

**CONCESSION NOTICE No. 011 /2022**

**Administrative concession for street lighting provision services in the Municipality of Barreiras/BA, including modernization, efficiency, expansion, management, operation and maintenance of the Municipal Street Lighting System.**



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## **PART I - GENERAL PROVISIONS**

The Municipality of Barreiras, through the Secretariat Municipal Infrastructure, makes organ, through this Concession Notice No. 011/2022 , the conditions of the BIDDING, through COMPETITION, in the form of administrative CONCESSION, in order to select the best proposal for the delegation of organ lighting services in the MUNICIPALITY, including modernization, efficiency, expansion, management, operation and maintenance of the MUNICIPAL STREET LIGHTING SYSTEM.

This COMPETITION will be governed by the rules set forth in this BIDDING NOTICE and its ANNEXES, and by Federal Law No. 8,987, of February 13, 1995; by Federal Law No. 8,666, of June 21, 1993; by Federal Law No. 11,079, of December 30, 2004; by Normative Resolution No. 1,000, of December 7, 2021, of the National Electric Energy Agency – ANEEL, and subsequent amendments; and other regulations in force on the matter. References to the rules applicable in Brazil and those applicable especially to this NOTICE shall also be understood as references to the legislation that modifies or replaces them.

BIDDERS declare that they are aware of all these standards and agree to be subject to the stipulations, the penalty system provided for therein and the other rules contained therein, even if they are not expressly transcribed in this instrument or in its ANNEXES.

The administrative CONCESSION referred to herein was authorized by Law No. 1,511, of March 29, 2022.

The CONCESSION was deliberated by the Management Council of the Public-Private Partnerships Program under the terms of Municipal Decree No. 68 of April 23, 2020, which regulates the functioning of the CGPPP, and Decree No. Public-Private Partnership Program.

The documents that prove the fulfillment of the requirements prior to the performance of this bidding procedure are attached to the Administrative Proceeding No. 2946/2022

, provided for in art. 10 of Federal Law No. 11,079, of December 30, 2004, notably: (i) the competent authorization for the PPP COMPETITION; (ii) estimate of the financial budgetary impact in the years in which this CONTRACT is in force; (iii) declaration by the responsible for the expense regarding the compatibility of the expenses with the Budgetary Guidelines Law and forecast of the object in the Multiannual Plan in force; (iv) estimate of the flow of enough public resources to fulfill, during the CONTRACT term and for each financial year, the obligations contracted by the Public Administration.

The project and its documents, including the BIDDING NOTICE and the draft CONTRACT, were submitted to Public Consultation, from March 7, 2022 to April 7, 2022, informed to the public through publication in the DOM of Barreiras, in newspapers with wide circulation in Bahia State, and on the website, in accordance with art. 10, item VI, of Federal Law No. 11,079, of December 30, 2004.

This BIDDING was preceded by an organ hearing, held on March 18, 2022, at the City Council Headquarters, in accordance with art. 39 of Federal Law No. 8,666, of June 21, 1993.

The BIDDING will be processed with a reversal of the order of the qualification and judgment phases, pursuant to article 13 of Federal Law No. 11,079, of December 30, 2004.

The judgment criterion will be the lowest value of the MAXIMUM MONTHLY CONSIDERATION to be paid by the GRANTOR to the CONCESSIONAIRE. Proposals and other documents necessary to participate in the Competition will be received on 10/25/2022, from 9h to 12h, (Brasilia time), at B3's headquarters, located at Rua XV de Novembro, nº 275, Centro, São Paulo – SP, Zip Code 01010-901. Upon the ENVELOPES receiving at B3's headquarters, the SPECIAL BIDDING COMMITTEE will carry out the opening and analysis of ENVELOPE 1 - PROPOSAL GUARANTEES, REPRESENTATION AND DECLARATION DOCUMENTS, disclosing the result of the analysis pursuant to ANNEX E. Opening of COMMERCIAL PROPOSALS will be held at the PUBLIC SESSION, on 11/11/2022

, from 14h (Brasília time), at the headquarters of B3 and, immediately, the QUALIFICATION DOCUMENTS of the best ranked BIDDER will be opened.

The BIDDING NOTICE of this administrative CONCESSION, its ANNEXES, as well as all information, all studies and projects available on the Street Lighting Project may be obtained (i) in electronic media, free of charge, at the Secretary Municipal Administration, located at street Edigar de Deus Pitta, nº 914, Bairro Aratu, Barreiras – BA , from 8h to 12h, of 14h to 17h; or (ii) on the website [barreiras.ba.gov.br](http://barreiras.ba.gov.br), free of charge, with the rules provided for in this BIDDING NOTICE on the availability of this information and studies.

Any and all expenses and/or any and all costs incurred by the BIDDERS as a result of this BIDDING will be at their own expense, being their sole responsibility and risk, the GRANTOR being exempt from any liability or reimbursement, regardless of the result of the BIDDING.

## **PART II - LIST OF ANNEXES**

1. For all purposes, the following ANNEXES are part of the NOTICE:
  - 1.1. ANNEX A – DEFINITIONS AND INTERPRETATIONS;
  - 1.2. ANNEX B – GENERAL CONDITIONS OF THE PROPOSAL GUARANTEE;
  - 1.3. ANNEX C – GUIDELINES FOR THE PREPARATION OF THE COMMERCIAL PROPOSAL;
  - 1.4. ANNEX D – B3 PROCEDURES MANUAL;
  - 1.5. ANNEX E - BIDDING SCHEDULE;
  - 1.6. ANNEX F – MODEL OF LETTERS, POWER OF ATTORNEY, DECLARATIONS AND OTHER DOCUMENTS;
  - 1.7. ANNEX G - DRAFT CONTRACT AND ITS ANNEXES.

## **PART III - COMPETITION REGULATION**

### **1 NOTICE OBJECT**

- 1.1** The purpose of the BIDDING NOTICE is the delegation, by means of an administrative CONCESSION, of the provision of STREET LIGHTING SERVICES in the MUNICIPALITY, including the modernization, enhancement, expansion, management, operation and maintenance of the MUNICIPAL STREET LIGHTING SYSTEM, as provided in the draft CONTRACT and in the ANNEXES TO THE DRAFT CONTRACT.
- 1.2** The specification of the aforementioned object can be found in the CONTRACT and its ANNEXES, notably in ANNEXES 5, 6 and 7 of the CONTRACT draft.
- 1.3** The execution of the object must comply with the provisions of the rules, standards and other procedures contained in the applicable legislation, in this BIDDING NOTICE and in its ANNEXES, as well as in the documentation presented by the WINNING BIDDER.

### **2 ACCESS TO CONTEST INFORMATION**

- 2.1** Subject to the rules for making information and studies available regarding this BIDDING, the BIDDING NOTICE, its spreadsheets and forms, as well as the CONCESSION's data, studies, information and documents, may be obtained exclusively (i) in electronic media, free of charge, or; (ii) free of charge, on website [barreiras.ba.gov.br](http://barreiras.ba.gov.br).
  - 2.1.1** The documentation provided to the BIDDERS may not be reproduced, disclosed and used, in whole or in part, for any purposes other than those expressed in the BIDDING NOTICE.

- 2.1.2 Obtaining any documents in a manner other than that indicated in sub-item 2.1, above, does not generate any liability to the GRANTOR.
- 2.2 Obtaining the BIDDING NOTICE is not a condition for participating in the COMPETITION, but participation presupposes the acceptance of all the terms and conditions of the BIDDING NOTICE, as provided in Item 2.3 as follow.
- 2.3 The BIDDERS are fully responsible for the direct analysis of all data and information about the CONCESSION, as well as for examining the current condition of the LINKED ASSETS to the CONCESSION and other physical structures related to the SERVICES, and they are also responsible for bearing all costs and expenses related to the measures necessary for the preparation of its COMMERCIAL PROPOSAL, as well as participation in the COMPETITION.
- 2.3.1 The information, research, investigations, spreadsheets, studies, surveys, projects, and other documents or data, related to the MUNICIPAL STREET LIGHTING SYSTEM and its development, modernization, expansion, energy efficiency, operation and maintenance were carried out and obtained for exclusive pricing purposes of the CONCESSION, not presenting, before the potential BIDDERS, any binding character or any effect from the point of view of the responsibility of the GRANTOR vis-à-vis the BIDDERS or the future CONCESSIONAIRE.
- 2.4 Interested parties are also fully responsible for examining all instructions, conditions, requirements, laws, norms, specifications, regulations and all decrees applicable to the COMPETITION and the CONCESSION.

### **3 REQUEST FOR CLARIFICATION OF THE NOTICE**



- 3.1** If any interested party needs further clarifications about the BIDDING NOTICE, they should request them from the SPECIAL BIDDING COMMITTEE until 17h of the day 10/20/2022, this way:
- (i) By means of correspondence addressed to the electronic address [licitacaobarreiras@gmail.com](mailto:licitacaobarreiras@gmail.com), accompanied by the file containing the questions formulated, in “.doc” format, according to the model included in ANNEX F of the BIDDING NOTICE; or
  - (ii) By means of correspondence registered with the Municipal Secretary Administration Department, addressed to the Chairman of the SPECIAL BIDDING COMMITTEE, containing the questions according to the model included in ANNEX F, printed and electronically (flash-drive), with the respective file recorded in ".doc" format, according to the model included in ANNEX F of the BIDDING NOTICE.
- 3.1.1** A specific number will be assigned to each clarification, in the form of ANNEX F of the BIDDING NOTICE, to be referred to in the answers given by the SPECIAL BIDDING COMMITTEE.
- 3.2** The SPECIAL BIDDING COMMITTEE will not answer questions that have been formulated in disagreement with the provisions of sub-item 3.1 above.
- 3.3** The responses of the SPECIAL BIDDING COMMITTEE to the aforementioned supplementary clarifications will be published on the website [barreiras.ba.gov.br](http://barreiras.ba.gov.br), in until 3 (three) days prior to the ENVELOPES DELIVERY DATE, without identifying the person responsible for the request for clarification.
- 3.4** BIDDERS may also withdraw a copy of the minutes of clarifications on the BIDDING NOTICE in the room of the SPECIAL BIDDING COMMITTEE, located at the headquarters of the Municipal Secretary Administration.

- 3.5** All correspondence referring to the BIDDING NOTICE sent to the SPECIAL BIDDING COMMITTEE will be considered as delivered on the date of receipt by the addressee, except for those received after the 17h of the day 10/20/2022, including in the case of correspondence addressed to an electronic address, which will be considered as received on the immediately following business day.
- 3.6** All responses from the SPECIAL BIDDING COMMITTEE to requests for clarification made under the terms of this sub-item will be recorded in the minutes, which will form an integral part of this BIDDING NOTICE.
- 3.7** The answers to the clarifications by the SPECIAL BIDDING COMMITTEE will only have the power to change the ENVELOPES DELIVERY DATE or the date of the PUBLIC SESSION when the change promoted in the BIDDING NOTICE, resulting from the response to the clarifications, unequivocally affects the conditions of the offer the PROPOSAL GUARANTEE, the preparation of the COMMERCIAL PROPOSAL or the presentation of the required QUALIFICATION DOCUMENTS.
- 3.8** In the absence of requests for clarification on the BIDDING, it is assumed that the elements provided in the BIDDING NOTICE are sufficiently clear and precise for all acts to be carried out within the BIDDING scope, and the BIDDERS are not entitled to any further clarification request.

#### **4 CHALLENGE TO NOTICE**

- 4.1** Under penalty of forfeiture of this right, any challenge to the BIDDING NOTICE may be sent to the electronic mail [licitacaobarreiras@gmail.com](mailto:licitacaobarreiras@gmail.com), or, alternatively, filed in physical form, at the headquarters of the Municipal Secretary Administration, located in street Edigar de Deus Pitta, nº 914, Bairro Aratu , in BARREIRAS - BA, from 8h to 12h am, of 14h to 17h as below:

- 4.1.1 By any person, within 5 (five) business days prior to the ENVELOPE DELIVERY DATE, provided for in sub-item 8.1 of the BIDDING NOTICE; or
- 4.1.2 By those which will participate in the COMPETITION, up to 2 (two) business days prior to the DATE OF THE ENVELOPES RECEIVING, provided for in sub-item 8.1 of the BIDDING NOTICE.
- 4.2 Challenges to the BIDDING NOTICE must be exclusively written, duly initialed and signed by the person in charge and, in the case of a legal entity, by its legal representative or attorney-in-fact, addressed to the President of the SPECIAL BIDDING COMMITTEE and delivered to the place and within the deadlines mentioned above, and observed the legal conditions, containing the CNPJ/CPF, corporate name/full name, telephone(s) and e-mail address of the interested party.
- 4.3 The timely objection will not prevent the interested party from participating in the COMPETITION.
- 4.4 The SPECIAL BIDDING COMMITTEE will publish the result of the challenge judgment with publication in the DOM:
- 4.4.1 Within 3 (three) business days if presented in the form of sub-item 4.1.1 of the BIDDING NOTICE; or
- 4.4.2 Up to one (1) business day before the ENVELOPE DELIVERY DATE if presented in the form of sub-item 4.1.2 of the BIDDING NOTICE.

- 4.5** The opinion of the SPECIAL BIDDING COMMITTEE favorable to the challenge will only change the ENVELOPE DELIVERY DATE when the change made in the BIDDING NOTICE unequivocally affects the conditions of offering the BIDDING GUARANTEE, the preparation of the COMMERCIAL PROPOSAL, or the presentation of the QUALIFICATION DOCUMENTS.

## **5 TERM AND VALUE OF THE CONCESSION**

- 5.1** The CONCESSION will have a period of 13 (thirteen) years, counted from the EFFECTIVE DATE, as established in the CONTRACT draft, which may be extended under the terms of the law.
- 5.2** The estimated value of the CONTRACT is R\$88,132,441.65 (eighty-eight million, one hundred and thirty-two thousand, four hundred and forty-one reais and sixty-five cents), equivalent to the sum of the CONCESSIONAIRE's revenues projected for the CONCESSION TERM, in value at constant prices, based on the amount to be realized for the payment of the MAXIMUM MONTHLY CONSIDERATION, indicated in ANNEX C, subitem 1.1.2(vi).
- 5.3** The estimated value of the CONTRACT is merely referential, and cannot be invoked either by the BIDDER for any purposes, or by the CONCESSIONAIRE to support claims for the restoration of the economic-financial balance.

## **6 CONDITIONS OF PARTICIPATION**

- 6.1** Under the terms of this BIDDING NOTICE, may participate in the COMPETITION, alone or in a CONSORTIUM, Brazilian or foreign legal entities operating in Brazil, including closed and open supplementary pension entities, financial institutions, foundations, investment funds and legal entities with activity as financial investors.

**6.2** Legal entities that, individually or in a CONSORTIUM, directly or indirectly, cannot participate in the COMPETITION.

- (i) Have been declared unsuitable to bid or contract with the Public Administration;
- (ii) Are temporarily suspended from the right to participate in biddings and prevented from contracting with the Public Administration of the MUNICIPALITY;
- (iii) Whose manager(s) or technical manager(s) are or have been, in the last 180 (one hundred and eighty) days prior to the date of Publication of the BIDDING NOTICE, occupying server(s) (s) of position(s) or job(s) in the organs or entities of the MUNICIPALITY or responsible for the COMPETITION, or organ agent(s) prevented from contracting with the Public Administration by constitutional or legal prohibition;
- (iv) Are under judicial or extrajudicial recovery, as well as insolvency, temporary special administration or intervention, and whose bankruptcy has been decreed by a court decision;
- (v) Have incurred the penalty of interdiction of rights for an environmental crime, pursuant to article 10 of Federal Law No. 9,605, of February 12, 1998;
- (vi) Are under the intervention of the National Superintendence of Complementary Pensions - PREVIC or organ that replaces it;
- (vii) Have been included in the registers referred to in arts. 22 and 23 of Federal Law No. 12,846, of August 1, 2013;
- (viii) Have been contracted to prepare the studies that served as a basis for the structuring of this CONCESSION; and

- (ix) Have, with the legal entity referred to in item (viii) above, a link of a technical, commercial, economic, financial or labor nature related to the CONCESSION assessment and/or the formulation of a proposal in this BIDDING.

**6.2.1** In case of a legal entity that is undergoing judicial or extrajudicial recovery, its participation in the BIDDING will be admitted, provided that its economic-financial capacity is demonstrated in the qualification phase.

**6.2.1.1** The proof of economic and financial capacity referred to in sub-item 6.2.1 above must be made by demonstrating that the judicial reorganization plan has been approved by the creditors and the judicial reorganization has been granted in court or, in the case of extrajudicial reorganization, by demonstrating that the extrajudicial recovery plan was approved by the competent court.

**6.2.1.2** The restrictions set forth in items (viii) and (ix), of sub-item 6.2, above, also apply to CONTROLLERS, SUBSIDIARIES, COLLIGATES and/or entities under common CONTROL of legal entities contracted by Caixa Econômica Federal and by the Fund to Support Structuring of Concession and PPP Projects - FEP, managed by Caixa Econômica Federal, for the structuring of this CONCESSION, as well as to individuals and other legal entities that have participated in the preparation of the technical studies carried out for the structuring of this CONCESSION.

**6.3** If the BIDDER participates through a CONSORTIUM, the following rules must be observed, without prejudice to others existing in the rest of the BIDDING NOTICE:

**6.3.1** Each consortium member must individually meet the requirements related to LEGAL, TAX AND LABOR QUALIFICATION contained in the BIDDING NOTICE, in addition to individually submitting the documents indicated in

item **Erro! Fonte de referência não encontrada.**;

- 6.3.1.1** The declaration regarding the waste policy and the declaration of civil and administrative liability, both contained in ANNEX F, must be presented only by the leading company of the CONSORTIUM.
- 6.3.2 Each consortium member must individually meet the requirements for ECONOMIC-FINANCIAL QUALIFICATION, except for the one referring to the PROPOSAL GUARANTEE, which may be provided by a single company participating in the CONSORTIUM or divided by the different consortium members, in the form of ANNEX B.
- 6.3.3 The TECHNICAL QUALIFICATION requirements may be met jointly by the CONSORTIUM, as provided for in this BIDDING NOTICE;
- 6.3.4 The disqualification or disqualification of any consortium member will result in the automatic disqualification or disqualification of the CONSORTIUM;
- 6.3.5 The consortium members, as well as the entities belonging to their ECONOMIC GROUP, may not participate in the BIDDING separately, through more than one CONSORTIUM, or in any way that results in the submission of more than one proposal by the aforementioned companies or the respective ECONOMIC GROUP;
- 6.3.6 No BIDDER may participate in more than one CONSORTIUM, even through its AFFILIATES or COLLIGATES;
- 6.3.7 If a BIDDER participates in a CONSORTIUM, it will be prevented from

participating in the COMPETITION alone;

6.3.8 The inclusion, replacement, withdrawal or exclusion of consortium members will not be allowed until the CONTRACT is signed, at which time the contractual rules for any change in the CONCESSIONAIRE's corporate structure shall be observed;

6.3.9 The consortium members are jointly and severally liable for the acts performed in CONSORTIUM due to the COMPETITION, pursuant to art. 33, item V, of Federal Law No. 8,666, of June 21, 1993;

6.3.10 The CONSORTIUM must present, in the "ENVELOPE 1 - PROPOSAL GUARANTEE, REPRESENTATION AND DECLARATION DOCUMENTS", instrument of its constitution or commitment for its constitution, which must contain the following information:

- (i) Name, organization and purpose of the CONSORTIUM;
- (ii) Qualification of the consortium companies;
- (iii) Composition of the CONSORTIUM with the respective shares of its members;
- (iv) Indication of the leading company, responsible for carrying out the acts that comply with the consortium during the COMPETITION until the CONTRACT is signed;
- (v) Commitment that the consortium members will be responsible, individually and jointly, for all the requirements of the convening instrument and for the acts performed by the CONSORTIUM, until the CONTRACT is signed, as well as, as future shareholders of the



SPECIFIC PURPOSE COMPANY, for all acts of SPECIFIC PURPOSE COMPANY practiced, during the CONTRACT execution, until the date of completion of the payment of the minimum share capital of the SPECIFIC PURPOSE COMPANY, required in the CONTRACT; and

- (vi) Obligation regarding the future constitution of the SPECIFIC PURPOSE COMPANY, with reference to the participation of each consortium company in the share capital of the SPECIFIC PURPOSE COMPANY.

6.3.11 In case of a CONSORTIUM among Brazilian and foreign companies, the leadership will necessarily be the responsibility of the Brazilian company.

6.3.12 The participation of a CONSORTIUM formed solely by foreign companies will be accepted, in which case leadership by a Brazilian company will not be required.

**6.4** Foreign legal entities with operation in Brazil, which participate individually or in a CONSORTIUM, must present documents compatible with those required for Brazilian legal entities, duly consularized and translated by a sworn translator, or recorded, as the case may be, in addition to:

- (i) Declaration that the documents presented meet the requirements of the respective items;
- (ii) Power of attorney granted to the legal representative residing in Brazil, with express powers to represent them in any acts related to this BIDDING, including being able to receive service of process and respond administratively and judicially for their acts;

- (iii) Submission of the respective authorization decree and act of registration or authorization to operate issued by the competent organ when the activity so requires; and
  - (iv) Declaration that, in order to participate in this BIDDING, it will be subject to the legislation of the Federative Republic of Brazil, including the provisions of art. 32, § 4, of Federal Law No. 8,666, of June 21, 1993, and that it waives the right to make any claim through diplomatic channels.
- 6.5** In case of a winning CONSORTIUM, the latter must provide, prior to the execution of the respective CONTRACT, the constitution of the SPECIFIC PURPOSE COMPANY, observing the same interests in its share capital as those contained in the CONSORTIUM and its constitution commitment, unless otherwise authorized by the GRANTOR.

## **7 TIMELINE**

- 7.1** The ENVELOPES receiving and the PUBLIC SESSION of the BIDDING will follow the order of events, dates and places indicated in ANNEX E - BIDDING SCHEDULE.
- 7.2** BIDDING events may be suspended, postponed and/or extended by the SPECIAL BIDDING COMMITTEE, which must publish its decision in the DOM or call the BIDDERS to a new PUBLIC SESSION at which it will deliver its decision.
- 7.3** The practice of acts by the BIDDERS must observe the order and the respective dates for each stage of the BIDDING, being precluded the exercise of faculties referring to stages already consummated of the BIDDING, except in the cases admitted in the BIDDING NOTICE.

## **8 PRESENTATION OF DOCUMENTATION**

**8.1** The PROPOSAL GUARANTEE documents, REPRESENTATION AND DECLARATION DOCUMENTS, the COMMERCIAL PROPOSAL and the QUALIFICATION DOCUMENTS must be delivered in 3 (three) sealed ENVELOPES, on the day 25 in october of 2022, in the period from 09h to 12h, (Brasília time), at B3's headquarters, by a representative of the ACCREDITED PARTICIPANTS, provided with documents that prove their powers of representation, pursuant to ANNEX D of this BIDDING NOTICE.

**8.2** The documents must be presented in 3 (three) sealed, distinct ENVELOPES and identified on their cover as follows:

(i) **ENVELOPE 1 - PROPOSAL GUARANTEE, REPRESENTATION DOCUMENTS AND DECLARATION**

NOTICE OF CONCESSION COMPETITION No. 011/2022 – ADMINISTRATIVE CONCESSION FOR STREET LIGHTING SERVICES PROVISION IN THE MUNICIPALITY OF BARREIRAS/BA, INCLUDING MODERNIZATION, EFFICIENCY, EXPANSION, MANAGEMENT, OPERATION AND MAINTENANCE OF THE MUNICIPAL STREET LIGHTING SYSTEM .

CORPORATE NAME OF THE BIDDER OR CONSORTIUM NAME, INDICATING ITS MEMBERS AND ITS LEADER.

NAME, TELEPHONE AND ELECTRONIC ADDRESS (E-MAIL) OF THE ACCREDITED REPRESENTATIVE(S).

(ii) **ENVELOPE 2 - COMMERCIAL PROPOSAL**

BIDDING NOTICE FOR CONCESSION No. 011/2022 – ADMINISTRATIVE CONCESSION FOR STREET LIGHTING

SERVICES PROVISION IN THE MUNICIPALITY OF BARREIRAS/BA, INCLUDING MODERNIZATION, EFFICIENCY, EXPANSION, MANAGEMENT, OPERATION AND MAINTENANCE OF MUNICIPAL STREET LIGHTING SYSTEM.

CORPORATE NAME OF THE BIDDER OR NAME OF THE CONSORTIUM, INDICATING ITS MEMBERS AND ITS LEADER.

NAME, TELEPHONE AND ELECTRONIC ADDRESS (E-MAIL) OF THE ACCREDITED REPRESENTATIVE(S).

(iii) **ENVELOPE 3 - QUALIFICATION DOCUMENTS**

NOTICE OF CONCESSION COMPETITION No. 011/2022 – ADMINISTRATIVE CONCESSION FOR STREET LIGHTING SERVICES PROVISION IN THE MUNICIPALITY OF BARREIRAS/BA, INCLUDING MODERNIZATION, EFFICIENCY, EXPANSION, MANAGEMENT, OPERATION AND MAINTENANCE OF THE MUNICIPAL STREET LIGHTING SYSTEM.

CORPORATE NAME OF THE BIDDER OR NAME OF THE CONSORTIUM, INDICATING ITS MEMBERS AND ITS LEADER.

NAME, TELEPHONE AND ELECTRONIC ADDRESS (E-MAIL) OF THE ACCREDITED REPRESENTATIVE(S).

- 8.3** Each of the PROPOSAL GUARANTEE ENVELOPES, REPRESENTATION AND DECLARATION DOCUMENTS, the COMMERCIAL PROPOSAL and the QUALIFICATION DOCUMENTS must contain 2 (two) identical physical copies, bound separately, with all pages with content numbered sequentially, including the separation sheets , catalogues, drawings or similar, if any, regardless of whether there is more than one notebook, from the first to the last page, so that the numbering of the last page reflects the total number of pages with ENVELOPE content, amendments, erasures, lines or caveats.
- 8.4** Each copy will contain, as the last page with content, its own closing term, indicating the number of pages in the copy, including the closing term page, which must also be numbered.
- 8.5** For presentation purposes:
- (i) The copies contained in each of the ENVELOPES of the PROPOSAL GUARANTEE, REPRESENTATION AND DECLARATION DOCUMENTS, the COMMERCIAL PROPOSAL and the QUALIFICATION DOCUMENTS must contain, in addition to the identification mentioned in sub-item 8.1 above, the subheadings "1st copy" and "2nd copy" , respectively;
  - (ii) All documents of the "1st copy" must be presented in their original form or certified copy, except for the documents related to the "1st copy" of the PROPOSAL GUARANTEE ENVELOPE, REPRESENTATION AND DECLARATION DOCUMENTS, which must be presented in their original copies, thus also considering documents with digital certification;
  - (iii) The "2nd copy" documents may be presented in a simple copy, representing a faithful reproduction of the documents presented in the "1st copy" of the ENVELOPES.

**8.5.1** It is accepted that the authentication required in item (ii) above, is carried out by

comparing the original and the copy, by an organ servant, who must certify the authenticity, under the terms of art. 3, item II, of Federal Law No. 8.666/1993.

- 8.6** All pages of the “1st copy” documents of each ENVELOPES must be initialed by one of the ACCREDITED REPRESENTATIVES of the BIDDER.
- 8.7** One of the ACCREDITED REPRESENTATIVES or a representative of the ACCREDITED PARTICIPANT must initial on the seal of each of the ENVELOPES indicated in sub-item 8.1, inserting the date and time beside the initial.
- 8.8** All documents with models provided for in the BIDDING NOTICE must be presented according to the respective model.
- 8.9** Any formal delivery failures or formal defects in the documents that form part of the PROPOSAL GUARANTEE, the REPRESENTATION AND DECLARATION DOCUMENTS, the COMMERCIAL PROPOSAL and the QUALIFICATION DOCUMENTS may be remedied by the SPECIAL BIDDING COMMITTEE, by reasoned act, within a deadline by it established, according to the peculiarities of each case, observing the speed of the COMPETITION.
- 8.9.1** A formal failure or defect is considered to be one that (i) does not distort the object of the document presented, and that (ii) allows the information contained in the document to be checked with due security.
- 8.9.2** When correcting formal failures referred to in this item, the inclusion of a mandatory document, under the terms of this NOTICE, originally absent in the documentation presented by the BIDDER will not be accepted.

**8.10** The documents must be presented in clear language, without amendments, erasures, between the lines or reservations, and must observe the following rules regarding language:

**8.10.1** All documents related to the COMPETITION must be presented in Portuguese, the language in which all documentation presented will be understood and interpreted; and

**8.10.2** In the case of documents in a foreign language, they will only be considered valid if duly translated into Portuguese by a sworn organ translator and consularized or recorded, as the case.

**8.11** The delivery of the BIDDING documents by post or any other means not provided for in this Item 8 or after the deadlines provided for in this BIDDING NOTICE will not be accepted.

**8.12** The BIDDERS are responsible for all costs and efforts related to the preparation and presentation of the PROPOSAL GUARANTEE ENVELOPES, the REPRESENTATION AND DECLARATION DOCUMENTS, the COMMERCIAL PROPOSAL and the QUALIFICATION DOCUMENTS, exempting the GRANTOR, in any event, for such costs, whatever the procedures adopted in the COMPETITION or its results.

**8.13** All documentation that the BIDDERS present in printed form must be accompanied by a true copy, in electronic media (flash-drive), in non-editable standard PDF (Adobe Acrobat) files, which must be part of each ENVELOPE.

**8.13.1** The electronic presentation must correspond to a specific flash-drive for the documentation of each ENVELOPE.

**8.13.2** Flash-drives must be labeled with the BIDDER's name, BIDDING NOTICE

number and the description of the ENVELOPE to which they refer (1, 2 or 3).

- 8.14** All documents and certificates that are presented in this COMPETITION must be presented within their respective validity periods.
- 8.14.1** For certificates delivered without an express expiry date, a period of 90 (ninety) days will be considered, counted from their issuance, unless otherwise established by law.
- 8.15** Electronic signatures will be accepted, provided that the requirements of ICP-Brazil are met and that the document presented contains skillful means for checking its authenticity, including, but not limited to, QR Codes and codes for validation on website links expressly indicated in the document in question.
- 8.16** All documents that contain amounts expressed in foreign currency will have the amounts converted into national currency (Real), by applying the exchange rate (PTAX) for sale published by the Central Bank of Brazil on the day immediately prior to the ENVELOPES DELIVERY DATE.
- 8.17** All correspondence, information and communications relating to the BIDDING procedures must be written in Portuguese, the official language of this BIDDING, and have the amounts expressed in national currency (Real).
- 8.18** To the signatory countries of the Convention on the Elimination of the Requirement for Legalization of Foreign Public Documents, signed by the Federative Republic of Brazil, in Hague, on October 5, 1961, the rite established in Federal Decree No. 8.660, of 29 January 2016, as applicable, remaining the obligation to translate documents by a sworn translator.



**8.19** The practice of acts by the BIDDERS must observe the schedule established for each stage of the COMPETITION, on the dates and at the places indicated in ANNEX E - BIDDING SCHEDULE, being precluded the exercise of faculties referring to stages already consummated of the COMPETITION, except in the cases admitted in the BIDDING NOTICE.

**8.20** ENVELOPES not opened may be removed by the BIDDERS, within a period of up to 30 (thirty) days after CONTRACT signing. If they are not withdrawn within this period, they will be rendered useless, regardless of any notice or notification.

## **9 REPRESENTATION OF BIDDERS**

### **9.1 ACCREDITED REPRESENTATIVES**

**9.1.1** Each BIDDER may have up to 2 (two) ACCREDITED REPRESENTATIVES.

**9.1.2** Proof of the ACCREDITED REPRESENTATIVES' powers of representation must appear in "ENVELOPE 1 - PROPOSAL GUARANTEE, REPRESENTATION AND DECLARATION DOCUMENTS", according to sub-item 8.1 above, upon presentation of the following documents:

- (i) Power of attorney that proves powers to perform, on behalf of the BIDDER, all acts related to the COMPETITION, in the form of the model contained in ANNEX F, with notarized signature and accompanied by documents proving the powers of the grantor(s) (according to the last change filed in the business registry or competent notary office);
- (ii) In the case of a CONSORTIUM, the power of attorney mentioned above must be granted by the leading company, with notarized signature, and will be accompanied by (a) powers of attorney granted

by the consortium members to the leading company, with a recognized signature, e (b) documents that prove the powers of all the grantors (according to the latest changes filed in the business records or competent notaries), a requirement that may be waived if there is an indication of the ACCREDITED REPRESENTATIVES in the term of commitment to constitute a consortium in clear terms to meet the demand; and

- (iii) Simplified certificate issued by the Commercial Registry at the BIDDER's headquarters. In case of CONSORTIUM, present the simplified certificate of each consortium member. In the case of companies registered in a notary's office of legal entities, they must present the certificate of brief report issued by the notary or competent organ.

**9.1.3 ACCREDITED REPRESENTATIVES or ACCREDITED PARTICIPANTS,** according to their roles and attributions, are guaranteed the possibility of intervening and performing acts during the PUBLIC SESSION of the COMPETITION.

**9.1.4** The BIDDER will be prohibited from recording its observations in the minutes, initialing or acknowledging documents, as well as performing any other acts at the PUBLIC SESSION other than through its ACCREDITED REPRESENTATIVE or ACCREDITED PARTICIPANT, as the case may be.

**9.1.4.1** The prohibition mentioned in the item above does not prevent the BIDDER from participating in the COMPETITION.

**9.1.5** Each ACCREDITED REPRESENTATIVE may only represent a single BIDDER.

**9.1.6** The ACCREDITED REPRESENTATIVE must be provided with a valid

identification document in all face-to-face BIDDING sessions.

9.1.7 Documents that prove the powers of the grantors of the ACCREDITED REPRESENTATIVE's power of attorney, as well as other corporate acts necessary to verify the terms of exercise of the grantors' and grantees' powers, must be presented only in "ENVELOPE 3 - QUALIFICATION DOCUMENTS".

9.1.8 At any time during the COMPETITION, the BIDDER may constitute or replace its ACCREDITED REPRESENTATIVE(S), upon presentation of the documents listed in sub-item 9.1.2.

## **9.2 ACCREDITED PARTICIPANTS**

9.2.1 The ACCREDITED PARTICIPANTS must represent the BIDDERS with B3, in the delivery of all ENVELOPES required in this BIDDING NOTICE, related to the copies of ENVELOPES "1 - PROPOSAL GUARANTEE, REPRESENTATION AND DECLARATION DOCUMENTS", "2 - COMMERCIAL PROPOSAL" and "3 - QUALIFICATION DOCUMENTS", and in the acts of the PUBLIC SESSION private to the ACCREDITED PARTICIPANTS.

9.2.2 The requirements of ANNEX D regarding the ACCREDITED PARTICIPANT's participation and documentation must be observed.

## **10 PROPOSAL GUARANTEE (ENVELOPE 1)**

**10.1** The PROPOSAL GUARANTEE must be provided in Municipality of Barreiras' favor, under the terms duly established in ANNEX B – GENERAL CONDITIONS OF THE PROPOSAL GUARANTEE of this BIDDING NOTICE.

## **11 COMMERCIAL PROPOSAL (ENVELOPE 2)**

**11.1** The COMMERCIAL PROPOSAL must be prepared under the terms duly established in ANNEX C -GUIDELINES FOR PREPARATION OF THE COMMERCIAL PROPOSAL of this NOTICE.

## **12 QUALIFICATION DOCUMENTS (ENVELOPE 3)**

**12.1** The ENVELOPE of the QUALIFICATION DOCUMENTS must be initiated with a duly signed cover letter, according to the model in ANNEX F of the BIDDING NOTICE.

**12.2** The ENVELOPE of the QUALIFICATION DOCUMENTS shall contain the documents indicated below, in accordance with the legal nature of the BIDDER.

**12.3** When the BIDDER is a legal entity, it must present the following documents:

**12.3.1** For LEGAL QUALIFICATION, the constitutive act, statute or articles of association in force, accompanied by its amendments if not consolidated, and proof of the managers of the BIDDER in office, duly registered in the business registry or competent organ;

**12.3.1.1** When the BIDDER is a financial institution, it must present, in addition to the documents referred to in sub-item 12.3.1 above, proof of authorization to operate as a financial institution issued by the Central Bank of Brazil (BACEN).

**12.3.1.2** When the BIDDER is an open or closed supplementary pension entity, it must present, in addition to the documents referred to in sub-item 12.3.1, proof of express and specific authorization regarding the constitution and operation of the supplementary pension entity, granted by the competent supervisory organ.

**12.3.1.3** When the BIDDER is an investment fund, it must submit, in addition to the documents referred to in sub-item 12.3.1, the following documents:

- (i) Proof of hiring a manager, if any, as well as the election of the acting manager;
- (ii) Proof of registration of the investment fund with the Securities and Exchange Commission (CVM);
- (iii) Investment fund regulations (and their subsequent amendments, if any);
- (iv) Proof of registration of the investment fund's regulations before the competent Securities and Documents Registry or at the CVM, pursuant to the Official Letter – Circular CVM/SIN12/19;
- (v) Evidence that the investment fund is duly authorized by the shareholders' meeting to participate in the BIDDING and that its manager can represent it in all acts and for all purposes of the BIDDING, assuming on behalf of the investment fund all obligations and all rights arising from the BIDDING;
- (vi) Proof of registration of the administrator and, if any,

of the investment fund manager, before the Securities and Exchange Commission; and

- (vii) Evidence that the administrator and the fund are not in the process of judicial liquidation, by means of a certificate issued by the distribution registry office(s) at its headquarters, or of extrajudicial liquidation, by means of a receipt obtained by consulting the Central Bank of Brazil.

**12.3.1.4** In case of foreign legal entities operating in Brazil, an authorization decree or equivalent will also be required, pursuant to art. 28, item V, of Federal Law No. 8,666, of June 21, 1993, and act of registration or authorization to operate, issued by the competent organ, when the activity so requires, besides:

- (i) Foreign legal entities must submit a Declaration of Equivalence according to the model contained in ANNEX F, certifying the correlation between the legal administrative documents and their validity, normally required in biddings in Brazil and the corresponding ones in the original country; and
- (ii) A legal representative of foreign legal entities is considered to be a person legally accredited and domiciled in Brazil, with express powers, by means of a power of attorney by organ or private instrument, with a signature recognized as true by a notary or other entity in accordance with the legislation applicable to documents, to receive service of process and respond administratively and judicially in Brazil, as well as to represent it at all stages of the process, and all

documentation must be written in Portuguese.

12.3.2 For ECONOMIC-FINANCIAL QUALIFICATION:

- (i) Negative certificate of bankruptcy or judicial recovery, issued by the distributor of the district of the Municipality where the BIDDER's headquarters is located, dated no later than ninety (90) days prior to the date for the ENVELOPES receiving. In case of a non-business company or other form of legal entity, negative certificate issued by the judicial distributor of civil courts in general (execution process) of the Municipality district where the BIDDER is headquartered, dated no later than 90 (ninety) days prior to the date for the ENVELOPES receiving;
- (ii) In case of a certificate indicates the existence of judicial or extrajudicial recovery, the BIDDER must present a document proving its economic and financial capacity, as provided in this BIDDING NOTICE;
- (iii) Presentation of the balance sheet and financial statements for the last fiscal year required by law, duly registered with the competent registration organ and, in cases required by Brazilian legislation, audited by an independent auditing company, regularly registered with the competent organs, being prohibited the presentation of Trial Balance Sheets or Provisional Balance Sheets.
  - (a) In case of a company subject to the Digital Accounting Bookkeeping - ECD regime, operated through the Electronic Digital Bookkeeping System - SPED, the presentation of the balance sheet and financial statements must comply with the provisions of the applicable legislation.

- (b) In case of a BIDDER constituted in the same financial year, the requirement will be met upon presentation of the constitution balance sheets and that of the month prior to the ENVELOPES DELIVERY DATE.

**12.3.2.1** When the BIDDER is an open or closed supplementary pension entity, it must submit, in addition to the documents referred to in sub-item 12.3. or organ that replaces it.

**12.3.2.2** When the BIDDER is an investment fund, it must present, in addition to the documents referred to in sub-item 12.3.2, a negative certificate of bankruptcy of the administrator and manager of the fund, issued by the distribution registry(ies) at their headquarters, dated up to 90 (ninety) consecutive days prior to the ENVELOPES DELIVERY DATE, and negative certificate of extrajudicial liquidation, by means of proof obtained by consulting the Central Bank of Brazil website.

**12.3.3** For proof of FISCAL AND LABOR REGULARITY:

- (i) Proof of registration in the National Register of Legal Entities of the Ministry of Finance – CNPJ;
- (ii) Proof of registration in the Municipal and/or State Taxpayers Registry, if any, relating to the BIDDER's domicile or head office, or a declaration signed by the BIDDER that it does not have a Municipal and/or State registration;
- (iii) Proof of regularity related to Social Security and to the Severance Indemnity Fund (FGTS);



- (iv) Joint clearance certificate, issued by the Federal Revenue Service of Brazil (RFB) and the Attorney General's Office of the National Treasury (PGFN), regarding taxes administered by RFB, social security contributions and the active debt of the Union administered by PGFN;
- (v) Proof of regularity with the State and Municipal Treasury (movable taxes) of BIDDER's headquarters; and
- (vi) Proof of non-existence of defaulted debts before the Labor Court, upon presentation of a Clearance Certificate of Labor Debts, pursuant to art. 29, item V, of Federal Law No. 8,666, of June 21, 1993.

**12.3.3.1** Negative certificates or positive certificates with negative effect will be accepted as proof of FISCAL AND LABOR REGULARITY that inform that the debts are judicially guaranteed or with their enforceability suspended.

**12.3.4** To prove the TECHNICAL QUALIFICATION:

**12.3.4.1** Evidence that the BIDDER has participated in any undertaking, whether or not belonging to the organ lighting sector, in which it has raised funds earmarked for investment, carried out or has an expected realization of R\$7,000,431.25 (seven million, four hundred and thirty-one reais and twenty-five cents) or more, on the base date of the ENVELOPES DELIVERY DATE, with own resources or that of third parties, with the latter hypothesis comprising long-term return, subject to the following conditions:

- (i) the amount of funds raised by the BIDDER will be considered as investment value for the construction, renovation, expansion, acquisition and installation of equipment or for the modernization and efficiency of the infrastructure and services related to the certified enterprise;

- (ii) For the purpose of reaching the amount provided for above, the sum of supporting documents is allowed, provided that, in at least one of the projects referred to in the supporting documents, the BIDDER has investments of at least BRL 3,500,215.63 (three million, five hundred thousand, two hundred and fifteen reais and sixty-three cents);
- (iii) in order to prove that the return on invested capital is long-term, the BIDDER must demonstrate, through the presentation of a relevant contractual instrument, applicable exclusively for the purpose of proving the debt, that the financing term must be greater than 5 (five) years;
- (iv) will be accepted as supporting documents for the purpose of meeting this item:
  - a. statements or certificates provided by legal entities governed by public or private law contracting for the execution of the enterprise;
  - b. specifically, to comply with item (iii), statements or certificates provided by financial institutions that have granted any financing, provided that the respective undertaking and the amounts obtained are mentioned;
  - c. statement by the BIDDER or a CONTROLLED, CONTROLLING COMPANY or entity under common CONTROL that indicates the amounts invested with its own resources or those of third parties, accompanied by a copy of the concession contract, financing contract signed with a financial institution, or other proof that it has;
  - d. presentation of deed of organ or private issuance of debentures;

e. proof of issuance of shares on the open capital market; or

f. proof of the investment fund institution and its link to the enterprise;

12.3.4.1.1 The values described in the supporting documents of sub-item 12.3.4.1 above will be updated, from the reference date of the investment, until the date of publication of this BIDDING NOTICE, by IPCA or, in its absence, by another official inflation index.

**12.3.4.2** Proof by the BIDDER of experience in the provision of preventive and corrective operation and maintenance services in a STREET LIGHTING park, for a minimum period of 1 (one) year, composed of, at least, 10,165 (ten thousand one hundred and sixty five) STREET LIGHTING POINTS, including, in the scope, the contractual responsibility for the supply of specific STREET LIGHTING materials and equipment, such as LUMINAIRES, lamps, brackets and supports for installation, projectors, connectors, conductors, ballasts, photoelectric relays and sockets for photoelectric relays.

12.3.4.2.1 The sum of certificates is allowed to prove the quantity of the number of STREET LIGHTING POINTS, provided that at least one of the certificates presents 50% (fifty percent) of the required quantity.

**12.3.4.3** Proof of the experiences referred to in sub-item 12.3.4.2 by means of a SUBCONTRACTED OPERATOR, observing the following rules:

12.3.4.3.1 The relationship between the BIDDER and the company holding the documents proving the experiences contained in sub-items 12.3.4.1 and 12.3.4.2 of this BIDDING NOTICE must be proven by means of the presentation of (i) the organizational chart of the ECONOMIC GROUP that demonstrates the relationship(s) corporate (s) between the BIDDER and the

company holding the aforementioned supporting documents; and (ii) corporate documents, pursuant to applicable legislation, which support the corporate relationships indicated in that organizational chart, such as articles of association, articles of association, share register books (including book-entry shares), share transfer register books (including book-entry shares) and quota holders' or shareholders' agreements.

**12.3.4.4** In case of corporate changes and mergers, incorporations or spin-offs of companies, the certificates will only be considered if accompanied by documentary and unequivocal proof of the definitive transfer of the technical assets of the PRECESSOR COMPANY to a company of its ECONOMIC GROUP.

**12.3.4.5** The following rules will also be considered to prove the experiences provided for in sub-items 12.3.4.1 and 12.3.4.2:

(i) in case the BIDDER presents a document of proof in which its individual responsibility for the investment or for the execution of the enterprise or services is included, the total value of the investments or the amounts contained in the supporting documents will be considered; and

(ii) in case the BIDDER presents documents proving undertakings or services in which it has acted as a consortium member or shareholder, the proportion of the BIDDER's participation in the respective CONSORTIUM or company will be observed, applying this proportion to the total value of the investments contained in the documents of proof.

**12.3.4.6** It is recommended, for the purpose of standardization, that the

certificates contain, without being limited to them, the following information:

- (i) object;
- (ii) characteristics of the activities and services developed;
- (iii) start and end dates of the activities and services or forecast of the end date of the activities and services;
- (iv) start and end dates of the BIDDER's participation in the CONSORTIUM, when the certificate has been issued on behalf of the CONSORTIUM;
- (v) description of the activities carried out in the CONSORTIUM, when the certificate has been issued on behalf of the CONSORTIUM;
- (vi) place where activities and services are carried out;
- (vii) issuer's corporate name;
- (viii) name and identification of the signatory; and
- (ix) other technical information necessary and enough for the assessment of the experiences by the SPECIAL BIDDING COMMITTEE.

12.3.4.6.1 If the certificates do not have the information mentioned in the previous item, they must be sent in a separate statement from the BIDDER, accompanied by documents that corroborate their content, without prejudice to additional steps to be carried out at the discretion of the SPECIAL BIDDING COMMITTEE.

**12.3.4.7** Along with the TECHNICAL QUALIFICATION documents, a formal declaration by the BIDDER must be presented that the execution of the CONTRACT object of this BIDDING will observe the provisions of the Municipal policy for the disposal of lamps, if any, and, when applicable, will be in accordance with the provided for in the decrees/laws, in the form of ANNEX 06 of the CONTRACT.

12.3.5 In addition to the QUALIFICATION DOCUMENTS mentioned above, the BIDDER must also present the following documents, duly accompanied by proof of the powers of its signatories:

- (i) Declaration of independent preparation of the proposal, in the form of the model in ANNEX F of the BIDDING NOTICE;
- (ii) Declaration of commitment to comply with the provisions of article 7, item XXXIII, of the Constitution of the Republic, according to the model in ANNEX F of the BIDDING NOTICE;
- (iii) Declaration that the BIDDER is not undergoing judicial or extrajudicial recovery, as well as insolvency, temporary special administration or intervention, according to the model in ANNEX F of the BIDDING NOTICE;
- (iv) Declaration as to the inexistence of an impediment to participating in the COMPETITION, according to the model in ANNEX F of the BIDDING NOTICE;
- (v) Declaration of financial capacity contained in ANNEX F of the BIDDING NOTICE. The BIDDER shall declare that it has or has the ability to obtain sufficient financial resources to fulfill its obligations to contribute its own resources and obtain third-party resources necessary to achieve the purpose of the CONCESSION, including the

obligation to pay in the capital stock of the SPECIFIC PURPOSE COMPANY, pursuant to sub-item 19.3, item (iii);

- (vi) Declaration regarding the waste policy, according to the model in ANNEX F of the BIDDING NOTICE; and
- (vii) Declaration of Civil and Administrative Liability, according to the model in ANNEX F of the BIDDING NOTICE.

**12.4** The certificates presented for the purpose of meeting the qualification requirements will be accepted, unless otherwise provided for in the BIDDING NOTICE and when they do not include an expiration date, if issued within 90 (ninety) days before the ENVELOPES DELIVERY DATE, except in the case of certificates and documents presented to prove the TECHNICAL QUALIFICATION, in which case, due to the nature of the documents, the validity period requirement is waived.

**12.5** The presentation by the BIDDER of any false or invalid QUALIFICATION DOCUMENT on the date for receipt of the ENVELOPES will result in its disqualification from the COMPETITION, without prejudice to the application of the applicable administrative, civil and criminal sanctions.

**12.6** The BIDDER undertakes to notify the SPECIAL BIDDING COMMITTEE, immediately after its occurrence, of any supervening fact or circumstance that alters its qualification conditions, under penalty of disqualification from the COMPETITION, without prejudice to the application of applicable administrative, civil and criminal sanctions.

### **13 GUARANTEES OF CONSIDERATIONS**

**13.1** The payment of the CONCESSIONAIRE's EFFECTIVE MONTHLY CONSIDERATION, as provided for in the CONTRACT, will be guaranteed by the use of the revenue from the collection of CIP, deposited on the LINKED ACCOUNT, whose constitution is a condition for the EFFECTIVE DATE.

#### **14 SUPERVISION AND MANAGEMENT**

**14.1** The CONCESSION inspection, covering all activities of the future CONCESSIONAIRE, throughout the term of the CONTRACT, will be carried out by the GRANTOR, with the technical assistance of the INDEPENDENT VERIFIER, under the terms established in the CONTRACT.

#### **15 SPECIAL BIDDING COMMITTEE**

**15.1** The BIDDING COMMITTEE will be processed and judged by the SPECIAL BIDDING COMMITTEE, and it will be responsible for carrying out the work necessary for its accomplishment.

**15.1.1** The SPECIAL BIDDING COMMITTEE may request assistance from the Municipal Secretary of Administration and from the Municipal Secretariat of Infrastructure and Construction, the Municipal Attorney General's Office, consultants, as well as other members of the Municipal Organ Administration who are not part of the SPECIAL BIDDING COMMITTEE.

**15.1.2** In the performance of its functions, the SPECIAL BIDDING COMMITTEE may also avail itself of the assistance of third parties, providers of specialized



technical services, especially for the analysis of the BIDDING GUARANTEE provided for in this BIDDING NOTICE.

**15.2** In addition to the prerogatives that implicitly derive from its legal function, the SPECIAL BIDDING COMMITTEE may:

- (i) To request from the BIDDERS, at any time, clarifications on the documents presented by them;
- (ii) Promote diligence aimed at clarifying or complementing the COMPETITION instruction, prohibited the subsequent inclusion of document or information that should originally appear in the proposal presented by the BIDDER;
- (iii) Publish notices about the BIDDING;
- (iv) To extend or anticipate, respecting the legal limits, the terms mentioned in the BIDDING NOTICE, in case of organ interest, fortuitous event or force majeure;
- (v) To remedy irregularities of trade, when possible; and
- (vi) In case of a change that unequivocally affects the preparation of the PROPOSAL GUARANTEE, the COMMERCIAL PROPOSAL and/or the QUALIFICATION DOCUMENTS, change: (a) the ENVELOPES DELIVERY DATE; and (b) the date foreseen for the opening of the ENVELOPES and the judgment of the proposals, observing the minimum periods foreseen in the legislation.

**15.3** Any change in the BIDDING NOTICE will be published in the DOM and in the other means used to make the documentation available.

**15.4** The refusal to provide clarifications and documents and to comply with the requirements requested by the SPECIAL BIDDING COMMITTEE, within the deadlines determined by it and in accordance with the terms of this BIDDING NOTICE, may lead to the disqualification of the BIDDER and the execution of the PROPOSAL GUARANTEE.

## **16 ORDER OF COMPETITION PROCEDURES**

**16.1** The ENVELOPES receiving and the PUBLIC SESSION of the COMPETITION will follow the order of events indicated in ANNEX E.

**16.2** In addition to the need to deliver the 3 (three) ENVELOPES on the date and time indicated in this BIDDING NOTICE, the BIDDER's participation in the PUBLIC SESSION will be subject to the regularity of the documents required in ENVELOPE 1.

**16.3** The SPECIAL BIDDING COMMITTEE will analyze the regularity of the ENVELOPE 1 presented, and the BIDDERS that do not meet any of the requirements set out in the BIDDING NOTICE, in relation to this ENVELOPE, will be disqualified.

**16.4** Until the business day immediately preceding the day of the PUBLIC SESSION, ENVELOPES 1 not accepted and their motivation will be published on the website indicated in Part I – General BIDDING NOTICE Provisions.

- 16.5** On the day, time and place set forth in this BIDDING NOTICE, the SPECIAL BIDDING COMMITTEE will install the PUBLIC SESSION for the opening of ENVELOPE 2 for all BIDDERS, to be conducted by the B3 SESSION DIRECTOR on behalf of the SPECIAL BIDDING COMMITTEE; and ENVELOPE 3 of the BIDDER that presents the smallest COMMERCIAL PROPOSAL, following the work order described below.
- 16.6** After the beginning of the PUBLIC SESSION, the SESSION DIRECTOR, on behalf of the SPECIAL BIDDING COMMITTEE, will promote the opening of ENVELOPE 2 - COMMERCIAL PROPOSAL of the suitable BIDDERS and will individually announce the value of the MAXIMUM MONTHLY CONSIDERATION set out in the COMMERCIAL PROPOSAL of each BIDDER.
- 16.7** After the judgment of the COMMERCIAL PROPOSAL, the SPECIAL BIDDING COMMITTEE will then promote the opening of ENVELOPE 3 - QUALIFICATION DOCUMENTS only for the best classified BIDDER so far, and, if it meets all the qualification requirements set forth in sub-item 12.3 of the BIDDING NOTICE, will be declared the winner of the COMPETITION.
- 16.7.1** The SPECIAL BIDDING COMMITTEE will suspend the session for analysis of the QUALIFICATION DOCUMENTS and will issue its decision under the terms of this NOTICE.
- 16.8** If the BIDDER, originally ranked first in the COMMERCIAL PROPOSAL, does not meet the qualification requirements, the SPECIAL BIDDING COMMITTEE, once the possibilities for sanitation, clarification or diligence have been exhausted, will promote the opening of ENVELOPE 3 - QUALIFICATION DOCUMENTS of the second placed and so on, until a BIDDER meets the qualification requirements, and is then declared the winner of the COMPETITION.

- 16.9** Once the qualification has been decided, the BIDDERS will have the right to view the documentation included in ENVELOPES 1, 2 and 3 and a deadline will be opened for possible appeal against all decisions of the SPECIAL BIDDING COMMITTEE, pursuant to item 18 of this BIDDING NOTICE.
- 16.9.1** If all BIDDERS expressly decline the right to appeal, the SPECIAL BIDDING COMMITTEE will pronounce the result of the COMPETITION, which will be forwarded to the HIGHER AUTHORITY for approval and eventual award.
- 16.9.2** Before the appeal is filed, the SPECIAL BIDDING COMMITTEE will analyze it, in a court of reconsideration.
- 16.9.3** If it does not reconsider its decision, the SPECIAL BIDDING COMMITTEE will forward the case files to the HIGHER AUTHORITY for review.
- 16.9.4** Once the appeal(s) has been decided, the COMPETITION will be returned to the SPECIAL BIDDING COMMITTEE, which will, as appropriate, continue the COMPETITION.
- 16.10** Once the decision on the appeal has been executed, without any new administrative appeals at this stage, the SPECIAL BIDDING COMMITTEE will issue the result of the COMPETITION, which will be forwarded to the HIGHER AUTHORITY for approval and eventual adjudication.
- 16.11** The PUBLIC SESSION may be suspended by the SPECIAL BIDDING COMMITTEE at the end of each of the steps described above, and it may also publish its decision in the DOM or call the BIDDERS to a new PUBLIC SESSION in which it will deliver a decision.

## **17 JUDGMENT OF COMMERCIAL PROPOSALS**

**17.1** The SPECIAL BIDDING COMMITTEE will disqualify the BIDDER whose COMMERCIAL PROPOSAL, among other reasons:

**17.1.1** Does not meet all the requirements established in the applicable legislation and in the BIDDING NOTICE;

**17.1.2** Contains erasure, blur, spacing or language that makes it difficult to understand the utterance exactly;

**17.1.3** Contains amendments, reservations or omissions;

**17.1.4** Implies an offer subject to a condition or term not provided for in this NOTICE; and

**17.1.5** Consign the MAXIMUM MONTHLY CONSIDERATION value greater than BRL 596,618.21 (five hundred and ninety-six thousand, six hundred and eighteen reais and twenty-one cents), based on the ENVELOPES DELIVERY DATE;

**17.2** The COMMERCIAL PROPOSALS will be classified in ascending order of value, therefore, the COMMERCIAL PROPOSAL with the lowest MAXIMUM MONTHLY CONSIDERATION will be ranked first.

**17.3** In case of a tie in relation to the amounts presented by the BIDDERS, the GRANTOR shall observe the rules of preference declared by the BIDDER in the declaration presented in ENVELOPE 1, pursuant to the Declaration on compliance with the prerogatives referring to the tie-breaking criteria established in art. 3, § 2, of the Bidding Law, contained in ANNEX F, in accordance with the provisions of article 3, § 2, of Federal Law No. by the Chairman of the SPECIAL BIDDING COMMITTEE, pursuant to article 45, § 2, of the same legal instrument.

**17.4** Pursuant to sub-item 15.2 (ii), the SPECIAL BIDDING COMMITTEE may promote diligence to clarify or complement the judgment of the COMMERCIAL PROPOSAL of the best ranked BIDDER, requesting additional information to verify the feasibility of its COMMERCIAL PROPOSAL.

## **18 ADMINISTRATIVE RESOURCES**

**18.1** The BIDDERS participating in the BIDDING PROPOSAL may appeal against the decisions of the SPECIAL BIDDING COMMITTEE, the examination and analysis of the PROPOSAL GUARANTEES, the examination and judgment of the COMMERCIAL PROPOSALS and QUALIFICATION DOCUMENTS, pursuant to sub-item 16.9, after the declaration of the winning BIDDER and publication of the BIDDING judgment minutes, pursuant to article 109 of Federal Law No. 8,666, of June 21, 1993.

**18.1.1** The appeal must be filed within 5 (five) business days, counted from the publication of the winning BIDDER's statement, as provided in clause 18.1, above.

**18.1.2** The appeal filed will be communicated to the other BIDDERS, who may challenge it within 5 (five) business days.

**18.1.3** Appeals and counter-arguments to appeals must be addressed to the chairman

of the SPECIAL BIDDING COMMITTEE, who may reconsider his decision within 5 (five) business days or forward them to the HIGHER AUTHORITY, duly informed, for approval or denial, observed, also in this case, the period of 5 (five) working days.

- 18.2** Appeals will only be admitted when subscribed by legal representative(s), ACCREDITED REPRESENTATIVES, attorney with specific powers or any person deputized in such specific powers, provided that they are instructed with a demonstration of these powers, and may be sent by email [licitacaobarreiras@gmail.com](mailto:licitacaobarreiras@gmail.com) or, alternatively, filed in physical form at the headquarters of the Municipal Secretary of Administration, located at 914, Edigar de Deus Pitta Street, Aratu, in BARREIRAS - BA, at the time of 8h to 12h, identified as follows:

ADMINISTRATIVE APPEAL

REGARDING PUBLIC BIDDING NOTICE No. 011/2022 – ADMINISTRATIVE CONCESSION FOR STREET LIGHTING SERVICES PROVISION IN THE MUNICIPALITY OF BARREIRAS/BA.

at. President of the SPECIAL BIDDING COMMITTEE

- 18.3** Appeals filed after the deadline and time or in a place other than the one indicated will not be known.
- 18.4** Appeals filed against the decision-making acts will have a mandatory suspensive effect in cases of discussion on the PROPOSAL GUARANTEE, the judgment of the COMMERCIAL PROPOSAL or the qualification or disqualification of the BIDDER, and the competent authority may, with reasons and for reasons of organ interest, assign suspensive effect to the other hypotheses.

- 18.5** Once the judgment of any appeals is concluded, the result will be published on the website [barreiras.ba.gov.br](http://barreiras.ba.gov.br), and published in the DOM, with no further appeal by the competent authority.
- 18.6** The acceptance of the appeal will result in the invalidation only of the acts that cannot be used.
- 18.7** In the event of disqualification of the BIDDER that presented the lowest MAXIMUM MONTHLY CONSIDERATION, the QUALIFICATION DOCUMENTS of the BIDDER whose COMMERCIAL PROPOSAL has been classified in second place will be analyzed, and so on, until a classified BIDDER meets the conditions set out in this BID NOTICE;
- 18.8** If all the BIDDERS are disqualified or all the proposals are disqualified, the SPECIAL BIDDING COMMITTEE may set a period of 8 (eight) working days for the presentation, in organ session, of new PROPOSAL GUARANTEE ENVELOPES, QUALIFICATION DOCUMENTS or COMMERCIAL PROPOSALS, corrected the causes of their disqualifications or disqualifications, as provided for in article 48, § 3, of Federal Law No. 8,666, of June 21, 1993.

## **19 APPROVAL, AWARD, CONTRACT SIGNING**

- 19.1** Once the result of the competition has been published and the appeal period has elapsed, the BIDDER that has submitted the best proposal and has been declared qualified will be declared the winner, the object being awarded to the winning BIDDER and the approval of the BIDDING published in the DOM.
- 19.2** The period for signing the CONTRACT will be 60 (sixty) days, counted from the publication of the approval act, extendable once, for an equal period, if requested during its course by the WINNING BIDDER, and provided that it arises from a duly justified reason and accepted by the GRANTOR.



**19.3** The CONTRACT signing will be conditioned to the performance and presentation, by the WINNING BIDDER, of the following acts and documents to the GRANTOR:

- (i) Proof of incorporation of the SPECIFIC PURPOSE COMPANY, with the corresponding certificate from the competent business registry, as well as the respective proof of registration with the National Registry of Legal Entities;
- (ii) Description of the shareholding and management structure considered for the SPECIFIC PURPOSE COMPANY, containing: (a) description of the types of shares; (b) shareholders and their respective holdings by type of share; (c) indication of the CONCESSIONAIRE's corporate structure; (d) SPECIFIC PURPOSE COMPANY shareholder agreements, when applicable; (e) identification of the main managers; and (f) description of the corporate governance principles adopted in the management of the SPECIFIC PURPOSE COMPANY;
- (iii) Subscription and payment, in national currency, of the capital stock of the SPECIFIC PURPOSE COMPANY, in the minimum amount of R\$ 7,000,431.25 (seven million, four hundred and thirty-one reais and twenty-five cents), considering the base date of January of 2022.
- (iv) Constitution of the CONTRACT PERFORMANCE GUARANTEE referred to in the CONTRACT draft;
- (v) Proof of payment to Fund to Support the Structuring of Concession and PPP Projects - FEP, managed by Caixa Econômica Federal, for carrying out studies related to the object of the CONCESSION, as authorized by art. 21, of Federal Law No. 8,987, of February 13, 1995, in a bank account to be previously indicated; and
- (vi) Proof of payment of B3's remuneration, for the services provided by B3, in the amount of BRL 428,128.18 (four hundred and twenty-eight thousand, one

hundred and twenty-eight reais and eighteen cents), within the deadline and duly updated in the form of ANNEX D.

**19.4** The refund amount mentioned in item (v) above is composed of 3 (three) components:

- (i) The amount of R\$1,921,799.83 (one million, nine hundred and twenty-one thousand, seven hundred and ninety-nine reais and eighty-three cents), without prejudice to any contractual updates carried out after the publication of this notice, duly updated by the Average Reference Rate of the Special System for Settlement and Custody (Selic), from the dates of the disbursements, from 01/07/2022 included, until the date of effective reimbursement by the WINNING BIDDER, exclusive;
- (ii) The amount of BRL 8,002.50 (eight thousand, two reais and fifty cents), referring to the production of the project's institutional video, duly updated by the Average Reference Rate of the Special System for Settlement and Custody (Selic), from the dates of the disbursements, including, until the date of the effective reimbursement by the WINNING BIDDER;
- (iii) The percentage of 10% (ten percent) levied on the amount mentioned in items (i) and (ii) above, already duly updated, as remuneration for the Support Fund for the Structuring of Concession and PPP Projects – FEP; and
- (iv) The additional amount of BRL 104,000.00 (one hundred and for thousand reais), in order to maintain the Fund to Support the Structuring of Concession and PPP Projects – FEP.

**19.4.1** The corporate structure of the SPECIFIC PURPOSE COMPANY shall observe, throughout the term of the agreement, the provisions of art. 9, § 4, of Federal

Law No. 11,079/2004, and its subsequent amendments.

- 19.5** Having fulfilled the requirements contained in the previous sub-item, the SPECIFIC PURPOSE COMPANY will be convened by the GRANTOR to sign the CONTRACT.
- 19.6** If, within the validity period of its COMMERCIAL PROPOSAL and after being called, the SPECIFIC PURPOSE COMPANY refuses to sign the CONTRACT, or does not submit the required documentation by the EFFECTIVE DATE, the MUNICIPALITY will apply a fine equivalent to that of the PROPOSAL GUARANTEE and will immediately execute the total of the BIDDING GUARANTEE presented by the WINNING BIDDER to receive the fine imposed, without prejudice to compensation for losses and damages suffered by the Public Administration in cases where the value of the PROPOSAL GUARANTEE proves to be insufficient.
- 19.7** The refusal to sign the CONTRACT, without justification accepted by the GRANTOR, within the established period, will result in the individual WINNING BIDDER, or, in case of a CONSORTIUM, to all consortium members, the temporary suspension of participation in BIDDING, the impediment to contract with the Public Administration for a period of 24 (twenty-four) months and the declaration of unsuitability to bidding or contract with the Public Administration, in accordance with the law.
- 19.8** If the WINNING BIDDER refuses to sign the CONTRACT within the period established in sub-item 19.2, or if it fails to comply with any of the requirements prior to signing the CONTRACT, the SPECIAL BIDDING COMMITTEE is authorized to convene the other BIDDERS, in the order of their COMMERCIAL PROPOSALS, to proceed with the signature of the CONTRACT, after verification of the QUALIFICATION DOCUMENTS, under the conditions proposed by the first classified.

- 19.9** In case the sub-item 19.8, and due to supervening facts, the GRANTOR is authorized to revoke the COMPETITION, upon proposal of the SPECIAL BIDDING COMMITTEE, duly justified in the organ interest, without prejudice to applicable sanctions.
- 19.10** The GRANTOR, ex officio or at the instigation of third parties, must cancel the COMPETITION if any illegality is found that cannot be remedied.
- 19.11** The nullity of the COMPETITION implies the nullity of the CONTRACT, not generating an obligation to indemnify on the part of the GRANTOR, except for the provisions of art. 59, sole paragraph, of Federal Law No. 8,666, of June 21, 1993.
- 19.12** The SPECIAL BIDDING COMMITTEE may, at any time, postpone the stages of the COMPETITION, under the terms of the applicable legislation, without the BIDDERS being entitled to compensation or reimbursement of costs and expenses in any way.
- 19.13** All copies of the PROPOSALS GUARANTEES ENVELOPES and QUALIFICATION DOCUMENTS that are not withdrawn by the other BIDDERS within 30 (thirty) days from the date of the CONTRACT signing will be rendered useless.

## **20 PENALTIES**

- 20.1** The BIDDER which fails to comply with it, in order to harm the competition, or who practices any illegal act, including those provided for in art. 337 -E and following, of the Penal Code No. 2,848 of December 7, 1940 .
- 20.2** Once the adversary system and prior full defense are guaranteed, the administrative penalties to which the BIDDERS are subject are as follows:

20.2.1 Fine, proportional to the seriousness of the fault, up to the value of the PROPOSAL GUARANTEE;

20.2.2 Temporary suspension of participation in bidding and impediment from contracting with the Municipal Public Administration, for a period not exceeding 02 (two) years; and

20.2.3 Declaration of unsuitability to bid or contract with the Public Administration, while the determining reasons for this punishment persist or until its rehabilitation is promoted before the very authority that applied the penalty.

**20.3** The sanction provided for in sub-item 20.2.1 may be applied cumulatively with one of the other penalties detailed in sub-item 20.2, based on the seriousness of the infraction and the parameters of reasonableness and proportionality to be observed in each case, ensuring full defense and the contradictory to the WINNING BIDDER, within 05 (five) business days, counting from the notification of the act, and 10 (ten) business days in the event of application of the declaration of unsuitability.

**20.4** The sanction of suspension from participating in BIDDING and contracting with the Municipal Public Administration and the sanction of declaration of unsuitability may also be applied to those who make a false declaration or commit tax fraud, and to those who do not maintain the COMMERCIAL PROPOSAL.

## **21 FINAL DISPOSITIONS**

**21.1** The sanctions for cases of default, as well as the payment conditions and the criteria for adjusting the remuneration will be provided for in the CONTRACT and its ANNEXES.

**21.2** The GRANTOR, ex officio or at the instigation of third parties, may revoke or cancel the BIDDING, pursuant to art. 49 of Federal Law No. 8,666, of June 21, 1993, if any illegality is found that cannot be remedied.

**21.3** The deadlines established in days in the BIDDING NOTICE, in the CONTRACT draft and in the ANNEXES shall be counted in calendar days, unless expressly referred to working days. In all cases, the first day must be excluded and the last day of the deadline must be included.

**21.3.1** Unless otherwise stated, the terms only start and expire on working days of the GRANTOR, extending to the next business day in cases where the start or expiration date coincides with a day in which there is no working day.

**21.4** The GRANTOR may, at any time, postpone the stages of the COMPETITION, under the terms of the applicable legislation, without the BIDDERS being entitled to indemnification or reimbursement of costs and expenses in any way.

Barreiras, September 05, 2022.

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André Avelino de Oliveira Neto  
President of the Special Bidding Committee

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Gislaine César de Carvalho Barbosa  
Municipal Secretary Administration