1 of the abovementioned Convention and, in particular: (i) documents coming from an authority or civil servant of a judicial bodies of the State, (ii) administrative documents, (iii) notarial documents and (iv) official certifications, such as registration certifications, certifications meant to provide a certain date and signature certifications placed on a private document.

**5.4.** All oral communication, between the Tender Committee and Preselected shall be conducted in the Croatian language mandatorily. The obligation of all Preselected is to facilitate the communication of their employees and advisors with the Contracting Authority by means of the appointment and presence of translators at their expense is hereby reinstated.



**Article 6: Discretion of the Contracting Authority to postpone, cancel and repeat the Tender or invalidate its outcomes**

**6.1.** The Contracting Authority reserves the right to amend the schedules concerning any of the Tender's phases at its full discretion, without assuming any liability in favour of the Interested Parties, the Candidates, the Preselected or/and any third parties. Moreover, the Contracting Authority reserves the right to postpone and/or repeat the tender procedure or cancel the Tender or even to decline ratification of its outcomes in their entirety, at any point of time and for whichever reason, at its full discretion, without assuming any liability in favour of the participants to the Tender and/or third parties.

The Contracting Authority also reserves the right to modify this Invitation during the Phase A. If such modification requires an additional deadline for preparation of the Expression of Interest, with the publication of the amended Invitation, the deadline for submission of the Expression of Interest can be extended. Furthermore, if during any stage of the tender procedure it is determined that this Invitation contains obvious errors, the Contracting Authority reserves the right to amend the Invitation and to publish the same changes in a timely manner, without extending the deadline for submission of the Expression of Interest/Binding Offer.

**6.2.** The Contracting Authority reserves the right, following an opinion by the Tender Committee, to decide, along with the cancellation or nullification of the Tender, on the repetition of any of the Tender's phases, either by amending its terms or not.

**6.3.** In all of the above instances, the Tender Committee's opinion or the Contracting Authority's deviation from the Tender Committee's opinion shall be considered justified.

**6.4.** If the Tender is cancelled, annulled or repeated for whatever reason or cause, pursuant to the provisions of this Invitation, the Interested Parties, the Candidates, the Preselected or the Bidders will have no grounds for indemnity claims and do expressly waive any such claims by participating in this Tender.

**6.5.** The Interested Parties, the Candidates, the Preselected and the Bidders shall bear all expenses that correspond to their participation in the Tender's phases with no liability on the part of the Contracting Authority.

**6.6.** Participation in the Tender of a single Candidate / Preselected / Bidder does not represent an obstacle to awarding the tender.

**6.7.** The Contracting Authority reserves its right to amend and/or modify the HOTS at any stage before the end of Phase B, at its full discretion, without assuming any liability in favour of the Interested Parties, the Candidates, the Preselected, the Bidders or/and third parties.

**Article 7: Evidence from participation in the procedure**

**7.1.** Participation in this tender procedure constitutes incontestable evidence that the Candidate as well as each of its Members (in case of a Preselected that is a Consortium) has become fully aware of:

**(a)** this present Invitation and its accompanying data and documentation

**(b)** the legislation in force.

**7.2.** Participation in this procedure constitutes evidence that the Candidate as well as each of its Members accept the terms and provisions hereby included without reservations.

**Article 8: Data Room**

**8.1.** During Phase B of the Tender, before the submission of Binding Bids, a Data Room shall operate, through which Preselected will be able to collect additional financial, legal and technical information after receiving the notice of Phase B from the Contracting Authority. The list of the documents that shall be included in the Data Room shall be provided in the Phase B Notification. The Contracting Authority may supplement the data relating to the data room and notify all Preselected accordingly.

**Article 9: Contracting Authority**

**9.1.** For the purpose of reviewing the applications of Expression of interest and assessing them according to specific provisions mentioned in this Invitation as well as for the purpose of achieving goals provided in this Tender a Tender Committee was appointed.

**9.2.** Alterations or changes of composition of the authorities, bodies or services hereby mentioned or a possible relocation thereof to a different address do not affect the legality of this Invitation and the development of the tender procedure, whether in Phase A or Phase B. In such an event, the Contracting Authority shall notify the Interested Parties in writing.

**Article 10: Access to the Invitation**

**10.1.** This present Invitation is published on the Contracting Authority's website <http://www.new-sibenik.com/>.

**Article 11: Submissions of Files**

**11.1. Submissions in Phase A**

The Candidates shall submit all documents in Phase A in the original, together with a copy in digital form (on DVD or USB) in a sealed envelope with an indication of the subject and the warning: "Do not open - Expression of interest for the Batižele Project", to the address:

Batižele d.o.o.,  
Trg palih branitelja Domovinskog rata br. 1.  
(Grad Šibenik office)  
22000 Šibenik, Croatia

no later than ~~19<sup>th</sup> February~~ 04<sup>th</sup> March 2024 (local time in Croatia, regardless of the delivery method, no later than 12,00 hours). In the event of a discrepancy between the digital form and the printed original, the printed original will prevail.

**11.1.2.** Files submitted in a non-timely manner shall be rejected on grounds of inadmissibility. A random delay or a delay attributable to force majeure shall not be recognized as a justified reason for the delayed submission of the Expression of Interest File. The Candidate bears the risk of such non-timely submission.

**11.2. Submissions in Phase B**

**11.2.1.** Preselected shall submit their Binding Bids electronically through the IDEALS portal, the details of which the Contracting Authority shall share with the Phase B notification. The same portal applies for the Q&A session and all other submissions during Phase B. Preselected are required to submit the original Bid Bond, in a sealed envelope with a clear indication of the item and the warning: "Do not open - Bank guarantee for the Batižele Project" to the address specified in paragraph 1 of this Article.

**11.2.2.** The Consortium submits a joint Expression of Interest File, which shall be signed, whether by all Members making up the Consortium or by a duly authorized representative of these entities. The percent of participation of each of the

Consortium's members, and their Representative/Proxy need to be defined in the Expression of Interest File, under penalty of rejection.

**11.2.3.** Prior to the final date for the submission of offers, Bidders may request the withdrawal of a bid submitted electronically by means of request to the Contracting Authority in writing. After receiving such request, the Contracting Authority shall proceed to reject the relevant application.

### **Article 12: Eligibility for participation in the Tender – Changes of composition**

**12.1.** Legal entities not eligible to participate in the Tender whether independently or as Consortiums, are:

- a) Candidates which have their registered or de facto seat or office in countries named in the EU list of non-cooperative jurisdictions, and entities listed as ineligible by the EBRD, as determined on <https://www.ebrd.com/ineligible-entities.html>. These Candidates are excluded on an individual basis, as member of a Candidate which is a Consortium, or as shareholders of more than 5% of the share capital of the Candidate, in which scenario any such Candidate (5% or larger ownership) is excluded.
- b) Do not meet the terms and conditions set out as the Good Standing Criteria in this present Invitation.
- c) Candidates and natural persons (representatives and/or proxies of Candidates) included in the List of persons, groups and entities subject to EU financial sanctions.

**12.2.** Consortia that shall participate in the Tender are not required to have a certain legal form in order to exhibit their interest in participating. In case of a Candidate that is a Consortium, each Member's participation stake shall be determined and may not be subject to alterations (with the exception of potentially approved instances of change of composition of Candidates/Preselected). In case this Bidder is proclaimed as the Development Partner, this ratio shall constitute each Member's binding participation stake in the SPV's initial share capital.

**12.3.** Execution of the MDFA requires, that the Development Partner establishes a Special Purpose Vehicle (SPV); the SPV shall have the Development Partner as its sole founder and shareholder and, in the case of Consortium, the Members of the Development Partner shall be the founders and shareholders proportionately to their participation. The SPV shall be the contractual party which enters into the MDFA with the Contracting Authority. The Development Partner is jointly liable and responsible for all obligations of the SPV towards the Contracting Authority, and in case of Consortium, each Member shall be liable according to its shareholding stake in the

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SPV. In order to assume the obligations of the SPV, the Development Partner will co-sign the MDFA as a solidary debtor, in favour of the Contracting Authority.

**12.4.** In case a Related Enterprise (as defined below) submits an independent Expression of Interest File (namely participates in the Tender as an independent Candidate) or participates as a member of an Consortium that submits an independent Expression of Interest File, then both such Candidates bear the burden of satisfactory proof towards the Contracting Authority that the submitted Expressions of Interest and, sequentially, in Phase B of the Tender the Binding Bids, though separate, have not exerted influence onto each other. Otherwise, the Contracting Authority is entitled to exclude either one of the Candidates or both of them at its discretion.

**12.4.1.** For the purposes of this Invitation, **“Related Enterprise”** means any enterprise whose annual statements have been consolidated with those of the Candidate as per the requirements set out in the Accounting Act (Official Gazette no. 78/15, 134/15, 120/16, 116/18, 42/20, 47/20, 114/22). In the case of Candidates that do not fall under Accounting Act, “related enterprise” means any enterprise in relation to which the Candidate meets any of the criteria under a) to e) below:

- a. Holds the majority of voting rights of the other entity’s shareholders, partners or members.
- b. Holds the right to appoint or dismiss of the majority of members of the other entity’s administrative, managerial or supervisory body and is simultaneously a shareholder, partner or member of this entity.
- c. Holds the right to exert dominating influence over the other entity in which it is a shareholder, partner or member, whether on the basis of an agreement entered into with said entity or of a provision in any of its constitutional documents or its articles of incorporation.
- d. Is a shareholder, partner or member of the other entity which:
  - a. Controls, on its own, the majority of voting rights of the shareholders, partners or members by virtue of an agreement it has concluded with other shareholders, partners or members of this entity
  - b. Has the power to exert or actually exerts controlling influence or control over the other entity.

**12.5.** Change in composition of the Preselected in the Consortium, upon finalization of the outcome of Phase A of the Tender and prior to the expiry of the deadline for submission of Binding Bids, which shall be specified in Phase B Notification of the Tender, is forbidden, under penalty of exclusion of the Preselected in question, unless

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such change is approved by the Contracting Authority in writing, following an application by the Consortium to this end. More specifically:

**12.5.1.** In the event that the Consortium wishes to make changes to the structure as submitted, the Preselected is required to notify the Contracting Authority of its intention to change its structure prior to submission of the Binding Bid, by simultaneously submitting all data and documents necessary, as per this Invitation, for its reassessment following such change and more specifically:

**(i)** The Contracting Authority must be notified of the change in writing at the latest thirty (30) days before the lapse of deadline for submission of Binding Bids, and such change shall be subject to the Contracting Authority's prior consent.

**(ii)** The Candidates shall continue to meet all Quality Selection Criteria defined in this Invitation and the new member entering the Consortium composition must meet the Good Standing Criteria as defined in this Invitation.

**(iii)** In case of entry of a new member in the Preselected Consortium composition, all relevant notifications to the Contracting Authority regarding changes of composition as per this article, shall be accompanied by the documentation stipulated in this Invitation with respect to the new member.

**(iv)** No change in composition of the Preselected is allowed during the last thirty (30) days before expiry of deadline for submission of the Binding Bids, with the exception of **(a)** changes justified on objective grounds (e.g. liquidation, bankruptcy etc.) or **(b)** changes justified on grounds of corporate transformation (e.g. merger, demerger, transformation etc.). Every such change shall be conditional upon the Contracting Authority's prior approval, to the extent that the Preselected continues to meet the Quality Selection Criteria as defined in this Invitation.

In the event of infringement of the above conditions, the Preselected Consortium shall be excluded from the Tender.

### **Article 13: Quality Selection Criteria in Phase A**

#### **13.1. General**

**13.1.1.** The subsequent articles specify the quality selection criteria which Candidates have to meet in order to be preselected, and relate to the following: (a) Good Standing Criteria, as specified in Article 14 hereby, (b) Financial Capacity Criteria, as specified in Article 15 hereby and (c) Technical Expertise Criteria, as specified in Article 16 hereby.

**13.1.2.** Compliance with the Quality Selection Criteria constitutes a continuous requirement which has to be met even after the submission and assessment of the Expression of Interest File and throughout the Tender's duration. Failure to comply with the Quality Selection Criteria during the entire Tender constitutes grounds for disqualification of the Candidate.

### **Article 14: Good Standing Criteria in Phase A**

**14.1.** Every Candidate or, in the case of a Consortium, every Member of the Candidate, must cumulatively meet the Good Standing criteria below, under penalty of exclusion.

**14.2.** The Candidate has not been irrevocably convicted on any of the grounds listed below:

a) participation in a criminal organization, as such term is defined in article 2 of the EU Council framework decision 2008/841/JHA of 24 October 2008 on the fight against organized crime (EE L 300 of 11.11.2008, p.42),

b) bribery, as such term is defined in article 3 of the convention on the fight against corruption involving officials of the European Communities or officials of Member-States of the European Union (EE C 195 of 25.6.1997, p. 1) and article 2 paragraph 2 of the Council framework decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (EE L 192 of 31.7.2003, p. 54) as well as (defined) in the legislation in force or the Candidate's domestic law,

c) fraud, in the meaning ascribed to the term in article 1 of the agreement on the protection of the European Communities' financial interests (EE C 316 of 27.11.1995, p. 48), which has been ratified by means of the Criminal Code (Official Gazette no. [125/11](#), [144/12](#), [56/15](#), [61/15](#), [101/17](#), [118/18](#), [126/19](#), [84/21](#), [114/22](#))

d) terrorist offences or offences related to terrorist activities, as defined in articles 3 and 4 of the decision 2017/541/JHA of 13 June 2002 on combating terrorism (EE L 88 of 31.3.2017, p. 6) or

e) money laundering or terrorist financing, as defined in article 1 of Directive 2015/849/EU of the European Parliament and the Council of 25 May 2015, with respect to the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (EE L 141 of 25.05.2015, p. 73), as incorporated into national law by means of Law on Prevention of Money Laundering and Financing of Terrorism (Official Gazette 108/17, 39/19, 151/22)

f) child labour and other forms of human trafficking, as defined in article 2 of Directive 2011/36/EU of the European Parliament and the Council of 5 April 2011 on preventing

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and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (EE L 101 of 15.04.2011, p. 1), as incorporated into national law by means of the Criminal Code.

A Candidate is also excluded when the person irrevocably convicted as above is a member of the managerial or supervisory body of the Preselected in question.

**14.3.** The Candidate is in good standing if he has fulfilled all his obligations with respect to the payment of tax obligations and social security obligations towards its employees, as in accordance with the Croatian legislation in force or the legislation of the state where the Candidate maintains offices. Furthermore, Candidates must not be in debt towards the CoŠ and/or the Contracting Authority in order to enjoy the Good Standing Criteria.

**14.4.** A Candidate is excluded from participation in the Tender if any of the following terms is met:

- a) The Candidate's breach of obligations stipulated in article 18 par. 2 of EU Directive 2014/24, namely obligations grounded upon environmental, social security and labour legal provisions as constituted by EU law, national law, collective agreements, or international provisions on environmental, social and labour law,
- b) The Candidate is subject to bankruptcy or has been subjected to a rehabilitation or special liquidation procedure or is under compulsory administration either by a liquidator or the court itself or has been subjected to a conciliation procedure or has ceased its business operations or is in any similar condition as a result of any similar procedure stipulated by applicable national legal and regulatory provisions of Croatian law or law of the state of residence.
- c) A condition of conflicting interests in the meaning ascribed thereto by article 24 of Directive 2014/24/EU of the European Parliament and Council cannot be effectively mitigated through other, less intrusive, means.
- d) The Candidate (or a Member thereof) falsely stated during the provision of information required for the satisfaction of selection criteria, has withheld such information or is unable to submit the documents required so as to substantiate such information.
- e) The Candidate has illicitly attempted to exert influence over the Contracting Authority's decision-making procedure, to obtain confidential information which would potentially grant (the Candidate) an illicit leverage in the



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procurement conclusion procedure about the selection of the Development Partner or to provide, due to negligence, misleading information that would materially affect the decisions on exclusion, selection or assignment of the MDFA.

**14.5.** At any point of time during the procedure, the Contracting Authority shall exclude a Candidate/Preselected/Bidder upon proof that they fail to meet any of the terms of the preceding paragraphs of this Article.

**14.6.** In the event that the time period of exclusion of the Candidate due to the conditions specified in paragraph 4 of this article has not been specified through an irrevocable decision in any of the cases of par. 14.2. such period shall last five (5) years as of the occurrence of any such event.

**14.7.** The Candidates shall prove their Good Standing:

a) In Phase A, by signing a solemn declaration in accordance with Annex 6, in which they will state that they meet the Good Standing criteria defined in this article. For Consortia, each Member shall sign such declaration.

b) In Phase B, the Preselected will deliver:

- i. **A Certificate of Criminal Records of the competent authority for the Candidate's legal entity** (in the case of a Consortium for all members of the Consortium) issued by the competent authority of the country in which it has its place of business, from which it will be clear that the Candidate has not committed criminal offenses that would exclude him from participation in this contest,
- ii. **Certificate of Non-Existence of Tax Debt and Debt on Social Security Contributions** (in the case of a Consortium, for all Consortium members), issued by the competent authorities of the state where the Candidate has a registered office, demonstrating that the Candidate has settled the aforementioned matured obligations

If such documents are not issued in the country of the Preselected place of business or if they do not cover all the circumstances covered by paragraph 14.7. of this Call, they may be replaced by a sworn statement or, if a sworn statement does not exist according to the law of the country in question, by a statement of the Preselected with a certified signature at the competent judicial or administrative authority, notary public or professional or trade body in the country of the bidder's place of business. In the case of delivery of such a statement, the Contracting Authority reserves the right to verify the accuracy and truthfulness of the stated information.

**14.8.** Candidates may be asked to submit all or some of the documentation set out in this Article, as well as additional documents, if this is required for the proper conduct of the tender, at any point of time throughout the procedure.

### **Article 15: Financial Capacity in Phase A**

**15.1.** In order to prove the Candidate's ability to develop the Project, the following conditions of participation must be fulfilled. Financial capacity will be determined based on the analysis of the financial statements in the last three fiscal years, or five years in the case of operating income. Focus will be placed on consolidated net asset value (shareholder equity), financing ratio and operating turnover. Financial capacity will not be scored but rather used as a pass or fail criteria. If any of the three financial criteria is not met the bid will be disqualified.

The Candidate (in case of Consortium, all the criteria below will be assessed cumulatively at Consortium level) should cumulatively meet the **minimum qualifications of economic and financial standing and creditworthiness**, as follows:

**15.1.1.** Each Candidate should fulfil the following conditions:

#### **i) (Consolidated) net asset value or assets under management**

Consolidated net assets (equity) according to Financial Statements should amount to at least 100m EUR for the bidder to pass this test. In the case of a Candidate being an investment fund, the amount of assets under the management of the investment fund and/or instruments that the investors have committed to invest in the investment fund (so-called "committed funds"), that are verified by relevant contract, of at least 100m EUR will also be considered acceptable. If equity value will be below 100m EUR the Candidate will be disqualified and will not be allowed to enter Phase B of the tender. Special consideration and separate rules will also be applied to Consortia applying to the tender, where a sum of assets will be assessed.

#### **ii) Financing ratio – Debt to equity (D/E)**

Each of the Candidates must satisfy Debt-to-Equity ratio which will be calculated using the formula below.

$$D/E = \frac{\text{Total Financial Debt}}{\text{Net Asset value (equity)}}$$

Total debt will be calculated as a sum of short-term financial debt, long-term financial debt, and other possible fixed payments obligations (such

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as long-term provisions, long-term leases in accordance with IFRS 16, deferred tax liabilities, off-balance sheet liabilities such as guarantees issued to other companies). Any bidder with D/E ratio in Financial Statements above 2 will be disqualified and will not be allowed to enter Phase B of the tender.

In case of individual candidates, consolidated financial statements will be used to calculate D/E ratio. In case of consortium, D/E ratio will be calculated based on sum of relevant parameters, i.e. sums of total debts and sum of total net asset values.

### **iii) Operating turnover (revenues)**

Consolidated operating revenues of the Consortium or the individual operating revenues of the Candidate should amount to at least 30m EUR in at least five business years from 2012 to 2022.

In case of legal entities, which are investment funds, operating revenues can relate to (i) those generated by the private equity fund and (ii) those related to operating companies under management of such private equity fund.

In case of consortium, sum of individual operating revenues of each member of consortium will be considered.

In case operating revenues amount to at least EUR 30m in more than one but less than five years in the given period, the Contracting Authority has an option but is not required to request additional explanations from the Candidate and consider such Candidate eligible for Phase B of the tender.

**15.1.2.** In order for the Financial capacity of the immediately preceding paragraphs to be considered proven, the Candidate, and, in the case of a Consortium, each of its Members, shall submit the Financial Statements for the requested accounting periods, as well as a table prepared in accordance with Annex 7 of this Invitation.

**15.1.3.** Regarding the assessment on the extent to which the minimum standards on financial capacity are met, it is hereby noted that, in the event of a discrepancy between the tables found in the Annex and the Financial Statements, evidence grounded upon the Financial Statements shall prevail. Moreover, in the event of a discrepancy between the tables found in the Annexes and the certifications or certificates issued by funding organizations and employers – institutions active in the public or private

sector, evidence grounded upon the relevant certifications and certificates shall prevail.

### **Article 16: Technical Expertise Capacity in Phase A**

**16.1.** Final elimination criteria in Phase A will be technical expertise and all Candidates will be required to demonstrate successful realization or development (for projects currently under development) of large mixed-use residential and commercial project/s (consisting of residential and commercial buildings such as offices, shops, and/or hotels, etc.) valued at a minimum of 200 million EUR in the last 15 years. The Candidate should have had the role of a development partner in the presented project/s (in the case of joint ventures, they must be active partners).

If the project/s were realized before 2013, additional evidence may be required from the investor to prove that they still possess relevant technical capabilities.

If the Candidate does not present mixed-use project/s valued at a minimum of 200m EUR the Candidate will be disqualified.

However, this is also the first criteria that will bring points for the grading in Phase B. Maximum number of points for this criteria will be 10 and the grading process is presented in Phase B section.

**16.2.** It should also be noted that the project undertaken by a Consortium shall be declared by the Candidate invoking it, only by the percentage or part of its participation in this project, and it shall also clearly indicate the scope of the work it has carried out under the specific project.

**16.3.** In order to provide evidence as to the Technical Expertise, the Preselected shall submit appropriate evidence (a solemn declaration of the client on properly fulfilled obligations and/or accounting and financial documentation and/or contracts from which the facts about the developed projects are clear and/or other evidence from which the facts about the developed projects are clear) and a statement in accordance with Annex 9, confirming that they have the necessary experience. The solemn declaration shall state the type of projects, the location, the value of construction, the place and time of their performance and completion as well as the clients (public or private institution). In case of Consortium the solemn declaration shall be signed by the specific Member with the stated Technical experience.

**16.4.** It is also noted that the construction value of the project is deemed to be the value of the contracts (one or more pertaining to the same project), VAT exclusive, by which the physical objects of the project have been completed, or, in the case of a

proprietary construction, the value of the project according to the assessment of the Body of Sworn Assessors or other similar accredited organization.

### **Article 17: Expression of Interest and Legal documents in Phase A**

**17.1.** Each Candidate shall submit for themselves the Expression of Interest drafted in accordance with the **Annex 2** of the present Invitation and signed (where appropriate) by:

- The Candidate's legal representative, or
- In the case of a Consortium, by the legal representatives of all Candidate's Members, or by the jointly designated Candidate's Representative.

The aforementioned application for expression of interest is accompanied by a declaration of consent for the processing of personal data in accordance with the template in **Annex 4** hereto. It should be noted that in the application for expression of interest, the Candidate's Members shall be obligatorily, explicitly, and clearly defined.

### **Article 18: Legal Documents**

#### **18.1. Legal Documents in the case of an individual Candidate**

The Candidates are expected to provide the Contracting authority in Phase A with:

- (i) Excerpt from the court (or other body competent in the Candidate's country) register not older than 45 days,
- (ii) The documents confirming the composition of the current Board of Directors (or corresponding management body), according to the Law of the state of establishment,
- (iii) Decision of the Candidate's Board of Directors / Authorized representatives, which:
  - a) Approves the Candidate's participation in the Tender and the submission of the Application for expression of interest,
  - b) Accepts all the responsibilities and obligations for each matter related to the expression of interest in Phase A of the Tender.

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c) Declares that they are aware of and accepts unconditionally the terms of the present Invitation.

d) Pledges for the set-up of the SPV, in the event that it is proclaimed as the Development Partner,

e) Appoints the representative for the Tender which shall have the power to sign bindingly the application for expression of interest on behalf of the Candidate, all the documents of the Tender, as well as to proceed with the other actions herein mentioned,

f) Appoints a specific natural person as Proxy (who might be the same person as the Candidate's representative) with its full contact details (its full name, address, e-mail address, phone number), in order the Contracting Authority to be able to contact with the Candidate.

### 18.2 Legal Documents in the case of Consortium

The Consortia are expected to provide the Contracting authority in Phase A with:

- (i) Excerpt from the court (or other body competent in each of the Consortium member countries) register not older than 45 days,
- (ii) The current Board of Directors' constitution as a body or the corresponding documents (according to the Law of the state of establishment), for each Member of the Candidate.
- (iii) Decision for each Member's Board of Directors / Authorized representatives, which:
  - a) approves the Candidate's participation in the Tender and the submission of the Application for expression of interest in accordance with the Invitation for the Expression of Interest,
  - b) confirms the participation percentage of the Candidate and the participation percentage of the other Consortium Members,
  - c) accepts all the responsibilities and obligations for each matter related to the Expression of interest in Phase A of the Tender,
  - d) declares that they are aware of and accept unconditionally and jointly and severally with the other Candidate's Members the terms of the present Invitation,
  - e) declares that they pledge to set up the SPV jointly and severally with other Candidate's Members, in the event that they are proclaimed as the

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Development Partner. Furthermore, they pledge that the percentage of each founding member shall be equal to the declared percentage of the Candidate,

- f) appoints a joint Representative of the Consortium for the Tender, which representative shall have the power to sign bindingly the application for expression of interest on behalf of the Candidate, all the documents of the Tender, as well as to proceed with the other actions mentioned herein,
- g) a specific individual is appointed as Proxy (who might be the same person with the candidate's representative), with its full contact details (its full name, address, e-mail address, phone number), in order the Contracting Authority to have the ability to contact with the Candidate.

Files listed as per provisions of paragraphs 18.1. and/or 18.2. of this Invite referred to as the "**Legal Documents**".

### **Article 19: Phase B Scoring**

**19.1.** Upon successful resolution of the Phase A, the Contracting Authority shall send the Phase B Notification to the Preselected Candidates.

During this Phase each bid will receive scores based on the financial and technical excellence of their respective bid.

The weight for the financial proposal is 70 out of 100, while the weight for the technical evaluation is 30. The formula for calculating the overall score of the proposal in Phase B is presented in Article 19.4 of this Invitation.

#### **19.2.1. Financial score (max. 100 points)**

Each Binding bid must include the **Commercial Terms File**, which consists of three financial components:

- 1) purchase price for the residential real estate being sold (in total amount and eur/ m<sup>2</sup>),
- 2) purchase price for the land intended for construction of communal infrastructure (in total amount and eur/ m<sup>2</sup>),
- 3) fixed annual Right of construction fee per m<sup>2</sup> (in total amount and eur/ m<sup>2</sup>),

The Financial Score of each bidder will be computed as the total Net Present Value ("NPV") of the proceeds to Batizele Company (land purchase price, Right of construction fee) for a period of [25] years.

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For purposes of NPV calculation, and without prejudice to internal financing and project appraisal decisions of Preselected Candidates the purchase price for the land and the annual Right of construction fee will be discounted at a 4% discount rate.

A base score of 100 points will be awarded to the offer with the highest net present value. All other bids will be evaluated and considered against the bid with the highest net present value, as further specified in the text.

Calculation of the individual base financial score (BFS) will be based on the following formula:

$$\text{Individual bidder BFS} = \frac{\text{Individual bid NPV}}{\text{Highest NPV bid}} \times 100.$$

An example is indicated in the text further on.

Financial score calculation			
Bidder	NPV ('000 EUR)	Best NPV	Base financial score
A	70.000	90.000	78
B	61.000	90.000	68
C	68.000	90.000	76
D	90.000	90.000	100
E	50.000	90.000	56

Table 1

*Explanation: In the table 1 we have assumed 5 bids have entered main round. Bidder D has offered the highest NPV, and this amount is used as a base value for all NPVs. Base financial score of individual Bidder is calculated by dividing individual bid with the highest bid (in our case this is bid from Bidder D), multiplying with 100 and rounding the calculated result to a closest full number. In the final calculation each that takes into account both financial and technical score, base financial score will be multiplied by the weight to get final financial score.*

### 19.3.1. Technical score (max. 100 points)

Total technical score will be calculated as a sum of gradings for Prequalification technical score, Architectural project and solutions, Multipurpose Hall and Market positioning (paragraphs 19.3.1. to 19.3.5.), as shown in the table below.

Technical score calculation					
Bidder	Prequalification technical score	Architectural design and solutions	Multifunctional hall	Market positioning	Final technical score
A	4	29	20	5	58
B	4	18	20	1	43
C	8	24	20	0	52
D	8	38	20	10	76
E	8	37	20	15	80

Table 2



**19.3.2. References from prequalification score (Maximum grading: 10 points)**

References provided in phase A will form the first part of prequalification score. Maximum number of points for this criterion will be 10 and the grading process can be summarized as follows:

each presented project in line with technical expertise criteria – in case project is in line with required references, 2 points per presented project will be allowed (maximum five references will be considered)

Prequalification score calculation		
Bidder	Mixed use projects score [0-10]	Technical expertise score
A	4	4
B	4	4
C	8	8
D	8	8
E	8	8

Table 3

**19.3.3. Outline Masterplan – Architectural design and solutions (Maximum grading: 50 points)**

Evaluation of a masterplan, i.e. innovative solutions, aesthetic appeal and functionality will involve the assessment of zoning and regulatory compliance, as well as site planning. Grading the outline masterplan is crucial to ensure that the vision meets the regulations while also meeting the Contracting Authority's expectations. Moreover, it helps identify potential challenges and develop solutions to address them.

Scoring process envisions maximum score of 50 divided into three most significant aspects: (i) innovative solutions, (ii) aesthetic appeal and (iii) functionality. In addition, proposal submitted by the Bidder must be in line with relevant provisions of GUP.

Architectural design and solutions score calculation				
Bidder	Innovative solutions [0-10]	Aesthetic appeal [0-10]	Functionality [0-30]	Architectural design and solutions score [0-50]
A	4	5	20	29
B	2	2	14	18
C	4	6	14	24
D	8	8	22	38
E	3	8	26	37

Table 4

**19.3.4. Multipurpose Hall (Maximum grading: 20 points)**

In relation to public infrastructure such as roads, parks and other, at this stage it will not be necessary to provide a full technical proposal.

With regards to Multipurpose Hall, Phase B will assign a maximum of 20 points to the assessment of the quality of presented conceptual design.

**19.3.5. Market positioning (Maximum Grading: 20 points)**

Grading Market Positioning refers to the process of evaluating the envisioned mix of uses within the scope of the Project. When it comes to mix of uses, 1 point will be assigned for each 1 percentage point above initially assumed 10% of non-residential component proposed on a land which is subject to sale to the Development partner.

Namely, masterplan specification, as developed by the Consultants, envisions 10% of non-residential component on the land subject to sale to the Development Partner. Hence 1 point will be assigned to each 1 percentage point of non-residential component proposed on the respective land above the envisioned 10%, up to the maximum of 20 points (maximum of 20 points is assigned to proposal that envisions 30% or more of non-residential component on the land which is subject to sale to Development partner).

Market positioning score calculation		
Bidder	% of non-residential component*	Market positioning score
A	15%	5
B	11%	1
C	10%	0
D	20%	10
E	25%	15

\* % of non-residential component on land which is subject to sale to Development partner  
Table 5

**19.4. Final Score in Phase B**

Bid final score will be calculated as a sum of total financial score and total technical score. Each segment will be assigned a weighting.

Bid final score calculation							
Bidder	Base financial score	Weight	Final financial score	Technical score total	Weight	Final technical score	Final Bid score
A	78	70%	55	58	30%	17	72
B	68	70%	47	43	30%	13	60
C	76	70%	53	52	30%	16	68
D	100	70%	70	76	30%	23	93
E	56	70%	39	80	30%	24	63

Table 6

Weight of the financial score has been set to 70, which is also maximum score single bid can get.

Weight of the technical score is set to 30, which is maximum score for a single bid.

**19.5. Equal number of points and withdrawal from the offer**

In the event that two or more Bidders achieve the same sum of points, for selecting the most favourable bid, the Bidder who offered the highest amount of the purchase price will have priority.

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If the most favourable Bidder withdraws or does not proceed to conclude the MDFA within the given deadline, the next Bidder from the ranking list of Preselected will be considered the most favourable Qualified Bidder, if he accepts payment of the purchase price and fees for the right of construction offered by the most favourable Bidder who withdrew, and so on.

In the event that the most favourable Bidder withdraws from the Binding Bid and/or does not conclude the MDFA or withdraws from the MDFA without a valid reason, the Bid Bond will be charged on his behalf.

### **Article 20: Tender Committee**

**20.1.** A Tender Committee (T.C.) shall be established by virtue of a resolution by the Contracting Authority for the purpose of conducting the Tender reviewing and assessing the Expression of Interest Files and the Binding Bids.

**20.2.** The T.C. bears the responsibility for assessing the Candidates/Bidders Expression of Interest Files and Binding Bids as well as marking and ranking these in the manner specified by this Invitation. The T.C. shall draft the Minutes on assessment and forward the same to the Contracting Authority.

**20.3.** Consultants of the Contracting Authority may assist the Contracting Authority and the T.C., at their full discretion, in reviewing, assessing and grading Binding Bids, if so required.

#### **20.4. Assessment of the Expression of Interest Files and Binding Bids**

**20.4.1.** The T.C. reviews the content of Expression of Interest Files and Binding Bids in closed meetings.

**20.4.2.** The T.C. grades the Candidates/Preselected based on the criteria and described in this Invitation. This grading is predetermined. Each Candidate's final grading equals the sum of points collected for each sub criterion.

**20.4.3.** The T.C. and the Contracting Authority reserve the right to request the Candidates/Bidders, if the information or documentation that should have been submitted by the Candidate/Bidder is incomplete, incorrect or appears to be so, or if certain documents are missing, at any stage of the evaluation process, respecting the conditions specified in point 4.2.6., to supplement, clarify, complete or deliver the necessary information or documentation within a period that cannot be shorter than 5 working days. Any clarifications or the submission of supplementary evidence, as per the provisions of this Invitation, shall only be taken into consideration as to the

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matters set out by the members of the T.C. and may not alter the evidence submitted during Phase A and/or Phase B.

**20.4.4.** Evidence within the Applications for expression of interest and Binding Bids that give rise to ambiguities or contradictions, save from manifest or insubstantial errors, lead to the rejection of the Applications for expression of interest, and rejection of binding offers.

**20.4.5.** It is hereby noted that non-recurring and insubstantial deviations as to the content of the Expression of Interest File and Binding Bid in comparison to the provisions of this Invitation shall not give ground to exclusion; in such instances, the T.C. as well as the Contracting Authority reserve the right to call the Candidates/Bidders to restore such deviation within a reasonable timeframe.

**20.4.6.** Upon completion of the reviews above and the assessment and grading, the T.C. shall draft Minutes thereon. These Minutes shall entail the outcomes of the review, assessment and grading of the Candidates and/or Bidders.

**20.4.7.** The T.C. shall propose Candidates for participation as Bidders in Phase B of the Tender, and proposes which Bidder should be named as the Development Partner according to assessment and grading of Binding Bids upon Phase B expiration.

### **Article 21: Contact by the parties**

#### **21.1. Provision of information and clarifications by the Contracting Authority**

**21.1.1.** Interested Parties are entitled to receive supplementary information or clarifications with respect to this present Invitation up until six (6) working days prior to the expiry of the deadline for submission of Expression of Interest, excluding the expiry date itself, by submitting in writing questions up until ten (10) calendar days prior to the expiry of the deadline for submission of Applications for expression of interest. Working days in terms of this Invitation are from Monday to Friday.

**21.1.2.** No clarification of any term of the Invitation is provided or any other contact is made upon lapse of the deadline above.

**21.1.3.** Information made available through public publication on the Contracting Authority's website and/or in the Data Room will be deemed as unequivocally known to all Interested Parties. Interested Parties or Candidates/Preselected/Bidders are not entitled to appeal to responses or clarifications by the Contracting Authority which have been provided orally.

### **Article 22: General Provisions**

**22.1.** The information contained in this Invitation for the Expression of Interest and its Annexes is intended to assist the Interested Parties, in forming a personal opinion on the Tender and the Project and should not be considered as complete or verified independently by the Contracting Authority or its counsellors. No representation of a fact, representation or warranty, whether explicit or implicit, is given or shall be given in relation to the accuracy, adequacy or completeness of this document. In any event, the Interested Parties will have to perform by themselves, at their sole responsibility, research and analysis of the factual and legal information that relates to the object of the Partnership under conclusion, with the assistance of their own financial, technical and legal advisers.

**22.2.** Candidates'/Bidder's participation in the Tender does not entitle them to any claims, including, without limitation, the indemnity or reimbursement of costs associated with participating in or applying for a Binding Bid for the Project at any stage of the Tender. In a similar vein, no claim for indemnity or reimbursement of costs shall be taken into account and no Candidate or Bidder is entitled to raise such claim if the Contracting Authority rejects said Candidate or Bidder or if, for whichever reason and at whichever phase, decides that the procedure of the Tender must be suspended, terminated, cancelled, repeated or annulled.

**22.3.** The submission of alternative bids for the Project is not allowed. If submitted, such alternative proposals shall not be taken into account.

**22.4.** This Invitation for the Expression of Interest is in no way an offer for the conclusion of a contract.

**22.5.** The Tender and the MDFA shall be governed by Croatian law and be interpreted accordingly, and the MDFA, the Agreement(s) on the purchase and sale of real estate and the Agreement(s) on the establishment of right of construction and other agreements necessary for the execution of rights and obligations shall be drawn up in Croatian and English.

**22.6.** Any disputes that may arise within the framework of this phase of the Tender shall be settled by the competent court in Šibenik.

**22.7.** The following documents represent Annexes to this Invitation:

Annex 1 - Head of terms document,

Annex 2 - Expression of interest template,

Annex 3 - Land condition assessment, Arup 2023.,

Annex 4 - GDPR ,

Annex 5 - Candidate and legal representative details,

Annex 6 - Declaration on good standing criteria,

Annex 7 - Financial data,

Annex 8 - Teaser,

Annex 9 - Technical capacity (projects/references overview).