No. PS/PS(F)IDB/2015
Government of Himachal Pradesh,
Department of Finance

.....

From

Additional Chief Secretary (Finance)
to the Govt. of Himachal Pradesh.

To

All Administrative Secretaries/Principal Secretaries/Secretaries
to the Government of Himachal Pradesh/HOD's/
Heads of Boards & Corporations/Deputy Commissioners.

Dated Shimla-171002 the 13 July, 2015.

Subject: **Development of PPP Projects in Himachal Pradesh.**

Sir/Madam,

This is to bring to your kind notice that HPIDB being a nodal agency of the State Government for undertaking PPP projects in the State, has been receiving requests from various departments to appoint Transaction Advisors/Consultants from time to time, on their behalf, for projects which are proposed to be executed by them.

In this regard, it is to inform that HPIDB appoints Transaction Advisors only for those projects which are mandated to it for taking up on PPP mode. HPIDB has a panel of Transaction Advisors/Consultants which is updated on our website from time to time*(http://admis.hp.nic.in/himachal/hpidb)*, however, the existing list is also attached. A copy of the model Agreement with the Transaction Advisor/Consultants is also enclosed for ready reference. For hiring of a Transaction Advisor/Consultants out of the panel, the financial bids are called from the empanelled Consultants and a Terms of References (TOR) is issued indicating the details of Scope of services required, tentative timelines for completion of the services and payment schedule against milestones achieved.

Further, for smooth undertaking of the PPP projects in the respective departments, for future, it has been decided to convey the following options:

Option-I: In case any department has to appoint Transaction Advisor for their own projects, they may consider the panel of Transaction Advisors of HPIDB or may go in for bidding for engagement of Transaction Advisor, as desired, for undertaking the projects in-house by them.

Option-II: In case the Department wants HPIDB to take up the assignment, then it may consider sending a mandate to HPIDB through its Administrative Department for taking up the project on PPP mode. In that case the assignment shall be dealt by HP IDB in consultation with AD/Deptt. from the stage of appointment of Consultant to signing of Concession Agreement between Concessioning Authority*(concerned Department)* and Concessionaire (*Selected Bidder*).Thereafter, the role of HPIDB shall be over.

Yours faithfully,

Skant

(Dr. Shrikant Baldi)
Addl. Chief Secretary (Finance)
to the Govt. of H.P

Enl: As Above

Annexure-A

List of Empanelled Consultants (Transaction Advisers) with HPIDB for Development of PPP/Other Infrastructure Projects in Himachal Pradesh

S. No	Name of Consulting Firm/Organization	Address	Email/Contact Number
1	Aabhar Corporate Services Ltd. & Biram Solutions Pvt. Ltd. (JV)	Q-1/16, LGF, DLF Phase-II, Sector-25, Near Sikanderpur Metro Station, Gurugram, Haryana- 122002	Rajesh Bang: 9910061196, 8800581322, rajesh@aabharcorp.com,biram.hrr@gmail.com
2	Almondz Global Infra-Consultant Ltd.	F-33/3, Okhla Industrial Area, Phase-II, New Delhi-110020	Ashwini Ghai; 9810837950, 01141514666-69; Fax: 415146665, 43500734-35 ashwini.ghai@almondz.com
3	ANAROCK Property Consultants Pvt. Ltd.	Level 7, Tower B, Building No. 9, DLF Cyber City, Phase III, Gurgaon- 122002	Mr. Rhythm Jaiswal; 86506-29641; email; rhythm.jaiswal@anarock.com
4	CBRE South Asia Pvt. Ltd. (Government Advisory)	7th Floor, DLF Square, M-Block, Jacaranda Marg, DLF City Phase II, Gurgaon-122022	Vipul Sachan: 7007906452, 0124-4659700, Fax: 2561519. Email: Vipul.Sachan@cbre.com
5	CRISIL Ltd.	CRISIL House, Central Avenue, Hiranandani Business Park, Powai, Mumbai- 400076	Abhay Kantak: 9820416720, 022-33423000, Fax: 33423001. abhay.kantak@crisil.com;tenders@crisil.com
6	Deloitte Touche Tohmatsu India LLP	7th floor Building 10 Tower-B DLF Cyber City Phase II Gurugram- 122002 Haryana	Ayush Sharma: 7351974919, 0124-6792000; Fax: 6792012, email: ayushsharma@deloitte.com
7	Ernst & Young LLP	3rd & 6th Floor, World Mark 1 (Asset 11), IGI Hospitality Distt. Aerocity, Delhi-110037	Sritik K Sinha:9717476701 Sritik.sinha@in.ey.com
8	Indraprastha Corridor Advisory Services Pvt. Ltd.	Plot No. 41, Pocket B, Metro View Residency, Opp. Metro Station, Dwarka Sector- 11, New Delhi- 110075	RC Aggarwal:9810102200,011-42151256 ipcorridor@gmail.com; indraprasthacorridor@gmail.com
9	Infrastructure Development Corporation (Karnataka) Ltd. (iDeCK)	#9/7 KCN Bhavan, Yamunabai Road, Madhavnagar Extension, Off. Race Course Road, Bangalore- 560001	Mon Kurian; 9591020396 8043448000; bd@ideck.in
10	Jones Lang LaSalle Property Consultants (India) Private Limited (JLL)	Level 12, Tower B, DLF Cyber Park, Udyog Vihar Phase II, Gurugram –122 008, Haryana	Sorabh Vohra: 8755654601, 124-4605000 Email: Sorabh.Vohra@jll.com
11	Legacy Law Offices LLP	Legacy Law House, #333, Sector-4, MDC, Panchkula-134114 (Haryana)	Ashwani Kumar/ SL Gupta 8557825911 Email: shalini@legacylawoffices.com
12	Mazars Advisory LLP	Plot No. 51-52, Udyog Vihar Phase IV, Sector 18, Gurgaon -122016	Gul Basantani: 0124-4814444, 9810666478 gul.basantani@mazars.co.in
13	PARY & Co. Chartered Accountants	A-603, Sector- 46, Noida-201301 (U.P)	Yogesh Malik: 9999767040, 9654633850 email: yogeshmalik@paryca.in
14	Resurgent India Ltd. & Fox Mandal & Co. (JV)	903-906, 9th Floor, Tower-C Unitech Business Zone, Nirvana Country Sector-50, Gurugram, Haryana- 122018	Vikas Kumar Shrivastava: 9810483384; vikas.shrivastava@resurgentindia.com Ms. Mamta Tiwari: 9560042666; newdelhi@foxmandal.com
15	Wisewiz Advisors Pvt. Ltd.	UGF, 5/11, Hanuman Road (CP), New Delhi- 110001	Mayur: 9971276532 wisewizadvisors@gmail.com

Note: Please ask selected Consultant to provide copy of empanelment letter to confirm the Team Members approved by HPIDB, may ask for additional technical expert for specialized assignments.

Asstt. General Manager
H.P. Infrastucture Development Board
New Himrus Building, Circular Road,
SHIMLA-171001, Himachal Pradesh

MODEL AGREEMENT

This Agreement together with appendices attached hereto (hereinafter called the "Contract") is made on this day of the month of ,201…

Between

1. .....a ..... and having its registered office at ..... through ....., which expression shall, unless it be repugnant to the subject or context or meaning thereof, be deemed to mean and include its successors and assigns (hereinafter called to as the "First Party") of the one part;

   AND

2. ....., having its registered office at ....., which expression shall include its successors legal representatives and assigns (hereinafter called to as the "Second Party") of the other part through .....who is authorised vide resolution/ Authority letter on behalf of the Second Party to execute this agreement.

WHEREAS the First Party had invited Expression of Interest for the Appointment of Consultant for undertaking the assignment as specified in this agreement (hereinafter called the "Services") for preparation of Inception and Feasibility Report for development of ..... at .....

WHEREAS the in response to the advertisement floated by First Party, the Second Party had sent its offer for rendering the Services.

AND WHEREAS in accordance with the prescribed selection criteria, the Second Party has been selected by the First Party for rendering the Services.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

   (a) Advertisement published by .....inviting Approach and Methodology to be Adopted and Price Bids from consultants.

   (b) The General Conditions of Contract.

2. The mutual rights and obligations of the First Party and the Second Party shall be as set forth in the Contract, in particular;

(a) the Second Party shall carry out the Services in accordance with the provisions of the Contract; and

(b) the First Party shall make payments to the Second Party in accordance with the terms of payment.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract by setting their respective hands and seals on the above written day, month and year.

For and on behalf of
.....d

(.....)
.....

For and on behalf of
M/s. .....

(.....)
.....,.....
....

Witness

1. _____
_____
_____

2. _____
_____
_____

GENERAL CONDITIONS OF CONTRACT

1 General Provisions

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

(a) "Applicable Law" means the laws and any other instrument /instruction/ Rules/ Regulations / Bye-laws having the force of law in the State of Himachal Pradesh as may be issued and in force from time to time;

(b) "Contract" means the Contract signed by the Parties, attached, together with all the documents listed in Clause 1 of such signed contract;

(c) "Consultancy Fee" means the price to be paid for the Services, in accordance with clause 6;

(d) "Effective Date" means the date on which this Contract has been signed;

(e) "Party" means the First Party or the Second Party, as the case may be, and "the Parties" means any of them;

(f) "GC" means these General Conditions of Contract;

(g) "....." means ....., ...;

(h) "Local Currency" means Indian Rupees;

(i) "Personnel" means persons hired by the Second Party or by any sub-Firm as employees and assigned to the performance of the services or any part thereto;

(j) "Services" means the work to be performed by the Second Party pursuant to this Contract i.e. for preparation of Inception and Feasibility Report for development of ..... at ..... ;

(k) "Sub Firm " means any person or entity to whom the Second Party/Agency subcontract any part of the Services with the prior permission of the First Party;

(l) "Third Party" means any person or entity other than the First Party, the Second Party/Agency or a Sub-Firm/Agency;

1.2 Relation between the parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the First Party and the Second Party. The Second Party, subject to this Contract have complete



charge of personnel and Sub-Firm , if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3	**Law Governing contract**	This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Laws of India.
1.4	**Language**	This Contract has been executed in English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
1.5	**Authority of Member In-charge**	..... on behalf of all Members shall exercise' rights and obligations towards the First Party under this Contract, including without limitation the receiving of instructions and payments from the First Party.
1.6	**Authorized Representatives**	Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the First Party or the Second Party may be taken or executed by the officials specified. The official specified in case of First Party is ....., ... The official specified in case of Second Party is ....., Assistant ....., ...
1.7	**Taxes and Duties**	The Second Party shall pay all the taxes, duties, fees and other impositions as may be levied under the Applicable Law, except Service Tax as stated in 1.10 (b)
1.8	**Modification**	Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause GC 7 hereof however, each party shall give due consideration to any proposals for modification made by the other party.
1.9	**Time limit**	The assignment (Phase-I) shall be completed within a period of 45 days from the date of signing of the contract for bidding out the project.

1.10 Consultancy Fees & Term of payment

The Fee and terms of payment shall be as per the Price Bid, quoted by the Second Party and accepted by the First Party on the following terms:

(a) The First Party shall pay Lumpsum Fees of .....quoted by the Second Party and accepted by the First Party for the assignment.

(b) Service Tax shall be payable over and above this amount as per Applicable Law.

(c) The payment will be made as per following schedule:

STAGES OF PAYMENT

Payment of Stage-I
(i) For Stage-I (A)
(ii) For Stage-I (B)

1.11 Other Provisions

Second Party will commence work within 7 days from the date of execution of the Contract.

2 Force Majeure

2.1 Definition

For the purposes of this Contract, "*Force Majeure*" means an event which is beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances.

2.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.3 Measures to be Taken

A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.

A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than Seven (7) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

The Parties shall take all reasonable measure to minimize the consequences of any event of Force Majeure.

2.4 Extension of Time. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.5 Consultation Not later than fifteen (15) days after the Second Party, as the result of an event of Force Majeure, have become unable to perform a material portion of the Services, the parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

3 Termination The Contract shall be liable to be terminated :-

(a) If the Second Party fails to remedy a failure in the performance of their obligations, provided such failure is not due to delays or reasons attributable to the First party as specified in a Notice, within 20 days of receipt of such notice by the Second Party.

(b) If the Second Party become (or, if the Second Party consists of more than one entity, if any of their Member becomes) insolvent or bankrupt or go into liquidation.

(c) If the Second Party submit to the First Party a statement which the Second Party knows to be false and the same has a material effect on the right, obligations or interest of the First Party.

In case termination pursuant to clause (a) to (c) above, the First Party shall make the payment for the services rendered /work performed by the Second Party until the date of termination. The penalty imposed as per clause 8 shall be recovered from Second Party. In addition to penalty recoveries in respect of losses/damages shall also be recovered from the Second Party.

4. Obligations of the Second Party

4.1 General The objective of the project is to successfully develop the parking site and/ or ..... at ..... with commercial and financial guidance documents to assist the ..... and ..... in the selection of a private sector partner/developer by adopting the PPP structure/ other project implementation modality appropriate for the project and to continue to assist till the selection and signing of the Contract with the Private Partner/Developer.

4.1.1 Scope of Work The purpose of the project is to provide maximum parking facilities and

development of ..... as per the demand assessment.
Preparation of inception and feasibility report keeping the purpose of the project in mind under following options:-
STAGE-I
STAGE-II

4.1.2 Standard of Performance

The Second Party shall perform the services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advance technology and safe and effective equipment, materials and methods. The Second Party shall always act, in respect of any matter relating to this contract or to the services as faithful adviser to the First Party and shall at all time support and safeguard the First Party's legitimate interests in any dealings with sub-Firm or third parties.

4.1.3 Law Governing Services

The Second Party shall perform the services in accordance with the applicable Law and shall take all practicable steps to ensure that any sub-Firm, as well as the personnel of the sub-Firm, complies with the applicable law.

4.2 Conflict of Interests

4.2.1 Second Party / Agency not to benefit from commissions, discounts, etc.

The payment of the Second Party pursuant to Term of payment as per clause 1.10 hereof shall constitute the Second Party sole payment in connection with this Contract or the Services and, Second Party shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this : Contract or to the Services or in the discharge of their Obligations hereunder, and the Second Party shall use their best efforts to ensure that any Sub-Firm , as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

4.2.2 Prohibition of Conflicting Activities.

The Second Party - shall not engage, and shall cause their Personnel as well as their Sub-Firm and their Personnel not to engage, either directly or indirectly during the term of this Contract, any business or Professional activities in the State of Himachal Pradesh which would conflict with the activities assigned to them under this Contract.

4.3 Confidentiality

The Second Party, their sub-Firm and personnel of either of them shall not either during the term or within two (2) years after the expiration of this contract, disclose any proprietary or confidential information relating to the services under this contract or the First Party's business or operation without the prior written consent of the First Party except to its officers, directors, employers, agents, representatives and professional advisors; provided, however, this provision shall not apply to information:

(i) already in the public domain, otherwise than by breach of this Contract;

(ii) already in the possession of the receiving Party on a lawful basis before it was received from the other Party in connection with this Contract and which was not obtained under any obligation of confidentiality;

(iii) obtained from a Third Party who is free to divulge the same and which was not obtained under any obligation of confidentiality; or

(iv) which is required to be disclosed by any judicial or administrative process or any enquiry, investigation, action, suit, proceeding or claim or otherwise by or under any applicable law or by any competent authority.

4.4 Reporting Obligations

The Second Party shall submit to the First Party the documents as specified in clause 4.1

4.5 Documents Prepared by the Second Party / Agency to be the property of First Party.

All reports, and documents prepared by the Second Party for the First Party under this Contract shall become and remain the property of the First Party. The Second Party shall not later than upon termination or expiry of this contract deliver all such documents to the employer, together with a detailed inventory thereof. The Second Party may retain a copy of such documents and software. Second Party shall not use the information specific to the Assignment elsewhere without written permission of First Party.

4.6 Removal and Replacement of personnel.

(a) Except as the First Party may otherwise agree, no changes shall be made in team in-charge. If, for any reason beyond the reasonable control of the Second Party, it becomes necessary to replace any of the Personnel, the Second Party shall forthwith provide as a replacement a person of equivalent or higher qualifications.

(b) If the First Party (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a

criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Second Party shall, at the First Party's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the First Party.

5 Obligations of the First Party

In consideration of the Services performed by the Second Party under this Contract, the First Party shall make to the Second Party such payments and in such manner as is provided by Clause 1.10 i.e. Term of Payment.

6 Fairness and Good Faith

6.1 Good Faith The Parties undertake to act in good faith with respect to each others; rights and obligations under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

6.2 Operation of the Contract. The Parties recognize that it is impractical in this Contract to provide every contingency which may arise during the life of the Contract, and the parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but on failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to jurisdiction of the civil court.

7 Time Extension If the services cannot be completed in the time frame for various activities due to any reason, Second Party will apply for time extension for completion of the activity. In case First Party is satisfied with the reason(s), the time extension will be granted but in all circumstances total extension shall not exceed maximum of 90 days. However, no extra amount or any other claim over and above allotted rates, for the extended period will be payable to the Second Party.

8 Penalty Clause In case there is delay on the part of Second Party in submission of Reports within the time frame provided, Second Party will be liable to a penalty maximum upto 10% of allotted amount of work, provided delay is due to reasons attributed to Second Party. Against the order of the penalty, the Second Party shall have right to make representation in writing to the ....., ...d, whose decision shall be final.

		If any dispute arises between the "Second Party" and Sub-firm as defined in clause 1.1(k) in relation to services arising out of this agreement, in that event, the First Party shall not be responsible to any claim whatsoever and only the "Second Party" shall be liable for such claims.
9	**Indemnification**	The Second Party shall remain solely responsible and liable against any and all the claims, demands etc. brought against the Second Party in any manner arising out of the services rendered by the Second Party and it's staff under this Agreement.
10	**Period of the Contract**	The Contract shall be valid from the date of signing the contract till the final approval of the Reports submitted by Second Party.