



Ajuntament  
de Barcelona

**BARCELONA DE SERVEIS MUNICIPALS, SA.**

**TENDER SPECIFICATIONS**

**HARMONISED CONTRACT – OPEN PROCEDURE**

**CREATION AND PRODUCTION OF AN ANIMATED FILM FOR THE 4D “DIDIDADO”  
CINEMA AT PARC D’ATRACCIONS TIBIDABO, INCLUDING PRE-PRODUCTION,  
PRODUCTION, POST-PRODUCTION, SUPPLY, INSTALLATION, AND MAINTENANCE**

**TENDER REFERENCE NO. 2025PT0007AC**

**TENDER SPECIFICATIONS**

SERVICE CONTRACT  
PROCESS: Normal PROCEDURE: Open  
REGULATION: Harmonised

CONTRACTING AUTHORITY: Barcelona de Serveis Municipals, SA (BSM)  
CPV CODE: 92111310-8 (entertainment film production)  
CONTRACT CODE: 2025PT0007AC

**I. GENERAL PROVISIONS****CLAUSE 1.- FEATURES OF THE TENDER PROCEDURE**

**A.- DESCRIPTION OF THE SUBJECT MATTER OF THE CONTRACT:** This is a contract for the creation and production of an animated film for the 4D “Dididado” cinema at Parc d’Atraccions Tibidabo, including pre-production, production, post-production, supply, installation, and maintenance.

BSM manages the facilities of Parc d’Atraccions Tibidabo, which includes Dididado —a 4D cinema attraction showing 3D films along with physical effects such as chair movement and air and water effects.

BSM aims to enhance the visitor experience at the park by introducing a film created and produced exclusively for the park, featuring the Tibidabo mascots as the main characters, as currently, only globally produced and marketed films are shown.

**A.1 .- LOTS:** No.

**B.- ESTIMATED VALUE OF THE CONTRACT:** €240,000.00 before VAT

Item	Value (excluding VAT)
Total base budget for the tender	€120,000.00
Possible amendments (none expected)	€0
Possible extensions (2)	€120,000.00
<b>Total</b>	<b>€240,000.00</b>

**B.1.- BASE BUDGET FOR THE TENDER:** €120,000.00 before VAT

Item	Value (excluding VAT)	VAT	Total value (including VAT)
Base budget for the tender	€120,000.00	€25,200.00	€145,200.00

**B.2.- METHOD OF PAYMENT:**

The successful bidder shall invoice the amount corresponding to the service starting from the day following the completion of the work. To ensure that the invoice is deemed valid, it must contain a description of the services provided, the period during which they were delivered, and the order number that the CONTRACTING AUTHORITY will provide. The invoice may only include those services that have previously been validated by the CONTRACTING AUTHORITY.

**B.3.- CONTRACT AMENDMENTS:** No amendments are expected.

**C. TERM OF THE CONTRACT:** TWO (2) YEARS and SIX (6) MONTHS with the following breakdown: six (6) months for the production of the film from the date the contract is signed and two (2) years for maintenance.

The contract term is planned to start from the day after the date it is signed.

**C.1.- Delivery deadline:** see the technical specifications document

**C.2.- Extensions:** Yes, on the finalisation date of the contract, it may be extended annually for a maximum period of TWO (2) additional YEARS.

If Barcelona de Serveis Municipals, SA decides to extend the contract it shall be mandatory for the contractor, in accordance with the provisions of Article 29 of the LCSP.

**D.- PLACE OF PERFORMANCE:** Barcelona.

**E. PROVISIONAL GUARANTEE:** Not applicable.

**F.- FINAL TENDER BOND:** 5% of the award amount, excluding VAT (refer to Clause 16 of these Specifications).

**G.- BOND TERM:** ONE (1) YEAR.

**H.- ACCEPTABILITY OF VARIATIONS AND IMPROVEMENTS:** No.

**I. PRICE REVIEW:** No price revision is foreseen.

**J. CAPACITY AND SOLVENCY CONDITIONS:** Solvency accreditation conditions will be those stated in Clause 7 of these Tender Specifications.

Bidders must demonstrate that they meet the following minimum solvency requirements:

**J.1.- Economic and financial solvency:** the tendering companies must be able to provide proof of the following solvency requirements by submitting the following documentation:

- i. Statement of overall turnover, reported as the maximum in the last three financial years available according to the date of creation or start of the contractor's activities, insofar as references to this turnover are available. The bidder must provide evidence that its highest turnover amount in the past three years (3) was at least €90,000.00 for the year.
- ii. To prove this, the bidder shall present the approved annual accounts filed with the corresponding Business Registry, if the bidder is listed with one, or otherwise the ones file with the official registry where it has to be listed. In the case of contractors that are natural persons, they will be accredited through inventory ledgers and annual accounts legalised in the Business Register.

Where bidders have justifiable grounds for being unable to provide the references requested, they shall be able to prove their economic and financial solvency through any other document considered sufficient by the contracting authority.

**J.2.- Technical or professional solvency:** the tendering companies must be able to provide proof of the following solvency requirements by submitting the following documentation:

- i. A list of the main services of an equal or similar nature to the ones forming the subject matter of the contract performed over the last three (3) years and including costs, dates and recipient, public or private, of these services.

Bidders must prove they have had a minimum turnover, during the year of the highest turnover for the period stated, of €42,000.00 (excluding taxes).

- ii. To prove this, it will be necessary to present the certificates of satisfactory performance issued by the client, containing the following data: A) Price of the job, b) Contract subject matter, c) Client name, and d) Year of performance.

## **K. INSURANCE:**

During the term of the Contract, the successful bidder undertakes to purchase and maintain, as applicable, a General Civil Liability policy covering, the entire duration of the contract and its warranty period, any liability that may arise from the performance of this Contract, up to an amount not less than SIX HUNDRED THOUSAND EUROS (€600,000.00) per claim, with a sub-limit per victim for employer's civil liability coverage of ONE HUNDRED FIFTY THOUSAND EUROS (€150,000.00), including liability for damages caused to third parties and their property resulting from the performance of the contract.

**L.- SUBMISSION OF PROPOSALS:** Proposals will be submitted in accordance with the following indications:

**L.1.- Format and place of submission:** By means of a digital envelope, which must be submitted using the Digital Envelope tool that can be accessed via the following website:

- <https://seucontractacio.l'entitat contractantsa.cat/licitacion>

The tender's documents and summary shall be duly numbered.

Should there be a technical failure that makes it impossible for the Digital Envelope to be used on the last day for submitting tenders, the contracting body will extend the deadline for presenting them for as long as this is considered necessary, by amending the tender-submission period.

**IMPORTANT:** A user guide on e-government procurement is attached to these Specifications, stating all the steps to be followed for submitting tenders online.

**Under no circumstances will proposals be accepted if they are submitted on paper or any other medium not indicated in these Specifications.**

– **Deadline date and time:** as stated in the invitation to tender published in the Contracting Authority Profile.

#### **M.- CONTENT OF THE PROPOSALS:**

The proposals will be presented in:

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | <p>Three (3) Envelopes: the “<i>documentary proof of the prerequisites</i>”</p> <p>the proposal “<i>assessed by the application of criteria that depend on a value judgement</i>”</p> <p>the proposal “<i>assessed by the application of criteria that are quantifiable using automatic formulas</i>”</p> |
|--------------------------|---|

The content of the envelopes will be as follows:

#### **M.1.- CONTENT OF THE ENVELOPE CONTAINING DOCUMENTARY PROOF OF THE PREREQUISITES.**

**IMPORTANT NOTE!!! A single PDF file must be submitted with the General Documentation**

**Likewise, it will be necessary for the envelope to contain a single (1) PDF file signed by the bidder indicating this circumstance in the title, using the following structure:**

**SRP\_ COMPANY NAME.GENERAL DOCUMENTATION PDF (SRP, Company name, general documentation) – a single PDF**

**In case of lot division, the lot number to which the document corresponds must be indicated.**

**Content:**

- The file will contain the documentation listed in clause 10.1. of these tender specifications and other declarations: ANNEX 1A; ANNEX 1B; ANNEX 1C.
- The ESPD for the bidding company,
- If applicable, the ESPD for all companies forming the joint venture, the ESPD for the companies contributing to their solvency, and the ESPD for the subcontractor companies.

**Opening:**

- **Venue:** The opening of the envelopes shall take place through the electronic public procurement platform PLYCA. Therefore, unless there is a duly justified request, the opening of the envelopes will not be conducted in a public event, as the bidding process is exclusively electronic (Decision 1220/2019, dated 28 October, of the Central Administrative Tribunal of Contractual Appeals). The computer system that supports the PLYCA platform has a mechanism that allows for the reliable verification of the moment when the envelopes are opened and the confidentiality of the information contained within.
- **Date:** As indicated in the tender announcement and/or as communicated through the Contractor's Profile.

**M.2.- CONTENT AND OPENING OF THE ENVELOPE THAT CONTAINS THE PROPOSALS TO BE ASSESSED BY MEANS OF THE APPLICATION OF CRITERIA THAT DEPEND ON A VALUE JUDGEMENT:**

**IMPORTANT NOTE!!! A single PDF file shall be submitted with the Documentation to be assessed by means of a value judgement.**

**Likewise, it will be necessary for the envelope to contain a single (1) PDF file signed by the bidder indicating this circumstance in the title, using the following structure:**

**SJV\_COMPANY NAME.VALUE JUDGEMENT.PDF (SJV, company name, value judgement) - a single PDF**

**In case of lot division, the lot number to which the document corresponds must be indicated.**

**Content:**

- The file will contain the proposal to be assessed through qualitative evaluation criteria. The submitted proposal must be accompanied by an table of contents with titles matching the qualitative evaluation criteria established in ANNEX 3 of these Tender Specifications.

**Opening:**

- **Venue:** The opening of the envelopes shall take place through the electronic public procurement platform PLYCA. Therefore, unless there is a duly justified request, the opening of the envelopes will not be conducted in a public event, as the bidding process is exclusively electronic (Decision 1220/2019, dated 28 October, of the Central Administrative Tribunal of Contractual Appeals). The computer system that supports the PLYCA platform has a mechanism that allows for the reliable verification of the moment when the envelopes are opened and the confidentiality of the information contained within.
- **Date:** As indicated in the tender announcement and/or as communicated through the Contractor's Profile.

**M.3.- CONTENT AND OPENING OF THE ENVELOPE THAT CONTAINS THE PROPOSALS TO BE ASSESSED THROUGH THE APPLICATION OF CRITERIA THAT ARE QUANTIFIABLE USING AUTOMATIC FORMULAS:**

**IMPORTANT NOTE!!! A single PDF file will be presented with documents to be assessed via automatic criteria**

**Likewise, it will be necessary for envelope 1 to contain a PDF file indicating this circumstance in the title, using the following structure:**

**SFA\_COMPANY NAME. BID.PDF (SFA, company name, bid Annex 2) - a single PDF signed by the bidder**

**In case of lot division, the lot number to which the document corresponds must be indicated.**

**Content:**

- The file will contain the form from ANNEX NO. 2 of this document, properly completed and signed, along with the supporting documents required in the same Annex 2.

**Opening:**

- **Venue:** The opening of the envelopes shall take place through the electronic public procurement platform PLYCA. Therefore, unless there is a duly justified request, the opening of the envelopes will not be conducted in a public event, as the bidding process is exclusively electronic (Decision 1220/2019, dated 28 October, of the Central Administrative Tribunal of Contractual Appeals). The computer system that supports the PLYCA platform has a mechanism that allows for the reliable verification of the moment when the envelopes are opened and the confidentiality of the information contained within.
- **Date:** As indicated in the tender announcement and/or as communicated through the Contractor's Profile.

**N.- CRITERIA FOR THE ASSESSMENT OF TENDERS:** The proposals shall be evaluated in accordance with **ANNEX 3** of these Tender Specifications.

**O.- VISIT:** None expected.

Nevertheless, interested parties may request it. Requests for **visits must be made in writing to the following email address: [sjc@bsmsa.cat](mailto:sjc@bsmsa.cat)** , no later than TEN (10) days before the deadline set for the submission of bids. The subject line of the message must include the reason: Visit request and the tender reference code/number.

The corresponding visit invitation, along with the instructions to be followed for attendance, shall be published on the Contracting Authority's profile. Accessible at the following link:

- <https://contractaciopublica.gencat.cat/perfil/bsm/customProf>

The visit shall in no way be considered mandatory for the purposes of submitting proposals.

#### **P.- INFORMATION AND QUERY RESPONSE SERVICE AVAILABLE TO BIDDERS:**

Any queries, questions and/or requests for information must be made using the following address:

- **P1.- For questions of a technical or legal nature regarding the clauses of the Tender Specifications and/or the Technical Specifications or any other documentation that forms part of the tender**  
**Questions, enquiries, and/or requests for information must be submitted in writing on the contracting authority's profile using the "Submit question" feature in the virtual bidding space accessible via the following link:**

<https://contractaciopublica.gencat.cat/perfil/L'ENTITAT CONTRACTANT/customProf>

Questions, enquiries, and/or requests for information may be submitted no later than SIX (6) days before the deadline set for the submission of bids, in accordance with the provisions of Article 138.3 of the LCSP.

The answers to the questions received will be published on the contracting authority's profile on the Public Procurement Services Platform of the Generalitat de Catalunya, and will be binding.

Any clarification note issued by the authority within the framework of the bidding process specifying an amendment, consideration, partial cancellation, or any other additional information shall prevail.

- **P.2.- For queries about the status of the procedure (opening of proposals, evaluation of the offers etc.).**  
Interested parties are hereby informed that information related to the processing status of this procedure shall be published on the contracting authority's profile, including any relevant



clarifications and amendments, if applicable. Interested parties are advised to regularly consult the contracting authority' profile to obtain information on the status of this tender procedure.

- **P.3.- For queries about the PLYCA computer application, how to download electronic envelopes, IT incidents relating to the use of the application.**

Bidders must contact the PLYCA application assistance and support service which is accessible via the following link: <https://www.nexus-it.es/plyca/soporte-empresas/formulario-de-contacto-empresas/>".

This information **will not be provided by any other means**; therefore, it is the responsibility of the bidders to subscribe to notices for the tender, ensuring they receive immediate notifications of any new information available.

(This subscription must be completed for each of the specific tenders the party is interested in. Subscription activation is accessed through the section currently called "**Would you like to receive updates from us?**").

#### **Q.- MEMBERS OF THE CONTRACT AWARD COMMITTEE:**

The Contract Award Committee shall be made up of the following members:

<b>Chair:</b>	Rosa Ortiz Gimeno, Director of the Parc d'Atraccions Tibidabo division of Barcelona de Serveis Municipals, SA, or her delegated representative
<b>Member:</b>	Janos Odin Bugs Abkarovits Morris, Head of Operations Unit at the Parc d'Atraccions Tibidabo division of Barcelona de Serveis Municipals, SA, or his delegated representative
<b>Member:</b>	Sergio Roldan Gutierrez, Head of the Administration and Management Oversight Area at the Parc d'Atraccions Tibidabo division of Barcelona de Serveis Municipals, SA, or his delegated representative
<b>Member:</b>	Mercè Piñol Arnal, Corporate Director of Legal Advice, the Legal System, and Procurement at Barcelona de Serveis Municipals, SA, or her delegated representative
<b>Member:</b>	Joan Canals Daurella, Head of the Financial Administration Unit for Procurement at Barcelona de Serveis Municipals, SA, or his delegated representative
<b>Secretary:</b>	Ana Maria Guzman Castro, Head of Procurement Legal Services at Barcelona de Serveis Municipals, SA, or her delegated representative

**R.- OUTSOURCING:** Permitted. The outsourcing conditions shall be as stated in **Clause 19** of these Tender Specifications.

**S.- ASSIGNMENT OF THE CONTRACT:** No.

## **T.- REGULATIONS REGARDING PERSONNEL ASSIGNED TO THE EXECUTION OF THE CONTRACT**

The Successful Bidder is solely responsible for selecting the personnel who meet the qualification and experience criteria established in the Specifications, who will form part of the work team assigned to the performance of the contract, without prejudice to the contract manager's authority to check the fulfilment of these requirements.

The company awarded the contract shall ensure that there is a stable work team, and that any variations in the composition of the team are occasional and justified, in order not to alter the smooth running of the service, informing the contracting authority at all times.

The successful bidder undertakes to perform, on an actual, effective and ongoing basis, the managerial role of an employer for the members of the work team in charge of performing the contract. In particular, it will be responsible for the negotiation and payment of wages, the granting of leave, permissions and holidays, the substitution of workers in case of a leave of absence, the legal obligations in terms of Social Security, including the payment of contributions, and benefits when applicable, the legal obligations regarding the prevention of occupational hazards, the exercise of disciplinary powers, as well as those rights and obligations arising from the contractual relationship between employer and employee.

The successful bidder shall take great care to ensure that workers charged with the performance of the contract carry out their activity without straying from their specified responsibilities in terms of the activity as defined in the Tender Specifications.

The successful bidder shall be obliged to perform the contract on their own premises and/or facilities, except in those cases in which, due to the type of provision, the service must be provided onsite. In this case, the successful bidder's staff shall occupy workspaces that are clearly differentiated from those occupied by the awarding authority's own staff. It is also the successful bidder's responsibility to ensure compliance with this obligation. The tender documentation will specify the need to provide the service on the contracting body's premises.

The successful bidder must designate at least one Coordinator and/or Manager on their own staff who shall have at least the following obligations:

- a) Act as the contact person for the company awarded the contract, channelling communication between that company and the staff comprising the work team assigned to the contract, on the one hand, and on the other, in all matters arising from the execution of the contract.
- b) Distribute the work among the staff in charge of the execution of the contract, and give the aforementioned workers the necessary orders or instructions that are necessary for the provision of the contracted service.

- c) Supervise the proper execution of the duties entrusted to the workplace staff, as well as monitoring staff attendance.
- d) Organise staff holidays for those working on the contract, in coordination with the person responsible for that contract, in such a way that operation of the service is not affected.
- e) Inform the contract manager of occasional or permanent holidays of staff comprising the work team dedicated to the execution of the contract.

**U.- PROCESSING:** Open, ordinary, in accordance with the provisions of Article 156 of Act 9/2017 regarding Public Sector contracts dated November 8, for Public Sector Contracts (hereafter LCSP). The open procedure will be adapted to what is established in the LCSP with the particularities established in Article 316 and following the LCSP by non-public administration adjudicating powers.

**V.- PUBLICITY:**

Official Journal of the European Union (the OJEU), in cases where the contract is subject to harmonised regulation.

The entity's Contracting Authority Profile can be found on the Generalitat de Catalunya's Procurement Platform, on the following web page:

- <https://contractaciopublica.gencat.cat/perfil/L'ENTITAT CONTRACTANT/customProf>

**V.1.- ADVERTISING EXPENSES:** Not applicable.

**W.- SYSTEM OF APPEALS:** The system shall be as described in Clause 25 of these Specifications.

**X.- FURTHER INFORMATION:** The Contract resulting from this procedure shall be signed digitally. To that end, the successful bidder must have an electronic signature certificate proving their identity (in the formats accepted by the contracting authority) in order to digitally sign the contract. This certificate must have level-4 security.

**CLAUSE 2.- SUBJECT MATTER AND LEGAL FRAMEWORK OF THE CONTRACT**

2.1. The subject matter of these Tender Specifications (henceforth, the Specifications) is the establishment of the terms and conditions that will govern the awarding by the contracting authority of the service contract whose subject matter is described in **Section A** of Clause 1 of these Specifications. Terms and conditions that are defined in these Specifications and their annexes and which promote the procurement measures provided for in Mayoral Decree S1/D/2017-1271, dated 24 April, regarding sustainable public procurement, published in the Official Gazette (Municipal Gazette) of the Ajuntament de Barcelona dated 28 April 2017 (the "Contract").

This Mayoral Decree may be consulted at the following link:  
<https://bcnroc.ajuntament.barcelona.cat/jspui/handle/11703/101966>.

Instructions on the division of the contract into lots are set out in **Section A.1.** of Clause 1 of these Specifications. Likewise, the description and content of each lot are defined in the technical documents attached to these Specifications.

In accordance with the above-mentioned Mayoral Decree of 24 April 2017, the subject matter of the contract includes the following sustainable public-procurement measures:

- Declaration of there being no illegal economic and/or financial relationship with a country regarded as a tax haven.
- Outsourcing and paying subcontractors and/or suppliers.
- Hiring workers with particular difficulties entering the labour market/ outsourcing Special Work Centres and through placement companies, if applicable, in accordance with the provisions in Clause 1 of these Specifications.
- Salary increases, in relation to the relevant employment agreement, if applicable, in accordance with the provisions of clause 1 of these Specifications.
- Improvements on in-house personnel to be assigned to the work directly if applicable, in accordance with the provisions in clause 1 of these Specifications.

2.2. The contracting authority is subject to the provisions of Act 9/2017, of 8 November, regarding Public Sector Contracts, which transposes European Parliament and Council Directives 2014/23/EU and 2014/24/EU, of 26 February 2014 into Spanish Law (hereafter, "LCSP"), regarding harmonised procurements that as a non-Public Administration awarding authority are applicable thereto, as well as the provisions stated in this tender and in the clauses of the Contract to be formalised.

In terms of any possible contractual amendments that may occur, the system set out in Title I, Chapter I, Section 3.4 of the LCSP shall apply.

It is also subject to the above-mentioned Mayoral Decree of 24 April, in addition to the Mayoral Decree of 19 May 2016, under which contracts are acknowledged as having an essential clause under which bidders, contractors or subcontractors, and subsidiary or intermediate companies, have no illegal economic or financial relationship with any country regarded as a tax haven. Consequently, bidders, contractors or subcontractors, and subsidiary or intermediate companies under this public contract may not carry out financial transactions in tax havens – according to the list prepared or endorsed by the European institutions or, failing that, by the Spanish government – or outside tax havens and which are regarded as criminal under legally established terms such as money-laundering, tax fraud or crimes against the public treasury.

2.3. The Contract is considered a private contract and is subject, as regards its effectiveness and termination, to private law, being governed by these Specifications, under the Contract and attached documents, and for everything else not provided for there, by the applicable civil and commercial legislation.

The provisions set out in Book III, Title I of the LCSP shall apply to the preparation and award of this Contract.

2.4. For the purposes of resolving any dispute that may arise from the preparation and award of the Contract or any amendments to it, when the latter are based on breaches of the provisions in Articles 204 and 205 of the LCSP, where it is understood that the amendment should have been subject to a new tender process, the parties shall submit to the administrative law courts.

For the purposes of resolving any discrepancy that may arise over the effectiveness and termination of this Contract, the parties shall submit to the civil courts.

2.5. These Specifications, their Annexes and the Technical Specifications are contractual in nature. The contract shall comply with the provisions of these Specifications, whose clauses shall be considered an integral part of the corresponding contract.

2.6. The submission of tenders shall imply the unconditional acceptance by bidders of the content of these Specifications and all documents that form part of this tender process, without exception or reservation.

2.7. The Contract and discrepancies over its application shall be interpreted by taking into account, first of all, the Specifications and Technical Specifications, which shall prevail over any other rules.

Unfamiliarity with the contract in any of its terms and the terms of the other contractual documents that may apply in the performance of the agreement shall not exempt the successful bidder from its duty to satisfy those terms.

2.8. Should these Specifications be translated into other languages, if there is any discrepancy, the version in Catalan shall prevail.

### **CLAUSE 3.- ESTIMATED VALUE OF THE CONTRACT, BASE BUDGET FOR THE TENDER AND CONTRACT PRICE**

3.1. The estimated value of the contract for the purposes of determining the adjudication procedure, the publicity and competence of the Contracting Authority shall be as stated in **Section B** of Clause 1 of these Specifications, and does not include Value Added Tax.

This estimated value has been calculated in accordance with the provisions in Article 101 of the LCSP, European Parliament and Council, dated 26 February 2014, regarding public procurement (hereinafter, The Directive). This value is the sum of the base budget for the tender as well as any possible amendments and, where appropriate, extensions or other options, under the terms established in these Specifications.

3.2. The base budget for the tender is the one shown in **Section B.1** of Clause 1 of these Specifications.

The breakdown of the tender's base budget can be found in **Annex 6** of these Specifications.

This base budget includes all the assessment factors and expenses which, according to the contractual documents and current legislation in force, are to be borne by the successful bidder, as well as all taxes, including Value Added Tax.

Tenders will be excluded where they present a value above the tendering base budget or the unit prices in the breakdown.

For unit prices, the contracting authority will not be obliged to exhaust the entire basic tender budget, but will only be billed for the services actually executed based on the unit prices offered.

3.3. The Contract's price shall be the one that the award amounts to, plus the corresponding Value Added Tax, which must appear as a separate item.

The Contract's price shall be deemed to include all other applicable taxes, rates and fees of any kind whatsoever, as well as all the expenses that the successful bidder must bear, in accordance the provisions of the standard contract attached and in the Specifications and attached documents.

Under no circumstances shall the award amount exceed the tender budget. Bidders that exceed these amounts shall be excluded from the procedure.

3.4. The Contract's price shall not be subject to review.

3.5. The bidder confirms that it has sufficient credit to meet the financial obligations arising for the contracting authority' as a result of the performance of the Contract referred to in these Specifications, up to its conclusion.

#### **CLAUSE 4.- DURATION OF THE CONTRACT**

The contract period is as established in **Section C of the Clause of these Specifications** or, where applicable, the contract period proposed by the successful bidder, if it is shorter, and has been approved. The total term, and partial terms are those established, if applicable. All terms count from the day stipulated in the aforementioned clause, or in the contract

The contract may be extended if so provided for in **section C.2. of the clause in these Specifications**. In this case, the extension will be agreed by the Contracting Authority and will be mandatory for the contractor, provided it is announced at least two months in advance of the termination of the term of the contract in accordance with the provisions of Article 29 of the LCSP. Under no circumstances will extensions occur by the tacit agreement of the parties concerned.

#### **CLAUSE 5.- PROCUREMENT PROCESS, CONTRACT AWARD PROCEDURE AND DOCUMENTS THAT BIDDERS WILL BE PROVIDED WITH**

5.1. The contract for providing the services in question shall be awarded via the procedure regulated by Articles 156 to 158 of the LCSP.

The contract shall be awarded to the bidder offering the best overall value for money under the contract award criteria that appear in **Annex 3** of these Specifications.

5.2. Need for, and suitability of, the contract:

The needs that the contracting authority seeks to satisfy under this contract are as indicated in the in the supporting report and the statement of inadequate means.

**DOCUMENTS THAT BIDDERS WILL BE PROVIDED WITH:** From the day the invitation to tender is published, interested parties may obtain the documentation governing this tender (Tender Specifications) through the Contracting Authority Profile.

The contractor profile is incorporated into the Public Procurement Services Platform of the Generalitat de Catalunya on the website established in **section X of clause 1** of these Specifications.



The documentation that forms the Tender Specifications includes the following documents:

- Invitation to tender
- Tender Specifications and annexes.
- Technical specifications.
- Standard Contract.
- ESPD file, if applicable.
- Any other documentation that may be necessary for the preparation of the offer.

All documents shall be contractual in nature. It is likewise stated that the standard contract attached as an Annex to these Specifications shall regulate the contractor's obligations, including but not limited to, the payment method, performance conditions, outsourcing, payment to subcontractors and suppliers, penalties, termination of the contract, etc. and which shall therefore be taken into consideration by bidders.

Under Article 138.3 of the LCSP, the contracting body shall provide all the parties concerned, six (6) days before the tender submission deadline, with additional information on the specifications and any other additional documents that they may request, provided that such requests are submitted at least seven (7) days before the tender submission deadline.

#### 5.3. Contract manager:

The contracting authority shall designate a contract manager and inform the successful bidder of their details after the contract has been awarded. The contract manager shall be responsible for overseeing the performance of the contract and adopting the decisions and issuing the instructions needed in order to ensure the proper provision of the agreed-upon service, within the scope of the powers they have been granted.

#### 5.4. Contracting body:

The contracting body for this framework agreement shall be determined based on the amount, in accordance with the estimated value of the contract.

### **CLAUSE 6.- ANNOUNCEMENT OF THE TENDER**

6.1. Should the present contract be subject to harmonised regulation, this tender shall be published through an announcement in the Official Journal of the European Union (OJEU) as well as on the authority's Contracting Authority Profile, found on the Public Procurement Services Platform of the Generalitat de Catalunya.

The notice published on the entity's Contracting Authority Profile shall state the date on which the notice was sent to the OJEU. Publication in the OJEU shall precede any other publication; however, the tender announcement may be published on the Contracting Authority Profile if the contracting body has not received notice of its publication within 48 hours of confirming receipt of the submitted announcement.

6.2. Should the present contract not be subject to harmonised regulation, the present tender will be published on the Platform for Public Procurement Services of the Generalitat de Catalunya.

## II. TENDERING PROCEDURE

### CLAUSE 7.- CAPACITY AND SOLVENCY OF THE BIDDERS

7.1. They are empowered to enter into a contract with the entity by hiring the natural or legal persons, with the condition of entrepreneurs, either Spanish or foreign, who have full capacity to act in accordance with the provisions of Article 65 of the LCSP, and who do not fall into any of the circumstances of incapacity or prohibition to contract set out in Article 71 of the aforementioned Law, and who can accredit sufficient economic, financial and technical or professional solvency established in the present Specifications. Likewise, their activity must be related to the subject matter of the contract, as indicated by their respective articles of association or founding rules, and they must have an organisation with sufficient components for the proper performance of the contract. Business owners must therefore also have the business or professional qualifications that may be required, where applicable, in order to carry out the activity or provide the service forming the subject matter of the contract.

The requirements for capacity, solvency and being free of any prohibitions for entering into contracts must be satisfied when the tender is submitted and remain satisfied until the contract is awarded and signed.

Social measure: Pursuant to the Mayoral Decree of 19 May 2016, the bidders, contractors or subcontractors, subsidiary companies or intermediate companies of this contract may not conduct financial transactions in tax havens – according to the list of countries prepared or endorsed by the European Institutions or, failing that, by the Spanish State – or outside tax havens, if such transactions are deemed criminal under legally established terms, such as money laundering, tax fraud or crimes against the Public Treasury.

Physical or legal persons from states not belonging to the European Union shall additionally comply with the requirements of Article 68 of the LCSP.

The contracting authority may hire joint ventures created temporarily for the purpose of the contract. Such participation shall be carried out, during the tendering stage, through the submission of a private document expressing the aim of the joint venture, stating the names and circumstances of those who comprise it, the holding of each, appointing a single representative or proxy with sufficient powers for exercising the rights and meeting the obligations that arise from the contract up to its termination, without prejudice to the existence of joint powers in other aspects, and assuming the commitment to a formal constitution should they be the awarded the contract. Associations or groupings of business owners must provide proof of their capacity and the solvency or classification required in these Specifications, in accordance with current legal and regulatory provisions. The companies involved shall be jointly liable before the contracting authority.

There is no need for the joint venture to be drawn up in a public deed until the contract has been awarded to it.

7.2. Under Article 75 of the LCSP, solvency may be proven based on other organisations' solvency and resources, irrespective of the legal nature of the relationships that the bidder has with them, **provided that it can demonstrate that will effectively have such solvency and resources throughout the performance of the contract and that the organisation to which it has recourse is not subject to any prohibition from entering into contracts.**



Nevertheless, as regards educational or professional qualifications or professional experience, the capabilities of other entities may only be drawn on if they perform the part of the contract's subject matter for which they are required. These third parties will have to prove their required capacity, fitness and solvency as stated in these Specifications.

Where a company relies on the capacities of other organisations, it must demonstrate that it will be able to access the necessary resources, by submitting a written declaration of commitment to this effect by these organisations. This commitment shall be submitted by the bidder who has presented the best tender, subject to a completed request in accordance with the provisions of Section 2 of Article 150 of the LCSP, without prejudice to Section 3 of Article 140 of the LCSP.

When the tendering company relies on the capacity of other companies to accredit its financial and/or technical solvency, in accordance with Article 75.2 of the LCSP, or intends to subcontract, it must state this circumstance in the European Single Procurement Document (ESPD), referred to below, and submit another duly signed ESPD for each of the companies whose capacity it relies on or that it intends to outsource to.

If there is reliance on the economic and financial solvency of other organisations, it shall be necessary for the bidder and the organisations on which it will rely to be jointly and severally liable for the performance of the contract, and to individually prove the solvency they are providing.

Social measures. Information regarding outsourcing in the tender:

The tendering company must inform of the part of the contract it intends to outsource, indicate the amount, and the name or business profile, defined by reference to the technical solvency conditions of the outsourcers to which they intend to outsource. If the bidder has determined the companies they plan to work with to perform specific parts of the contract, it must identify these companies by name or corporate name, tax identification number and the part of the contract that each outsourced company will perform.

This obligation is complementary to the management of the outsourcing Book provided for in Article 8 of Act 32/2006, dated 18 October, which regulates outsourcing in the construction sector.

During the execution phase of the contract, should the contracting company intend to modify the subcontracted companies, the Contracting Authority must authorise the modification of the outsourcing companies identified in the tender. This authorisation will not be granted if the same solvency conditions that were offered in the tendering phase are not met.

7.3. Notwithstanding the above, bidders who directly, or through companies linked to them, participated in the drafting of the technical specifications or the preparatory documents of the contract, cannot compete in the tender if said participation could falsify competition or cause restrictions on free competition or constitute privileged treatment in relation to the rest of the bidding companies. In any event, the rules provided for in Article 70 of the LCSP must be followed.

If a bidding company, or an associated company, participated in the drafting of the contract's technical specifications or preparatory documents,

it must state this expressly, specifying the nature of its participation and providing the corresponding declaration of compliance within envelope no. 1.

7.4. Legal persons may only be awarded contracts if the services in question are included within the purposes, subject matter or fields of business established in their articles of association or charters.

7.5. For bidders with 50 or more permanent employees, at least two percent (2%) of their total workforce must be made up of employees with disabilities. If this condition is not met, the bidder must comply with the alternative measures established in Royal Decree 364/2005, dated April 8, or any regulation that may replace it.

7.6. Minimum conditions of solvency and authentication of the same:

Tendering companies must meet the solvency criteria set out in **Section J** of Clause 1 of these Specifications. However, only the company or companies proposed as successful bidder(s) shall be required to provide documentary proof of compliance with these requirements. Notwithstanding the foregoing, the contracting authority may ask bidders, at any time prior to the proposed award, to prove compliance with these aspects.

7.7. Non-EU foreign companies shall also be required to satisfy the requirements set out in Article 68 of the LCSP.

7.8. The contracting authority may hire joint ventures created temporarily for the purpose of the contract. Such participation shall be carried out, during the tendering stage, through the submission of a private document expressing the intention to participate as a joint venture, stating the names and details of those who comprise it and the holding of each, appointing a single representative or proxy with sufficient powers for exercising the rights and meeting the obligations that arise from the contract up to its termination, without prejudice to the existence of joint powers in other aspects, and undertaking the commitment to formally become incorporated should they be awarded the contract. There shall be no need for the joint venture to be drawn up in a public deed until it is awarded the Contract.

The companies involved shall be jointly liable before the contracting authority.

There shall be no need for the Temporary Joint Venture (UTE) to be executed in a public deed until the contract is awarded in its favour.

7.9. The contracting body shall take the necessary measures to ensure that the participation of the companies that had previously taken part in the drafting of the Contract's Technical Specifications or preparatory documents or which have advised the contracting body during the preparation of the tendering process does not distort the competition. In any event, the rules provided for in Article 70 of the LCSP must be followed.

Where a tendering company, or an associated company, has taken part in the drafting of the contract's Technical Specifications or preparatory documents, it must state this expressly, specifying the nature of its participation and providing the corresponding declaration of compliance within the Envelope containing the *"documentary proof of prerequisites"*.

7.10. Legal persons may only be awarded contracts if the services in question are included within the purposes, subject matter or fields of business established in their articles of association or charters.

7.11. For bidders with 50 or more permanent employees, at least two percent of their total workforce must be made up of employees with disabilities. If this condition is not met, the bidder must comply with the alternative measures established in Royal Decree 364/2005, dated April 8, or any regulation that may replace it.

## **CLAUSE 8.- TENDERS SUBMITTED BY BIDDERS: GENERAL RULES**

8.1. Tenders shall be considered for the entirety of services to which this contract applies and partial bids shall not be accepted.

Tenders shall be submitted within the deadline established in **Section L** of Clause 1 of these Specifications and the Invitation to Tender. Tenders submitted outside this deadline will not be accepted under any circumstance.

When submitting their tenders, all bidders must provide an address, telephone number, fax number, email and contact person for the communications and interactions typically associated with this procedure or which may affect the bidder in any way.

8.2. Tenders must be valid for **FOUR MONTHS**, as from the date on which the tenders are opened. Once this period of time has elapsed, bidders may choose to maintain or withdraw their tenders, with full compensation for the parties, without being able to claim any compensation. Tenders that are not withdrawn shall be understood as valid and binding on their respective bidders for all the purposes provided for in these Specifications.

8.3. No bidder may submit more than one tender in this procurement procedure, either individually or jointly with other companies. Also, in the case of the existence of lots, each bidder cannot present more than one proposal for the same lot, either individually or alongside other companies.

The submission of more than one bid by a bidder, whether individually or jointly with other companies, shall result in the rejection of all tenders submitted by the offending bidder and exclusion from the bidding process or, if applicable, from the corresponding lot of the bidding process.

Nor may a bidder submit any tender in joint participation with other bidders if they have already done so individually, or appear in more than one of these joint ventures. Any breach of the provisions stated in this paragraph shall lead to the rejection of all the tenders that the bidder has submitted.

8.4. A simultaneous submission of tenders by linked companies shall trigger the effects established in the applicable regulations regarding the application of the system of tenders with abnormal or disproportionate values.

8.5. Where this concerns a contract for the oversight, supervision, control and management of any contract whatsoever, as well as coordination in matters related to health and safety, the contract may not be awarded to the same company that was awarded the corresponding contract or to any company with links to it.

## **CLAUSE 9.- SUBMISSION FORMAT OF PROPOSALS AND ELECTRONIC COMMUNICATION MEDIA: GENERAL RULES**

9.1. Tenders shall be submitted as laid out in **Section L of Clause 1** of these Specifications, indicating the tender process and, where appropriate, the lot being bid for; each envelope will state its content, announced numerically.

The envelope containing the “documentary proof of the prerequisites” must contain documentary proof of the requirements stated in Article 140 of the LCSP. The envelope containing the proposal “to be assessed using qualitative evaluation criteria” must contain the documents that are to be evaluated based on the application of such criteria, and the envelope containing the proposal “to be assessed using quantitative/automated evaluation” must contain the financial tender or aspects whose assessment depends on automatic formulas, the latter conforming to the template that appears as an annex to these Specifications.

In the event that the same bidder submits a tender for more than one lot, the proposal for each lot will have to be included in each envelope, in separate files, so it will only be necessary to submit a single envelope containing the “documentation proving compliance with the prerequisites”, where appropriate a single envelope containing the proposal “to be assessed using qualitative evaluation criteria”, and a single envelope containing the proposal “to be assessed using quantitative/automated evaluation criteria”.

The documentation in the envelope that contains the “documentary proof of the prerequisites” and/or the envelope that contains the proposal “assessable through the application of criteria that depend on a value judgement” may not include any information that would reveal the content of the envelope that contains the proposal “assessable through the application of criteria are quantifiable using automatic formulas”. Failure to comply with this obligation shall result in exclusion of the bidder from the tender process.

Bidders may indicate which information in their tender is confidential, but under no circumstances may they declare the economic bid itself as such. The contracting body shall guarantee the confidentiality of any information expressly designated as such, as legally permissible, and provided that this does not affect the right to information that the other bidders have under the current legislation in force on access to public information.

9.2. Tendering companies must submit the documentation confirming their tenders within the period indicated in the tender notice, using the Digital Envelope tool accessible via the web address stated in section L.1 of Clause 1 of these Specifications.

A user guide for this platform is attached to these Specifications.

9.3. Under the Fifteenth Additional Provision of the LCSP, the procedure for this tender involves sending notifications and communications arising from it exclusively through electronic media.

Nevertheless, oral communications may be used for communications other than those relating to essential elements, that is, specifications and tenders, leaving the content of oral communication duly documented, for example, through archives or written or sound-recorded summaries of the communication's main elements.

9.4. Communications and notifications that are made during the tendering process and lifetime of the contract shall be sent through electronic media. The procedure for notifications is explained in the User Guide attached to these specifications.

Deadlines triggered by notifications shall be calculated as of the date of dispatch of those notifications, where the act constituting their subject matter has been published on the same day in the contracting body's Contracting Authority Profile. Failing that, deadlines will be calculated as of the date of receipt of notifications by the companies they are addressed to.

9.5. On the other hand, for the purposes of receiving all the information on this tendering process, any companies that so wish and, in any case, tendering companies must be subscribed as an interested party in this tendering process, through the news subscription service, to the virtual tendering space which is provided to that end on the website address of the contracting body's Contracting Authority Profile and is accessible from the Generalitat de Catalunya's Public Procurement Services Platform, address listed in section L.1. of Clause 1 of these Specifications.

This subscription will enable its users to receive immediate alerts, sent to their email addresses, of any news feature, publication or notice relating to this tendering process.

Likewise, certain communications that have to be sent during or as a consequence of the process for tendering and awarding this Contract shall be put on the noticeboard in the virtual tendering space for this tendering process on the Public Procurement Services Platform. This electronic noticeboard, which provides a reliable record of the authenticity, integrity and date of publication of the information published, also publishes information on both the tendering process and the contract.

#### 9.6. Digital certificates.

Under the First Additional Provision of Executive Decree 3/2016, an advanced electronic signature based on a qualified or recognised electronic signature certificate under the terms and conditions provided for in Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC will be sufficient. This is therefore the minimum security level required for the electronic-signature certificate accepted for signing the ESPD and the tender.

As regards foreign EU certificates, those qualified in any EU country will be accepted under Article 25(3) of the above-mentioned Regulation (EU) 910/2014/EU on electronic identification and trust services, stipulating that "a qualified electronic signature based on a qualified certificate issued in one Member State shall be recognised as a qualified electronic signature in all other Member States".

### **CLAUSE 10.- TENDERS SUBMITTED BY BIDDERS: DOCUMENTS**

## **10.1. Documentary proof of fulfilment of prerequisites**

### **ENVELOPE**

The envelope relating to the “documentary proof of fulfilment of prerequisites” must contain the document(s) that are indicated below:

#### **10.1.1. European Single Procurement Document (ESPD).**

The procurement body will accept, as preliminary evidence of compliance with legally established conditions to contract with the public sector, as well as the capacity and solvency requirements established in the present tender, the European Single Procurement Document (ESPD), duly filled out and updated.

Therefore, the tendering companies must present the ESPD through which they declare their capacity and economic, financial and technical solvency, in accordance with the minimum requirements listed in the present Specifications; that they are not subject to any prohibition of contracting or, if they are, that they have taken measures to demonstrate their reliability in any legally relevant cases; and that they are up to date with their tax and Social Security obligations, as well as complying with the rest of the requirements established in these specifications.

Tendering companies can fill out the ESPD form via the online service offered by the European Commission, form corresponding to this tender can be imported, filled in, downloaded and printed for submission. A template of this document can be downloaded from the following site:

<https://visor.registrodelicitadores.gob.es/espd-web/filter?lang=es>

In this respect, Instruction 1/2016, dated 26 July, of the Plenary of the Advisory Board for Administrative Procurement of the Generalitat de Catalunya, regarding instructions for the completion of the European Single Procurement Document, applies. The Catalan version of the standard ESPD form is attached as an annex, including instructions for filling it out and, in particular, information on the data that may appear in the RELI and/or in the ROLECE.

The instructions provided in the “*Resolution of 6 April 2016 of the General Directorate of State Heritage, approving the Recommendation of the Advisory Board for Administrative Procurement on the use of the European Single Procurement Document prior to the new Public Procurement Directive*” can also be followed.

The ESPD must be signed by the tendering company or, where appropriate, by its legal representative, and must indicate the LOT for which the bidder is applying.

Tendering companies must also include in the ESPD, the information relating to the person or persons authorised to represent them in this tender process, if applicable.

Tendering companies that are included on an official list of authorised economic operators only need to provide the information that is not stated on these lists in each part of the ESPD form. Thus, companies registered in the Generalitat de Catalunya’s Electronic Register of Tendering Companies (RELI) or in the Official Register of Bidders and Classified State Enterprises (ROLECE) must state in the corresponding section of the ESPD that their information can be found in the corresponding register. They are only obliged to specify information that does not appear in these registers, or which is not current or up to date. In any case, these companies must provide all the information in the ESPD that allows the contracting body, if applicable, to access the corresponding documents or justification certificates.

Specifications regarding temporary joint ventures:



- a. Each of the companies must submit its corresponding ESPD.
  - b. Supporting documents must be submitted to prove the appointment of a sole representative or proxy with sufficient authority to exercise the rights and meet the obligations arising from the contract up to its termination, as well as provide of the names and details of the companies that comprise the joint venture, the holding of each, and the commitment to formally create a temporary joint venture, should they be the successful bidders.
  - c. The provisional Tax Identification Number (NIF) assigned by the competent authority may also be included. Only where the joint venture is the successful bidder shall it have to confirm its incorporation in a public deed and provide the permanently assigned NIF.
  - d. Where a provisional guarantee is required, one or several of the companies participating in the joint venture may provide a provisional guarantee, provided that all together these amount to the sum required by these Specifications; although in either case, the guarantee or guarantees must jointly and severally guarantee the companies that will make up the joint venture.
- Where the business person relies on the solvency and resources of other organisations or intends to outsource, they must say so in Annex 1 or in the ESPD, and submit another separate and duly signed annex or ESPD for each of the companies whose capacity it relies on, or to which it intends to outsource.
  - Should the Specifications provide for the division of the contract's subject matter into lots, where the economic and financial or technical or professional solvency requirements vary from one lot to the next, a declaration of compliance shall be provided for each lot or group of lots to which those solvency requirements apply.

**Before the contract is awarded, the contract award committee or contracting body shall require the company proposed as the successful bidder to confirm its compliance with the personality, capacity and solvency requirements, by providing the documents stated in these Specifications.**

**The contract award committee or contracting body may require bidders to submit all or part of the supporting documents confirming compliance with the prerequisites established under Article 140 of the LCSP and detailed in these Specifications, for the purposes established in Article 140(3) of the LCSP and, in any case, before the contract is awarded.**

Failure to submit these documents within the required deadline or failure of the documents submitted to confirm that the bidder satisfies all the capacity and solvency requirements shall provide sufficient grounds for the bidder's exclusion from the tendering process, along with the confiscation of the provisional guarantee, where one has been provided.

**10.1.2. Where a company intends to rely on the capacities of other entities, it must submit a written commitment signed by these organisations, under the provisions of Article 75(2) of the LCSP.**

**10.1.3. Documentary proof that the provisional guarantee, if required in accordance with section G of clause 1 of these Specifications, has been provided.**

This guarantee shall cover the maintenance of the tenders until the contract is completed, and may be provided in one or more of the forms stipulated in Article 108.1.

Where the contract is divided into lots, the guarantee shall be calculated on the basis of the value of the lots for which tenders have been submitted, and not on the basis of the value of the total contract budget.

The provisional guarantee shall be released automatically and returned to bidders immediately after the contract comes into effect.

**10.1.4. If different companies tender as part of a temporary joint venture, the commitment to constitute the temporary joint venture shall be submitted, pursuant to the provisions of Article 69.3 of the LCSP.**

**10.1.5. Foreign companies, in cases where the contract is to be performed in Spain, must submit a declaration stating that they submit to the jurisdiction of Spanish courts and tribunals of any kind, for all incidents that may arise, directly or indirectly, from the contract, waiving, where applicable, any foreign jurisdiction the bidder may be entitled to.**

**IMPORTANT:** The documentation presented by bidders that must be included in the envelope related to the “Documentary proof of fulfilment of prerequisites”, may not contain any information that could reveal aspects subject to qualitative OR quantitative/automated evaluation. **THUS**, bidders including in this envelope any information that reveals the content of the tender contained in other envelopes shall be excluded from the procedure.

**10.1.6. Declaration of Compliance relating to the part or parts of the work to be subcontracted and, if known, the name(s) of the subcontractor(s).**

**10.1.7. Other statements that the contracting body considers necessary in accordance with the object of the contract.**

**10.2. Documents relating to the technical tender and/or references whose assessment depends on value judgements**

**ENVELOPE 2**

In the event that this has been foreseen in **Section M of Clause 1** of these Specifications, the envelope that contains the “technical offer and/or references that will be assessed using value judgements” must contain the document(s) set out in **Section M of Clause 1** of these Specifications.

**IMPORTANT:** The documentation presented by bidders that must be included in the envelope related to the technical tender and/or references that will be assessed using qualitative criteria, must never incorporate information that can reveal aspects that are subject to assessment via quantitative/automated criteria. **THUS**, bidders including in this envelope any information that reveals the content of the tender contained in other envelopes shall be excluded from the procedure.



### **10.3. Documentation relating to the economic tender and other automatically assessable references**

#### **ENVELOPE**

**10.3.1** The envelope containing the “Financial tender and other references for quantitative/automated evaluation” shall contain the document(s), **listed in ANNEX 2 of these Specifications.**

The financial tender and other references for quantitative/automated evaluation must be prepared in accordance with the template accompanying these specifications as **ANNEX 2 of these Specifications.**

As for the financial tender, the price offered shall include every type of expenses, necessary expenses, taxes and rates that arise from the Contract and from its proper performance. In particular, those described in the regulatory documentation of this tender.

In addition, the price offered must include the current Value Added Tax separately. Any variation in the VAT rate shall be applicable as soon as it comes into force.

Failure to follow the tender template provided for in **Annex 2** shall result in exclusion of the bidding company.

Tenders containing figures higher than the budget for the tender and the unit prices provided in the breakdown shall be rejected outright, if applicable.

### **CLAUSE 11 - CRITERIA FOR THE AWARD OF THE CONTRACT**

11.1. Tenders submitted and accepted shall be studied, assessed and weighted in accordance with the award criteria listed in **Annex 3** of these Specifications. The scoring formulas for tenders subject to quantitative/automated evaluation criteria are also explained visually in the aforementioned annex.

11.2. The submission of a proposal/tender by a bidder implies that said proposal/tender complies with the legal system and that it will be able to be performed in accordance with its terms and under no circumstances may this responsibility be affected or reduced by the fact that the tender has been assessed or accepted.

**The bidders who achieve the highest scores based on the award criteria for each lot shall be included in the framework agreement and, therefore, approved, up to the maximum number of approved companies specified in this document for each lot, if applicable.**

11.3. Any allegedly abnormal or disproportionate tenders shall be assessed in accordance with the provisions set out in **Annex 3** of these Specifications.

If, once these criteria have been applied, a tender is considered to be abnormal, the provisions set out in Article 149 of the LCSP shall be applied and the CONTRACTING AUTHORITY shall ask the bidders affected, in writing, for the information and explanations it deems fit in relation to the components of their tender, a process that must be completed (and duly justified in writing) within a maximum of three (3) working days.

Once the requested information and explanations have been received, the contracting body shall require a technical report on the justifications of bidders who have submitted allegedly abnormal tenders.

Any analysis of the justifications of tenders that may be considered abnormal shall take

into account the relationship between the financial tender made by the bidder and the other elements offered.

On the basis of the bidder's justification and the technical report, the Contracting Authority shall determine whether or not the tender can be met by the bidder as a result of the inclusion of the abnormal or disproportionate values. If the tender is considered abnormal or disproportionate, the Contracting Body shall exclude it from the tender procedure.

Where it is shown in an abnormally low tender that the unit prices of the workers' salaries considered in the tender are lower than those established in the collective bargaining agreement, for the purposes of verifying the suitability of the tender in salary costs, an additional technical report may be requested from the workers' representatives or a representative organisation from the sector.

When a company that has been suspected of abnormal tenders is awarded the framework agreement, the contracting authority shall establish appropriate mechanisms to closely monitor its performance, in order to ensure the proper implementation of the contract without compromising the quality of the contracted works.

11.4. In the event of a tie in the scores obtained by tendering companies, the first tiebreaker criterion set out in **Annex 3** of these Specifications relating to the evaluation criteria shall be applied.

In the event that none have been indicated, the tie-break criteria provided for in Article 147.2 of the LCSP will be applied.

## **CLAUSE 12.- CONTRACT AWARD COMMITTEE**

The Contract Award Committee is formed by the members designated in **Section Q of Clause 1** of these Tender Specifications.

When constituting the Contract Award Committee, its members shall declare whether or not they are affected by any incompatibility as provided for generally in the LCSP. Should there be any incompatibility, the Committee member concerned must stand down and, under these circumstances, a substitute member shall take their place or another member who, where applicable, meets the same experience and suitability requirements as the member who stepped down, shall be appointed.

## **CLAUSE 13.- OPENING AND EXAMINATION OF TENDERS**

13.1. Once the deadline established in these Specifications and the announcement for the submission of bids has passed, the envelope related to the **Technical Offer and/or references to be evaluated based on qualitative criteria** shall be opened for the bids received within the specified timeframe, in order to verify that they contain the required documentation and to assess their formal validity.

The contract award committee may require bidders to submit all or part of the supporting documents confirming their suitability, capacity and solvency for the purposes of verifying any point in the ESPD when it proves necessary for the contract's proper performance to be guaranteed. The deadline for submitting the necessary documents will be five calendar days from the receipt of this request.

13.2. Afterwards, where appropriate, bidders will be informed, by a channel guaranteeing notification, of any correctable defects or omissions, and a deadline will be set by which bidders may submit the appropriate corrections. This deadline may not in any case be longer than three calendar days as from the date on which the above-mentioned communication was sent.

Defects involving failure to satisfy the established requirements shall be deemed not correctable, whereas those involving a mere failure to authenticate requirements shall be deemed correctable. The critical time for assessing compliance with the capacity and solvency requirements for entering in the Contract shall be the deadline for submitting tenders.

Bidders whose tenders contain non-correctable defects or who fail to correct these defects within the deadline granted shall be rejected and excluded from the tender procedure.

Furthermore, the Contract Award Committee may ask bidders for clarifications concerning certificates and documents submitted, or ask for additional documents, which must be submitted to the Contract Award Committee within five calendar days.

13.3. Failure to submit any of the documents that must be included within the administrative documentation (**Documentary proof of fulfilment of prerequisites**), shall be grounds for exclusion from the tender procedure, unless it is deemed correctable by the Contract Award Committee and corrected by the established deadline.

Proposals from companies excluded from the tender process shall be excluded from the tender process and their corresponding envelopes will not be opened.

13.4. Subsequently, if not specified in the documents, bidders shall be notified of the date for the opening of the envelopes related to the **Documentary proof of fulfilment of prerequisites**, which contains the documentation for quantitative/automated evaluation. That date shall also be announced through the Contracting Authority Profile. The envelope related to the **Documentary proof of fulfilment of prerequisites** shall be opened in a public event.

Proposals from companies excluded from the tender process shall be excluded from the tender process and their corresponding envelopes will not be opened.

Likewise, as indicated in these Specifications, **proposals that include data that could reveal the content of the envelope containing the proposal “to be assessed by the application of criteria that are quantifiable using automatic formulas” within the envelope containing the “documentary proof of the prerequisites” or within the envelope containing the proposal “to be assessed by the application of criteria that depend on a value judgement”, as well as those that do not comply with the rules explained in these Specifications and documents that make up the tender, shall be excluded from the tender.**

Before the first proposal is opened, bidders attending the event will be called on to express any queries they may have or to ask for any explanations they consider necessary, with the appropriate clarifications and responses provided by the Contract Award Committee, but without the Committee at this time being able to take charge of documents that had not been delivered within the tender-admission deadline, or the deadline for correcting or amending defects or omissions.

All actions taken shall be recorded in the minutes.

13.5. The Contract Award Committee, with the reports that it deems appropriate to request, shall study, evaluate and weight the tenders in the envelope containing the proposal *“to be assessed through the application of criteria that depend on a value judgement”*, if applicable, in accordance with the adjudication criteria to be assessed through value judgements indicated in these Specifications.

The Contract Award Committee may require bidders to submit any additional information for the purposes of clarification that it deems necessary with regard to the envelope containing the proposal *“to be assessed using qualitative evaluation criteria”*. This must be carried out before the Contract Award Committee within the deadline that is granted to that effect, which may not exceed five (5) calendar days.

13.6. After assessment of the qualitative criteria, if applicable, bidders shall be notified of the opening date for the documentation contained in the envelope containing proposals *“to be assessed using quantitative/automated evaluation criteria”*. That date shall also be announced through the Contracting Authority Profile. The envelope containing the proposal *“to be assessed by the application of criteria that are quantifiable using automatic formulas”* shall be opened during a public session.

In accordance with these Specifications, those tenders that do not reach the minimum score established for the criteria to be assessed by means of a value judgement if applicable, shall be excluded from the tendering procedure, due to being technically inadequate, and the envelope containing the proposal *“to be assessed by the application of criteria quantifiable by automatic formulas”* shall not be opened.

Prior to the opening of the envelope containing the proposal *“to be assessed using quantitative/automated evaluation criteria”*, the CONTRACTING AUTHORITY, either through its Contracting Authority Profile or on the same day of the public opening of the envelope containing the proposal *“to be assessed using quantitative/automated evaluation criteria”*, shall announce the score obtained by the bidders admitted in relation to the offer in the envelope containing the proposal *“to be assessed using qualitative evaluation criteria”*.

Likewise, it shall also make known, if applicable, any excluded bidders or rejected proposals and the reason for their exclusion or rejection, and proceed with opening the envelope containing proposals *“to be assessed using quantitative/automated evaluation criteria”* for the proposals not excluded or rejected, and to read the summary of the proposals in the envelope containing proposals *“to be assessed using quantitative/automated evaluation criteria”*.

Before the first proposal is opened, bidders attending the event will be called on to express any queries they may have or to ask for any explanations they consider necessary, with the appropriate clarifications and responses provided by the Contract Award Committee, but without the Committee at this time being able to take charge of documents that had not been delivered within the tender-admission deadline, or the deadline for correcting or amending defects or omissions.

13.7. Once the envelope containing the proposal *“to be assessed by the application of criteria that are quantifiable using automatic formulas”* has been opened and the

documents included checked, the Contract Award Committee shall indicate the tenders that have been excluded due to non-compliance with the terms and conditions stated in these Specifications.

The proposals in the envelope containing the proposal "*to be assessed by the application of criteria that are quantifiable using automatic formulas*" shall be studied, assessed and weighted, in accordance with the adjudication criteria that are quantifiable using automatic formulas presented in these Specifications.

13.8. After evaluating the bids and excluding those that do not meet the requirements of the Specifications, the Contract Award Committee shall rank them in descending order of score.

To formulate the classification proposal, technical reports that are deemed relevant may be requested.

13.9. The corresponding services will require the bidder who submitted the best offer, in accordance with Article 145 of the LCSP, to provide the following documentation within ten (10) working days from the day after receiving the request:

➤ **Where the company is not registered with the ROLECE or the RELI:**

**(i) Supporting documents confirming personality and capacity:**

**a)** Natural persons (individual business persons and professionals) shall be required to submit their national identification document (DNI) or its replacement document, and their tax identification number (NIF), where this does not feature in their DNI.

**b)** Legal persons shall be required to submit their tax identification code (CIF) and their memorandums of association, amended and adapted articles of association, where appropriate, duly registered with the Commercial Register, where this is required under the commercial legislation that applies to it. Where such registration is not required, proof shall be provided by producing the memorandum of association, certification of amendment, articles of association or foundation charter, featuring the rules governing the company, registered, where appropriate, in the corresponding official Register.

**c)** Where the business person acts through a representative or is a legal person, the following has to be produced:

**c.1.)** Public document granting authority, duly registered with the corresponding Public Register.

**c.2.)** National ID (DNI) and tax identification number (NIF) of the representative and signatory of the financial tender.

d) Capacity to act of non-Spanish companies from EU member states or signatories to the EEA Agreement has to be confirmed through registration with the appropriate registers in accordance with the legislation of the state they are established in, or through the presentation of a sworn statement or a certificate under the terms and conditions established by law, in accordance with the applicable EU provisions.

e) Capacity to act of foreign companies not included in the section mentioned above has to be confirmed in accordance with the rules provided for in Article 68 of the LCSP.

f) As mentioned above, tenders may be submitted by joint ventures or groups of companies that are temporarily constituted to that end, without the need for a joint venture to be drawn up in a public deed until it is adjudicated the contract. These companies shall be jointly subject to their obligations before the contracting authority.

In such cases, for both natural and legal persons, each of their components shall confirm their capacity, personality and representation, and it shall be mandatory for them to state in a separate document the names and details of the signatories, the percentage of each one's holding, and they must appoint a representative or proxy with sufficient authority to exercise the rights and comply with the obligations that arise from the Contract up to its termination.

A bidder who is part of a temporarily constituted group of companies or joint venture may not compete individually in the same procedure or appear in more than one group of companies or joint venture.

In the event that all or part of the related documentation has already been delivered to the CONTRACTING AUTHORITY and has not been modified or updated, and is therefore fully valid, the bidder need not present it again, provided that they duly complete, under their responsibility, certification of the validity of the aforementioned documentation, following the template in Annex 4.

(ii) **Documentation proving economic and financial, professional or technical solvency:** in accordance with Clause 6 of these Specifications.

(iii) **Where required, supporting evidence of the constitution of the final bond.** Should the candidate proposed as the successful bidder fail to submit the final bond within the deadline granted, the award proposal shall be made to the next highest-scoring candidate, which shall be granted the corresponding period for providing the above-mentioned bond.

(iv) **Other documents:**

a) Registration with Spain's Economic Activities Tax (IAE), in the entry corresponding to the subject matter of the Contract, and latest receipt, provided it carries out activities subject to and not exempted from that tax.

Similarly, where the company falls within any of that tax's exemption cases appearing in Article 82 of Royal Legislative Decree 2/2004, of 5 March, approving the Revised Text of the regulatory Act on Local Tax Offices, it must produce a declaration of compliance that has to specify the legal exemption case and the declaration document in the tax register of parties liable for tax payments

b) Specific certificate issued by the Tax Authority, confirming it is up to date with its tax obligations, for the purposes of Article 43 of General Tax Act 58/2003, of 17 December. (contractor and subcontractor certificate)



c) Positive certificate, issued by the competent body, confirming that the company is up to date with its obligations with the Tax Authority.

d) Positive certificate issued by the Government of Catalonia confirming the company has no tax debts with that administration.

e) Positive certificate issued by Ajuntament de Barcelona confirming there are no tax debts with that authority, where necessary.

f) Positive certificate, issued by the competent body, confirming that the company is up to date with its Social Security contributions.

g) Where the company relies on meeting its solvency requirements through external resources, it shall provide the undertaking referred to in Article 75.2 of the LCSP.

h) Commitment to allocating resources referred to in Article 76.2 of the LCSP, using the template in Annex 5 of these Tender Specifications.

➤ **Where the company is registered with the ROLECE or the RELI:**

(i) Document confirming registration with the ROLECE or the RELI and certificates on the validity of the data contained therein. If any of the information referred to in the section above does not appear in the RELI, it must be provided separately.

(ii) Where the company relies on meeting its solvency requirements through external resources, it shall provide the undertaking referred to in Article 75.2 of the LCSP.

(iii) Undertaking to allocate resources referred to in Article 76.2 of the LCSP.

(iv) Where required, supporting evidence of the constitution of the final bond. Should the candidate proposed as the successful bidder fail to submit the final bond within the deadline granted, the award proposal shall be made to the next highest-scoring candidate, which shall be granted the corresponding period for providing the above-mentioned bond.

If this requirement is not satisfied within the above-mentioned period, the Bidder shall be understood to have withdrawn its tender and shall be required to pay 3% of the base budget for the tender, excluding VAT, as a penalty; this payment shall be made against the provisional bond, should it have been provided.

In that case, the same documents shall be requested from the next bidder in the order in which the tenders were ranked.

### **III. AWARDING AND SIGNING THE CONTRACT**

#### **CLAUSE 14 - AWARDING THE CONTRACT**

14.1. The contracting body shall award the contract within five (5) working days from receipt of the documents referred to in the above clause, to the tender offering the best value for money through a reasoned decision that shall be shared with all the bidders and published on the contracting body's Contracting Authority Profile.

The decision to award the contract shall be justified under the terms established in Article 151 of the LCSP and the bidders shall be notified; this notification shall be published on the contractor profile within a period of 15 days.

Furthermore, the award decision shall state the period in which the contract must be signed.

Where no tender is acceptable under the contract-award criteria in these Specifications, the tender process shall be cancelled.

The contracting body may decide not to award or enter into the contract, or cancel the tender process, in the cases provided for in Article 152 of the LCSP.

14.2. All proposals submitted, both the ones declared accepted and those rejected without being opened, shall be kept on file.

14.3. If the contracting body decides against following the recommendation of the Contract Award Committee, it must provide its reasons in its decision.

14.4. Once the periods established in these Specifications for awarding the contract have elapsed without any award decision having been reached, the bidders shall be entitled to withdraw their tender, without any right to any compensation. Nevertheless, the contracting body may ask bidders to keep their tender for a longer period, after informing them in advance and publishing the corresponding notice on the Contracting Authority Profile, with the tender process remaining open for the bidders that accept the extension. Unless bidders indicate otherwise, they shall be understood to accept the extension.

## **CLAUSE 15. SIGNING THE CONTRACT**

15.1. The contract may not be signed until 15 working days have elapsed following notification to the bidders.

The services attached to the contracting body shall require the successful bidder to sign the contract within no more than five days, counting from the day after the requirement was received, once the deadline stated in the previous paragraph has passed without the submission of an appeal suspending the signing of the contract. The same procedure shall be followed when the competent body for resolving the appeal has lifted the suspension.

15.2. If, for reasons attributable to the successful bidder, the contract is not signed within the stated period, it shall be required to pay 3% of the base budget for the tender, excluding VAT, as a penalty; this payment shall be made against the final bond if it has been provided, without prejudice to the provisions of Article 71(2)(b) of the LCSP.



In this case, the contract shall be awarded to the next Bidder in the order in which the tenders were ranked, subject to submission of the documents provided for in Clause 13 of these specifications.

15.3. This Contract may not be performed before it has been signed.

15.4. The Contract must be signed digitally, in accordance with the electronic-signature procedure established by the Contracting Authority.

The successful bidder shall sign the contract digitally, using a certificate issued by the relevant authority and which is considered sufficient by the contracting authority. This signature will be attached on the day and time designated by the contracting authority.

Once the contract has been signed by the successful bidder through this system, the contracting authority shall then sign it digitally, and the legal effects will come into force on the date and at the time of the last signature to appear on the document.

The successful bidder may ask for the contract to be executed as a public deed, bearing all the corresponding costs.

Within a period of no more than 10 days following the formalisation of the contract, notification shall be sent to the OJEU so that the formalisation of the contract may be published. The contract formalisation announcement and the corresponding contract will also be published in the Contracting Authority Profile, no more than 15 days from the date of its completion.

## **CLAUSE 16.- FINAL GUARANTEE**

The Successful Bidder shall provide the final guarantee for a sum equal to 5% of the award amount, excluding VAT, prior to the signing of the contract; this sum may be paid in any of the forms provided for under Article 108 of the LCSP.

Bank guarantees shall be issued following the standard guarantee set out in Annex 5.A of these Specifications, and the guarantor must satisfy all legal requirements.

As for surety insurance contracts, they must have been entered into in the form, and under the conditions, required by the applicable regulations, with an insurance firm authorised to operate in Spain in the field of surety insurance; and in such cases, a certificate of the contract shall be submitted to the Contracting Authority.

This insurance must be taken on in the corresponding policy, which shall be specified in a certificate, whose standard form appears in Annex 5.B of these Specifications, and the insurer shall be required to satisfy the legally established requirements.

Likewise, the final bond may be constituted by withholding payments. This withholding shall apply to the first invoice issued by the successful bidder and, if the amount is insufficient to cover the entire bond, it shall apply to the subsequent invoices issued by the Successful Bidder until the full amount is covered. No payment shall be made to the successful bidder until the final bond has been fully provided.

When, as a result of an amendment to the Contract, for any reason, its price increases or decreases, the constituted bond shall be adjusted by the necessary amount so that due proportionality is maintained between the bond and the base budget of the Contract in force at any given time.

The final bond shall be returned or cancelled once its term expires and the contract is satisfactorily completed or terminated for reasons not attributable to the Contractor and following the corresponding procedure.

Restoration of the bonds: The Contractor shall be required to restore the bonds at the corresponding amount where they are enforced, wholly or partly, up to the amounts established in these Specifications.

#### **IV. GENERAL CONSIDERATIONS**

##### **CLAUSE 17.- PAYMENTS TO THE SUCCESSFUL BIDDER**

17.1 Invoices shall be sent in accordance with the stipulations set out in **Clause 1, Section B.2** of these Specifications.

17.2. Payment for the services rendered shall be made in accordance with the provisions of **Clause 3** relating to "Invoicing and method of payment" of the Standard Contract.

##### **CLAUSE 18.- RISK AND PRICE REVISIONS**

The contract shall be performed at the risk of the successful bidder.

The successful bidder is not entitled to a price review, given the features of this Contract.

##### **CLAUSE 19.- MANAGEMENT AND INSPECTION OF CONTRACT PERFORMANCE**

The contract manager appointed by the contracting body shall perform the following functions:

- Supervise the performance of the contract awarded.
- Ensure compliance with the obligations taken on by the successful bidder, both those that are provided for in the Specifications and those in the proposal or tender.
- Issue the successful bidder with the appropriate orders or instructions for ensuring correct performance of the service.
- Liaise with the technical coordinator or manager appointed by the successful bidder.
- Ensure that the company awarded the contract proves that all the workers assigned to the performance of the contract are registered with the Social Security system. Accordingly, it may ask the successful bidder to submit, along with each invoice, the salaries and TC1 and TC2 supporting documents confirming payment of wages and Social Security contributions for those performing the contract, and attach these documents to each invoice validated.

The contract manager shall be responsible for liaising with the technical coordinator or supervisor appointed by the company awarded the contract, who must be on the company's staff, to coordinate and supervise the proper performance of the contract, holding meetings for this reason as often as appropriate.

Under no circumstances shall the contract manager at the contracting body appoint the workers employed by the successful bidder responsible for performing the contract or participate in their selection or training or issue specific orders or instructions to the successful bidder's staff or exercise any executive authority over them.

The Contracting Authority will also have the power to supervise, throughout the execution of the contract, that it is carried out with the utmost respect for the environment, in accordance with the obligations and requirements contained in this Contract.

## **CLAUSE 20.- TERMS AND CONDITIONS OF CONTRACTUAL PERFORMANCE ESSENTIAL TO THE CONTRACT**

### **20.1. Special contractual terms and conditions of execution:**

The following are established as special conditions of performance:

- The contractor must pay the invoices of their subcontractors and/or suppliers resulting from the performance of the work outlined in these Specifications within the timeframe established by Act 3/2004, of 29 December, on measures against late payment in commercial transactions. Furthermore, in accordance with the provisions of the contract, the contracting company must provide documentation compliance with the deadlines for payment to subcontractors, when requested by the contract manager and, in any case, once the work has been completed.
- The commitments on sustainable public procurement undertaken by the successful bidder in its tender.
- Maintenance of employment conditions of individuals allocated to the execution of the contract during the entire contractual period: The contracting company must maintain, throughout the execution of the work, the labour and social conditions of the workers employed in the execution of the contract, established at the time of submitting the tender, according to the applicable agreement.
- Recruiting unemployed people with special job placement or social exclusion issues in the terms specified in these Specifications.
- Compliance with there being no illegal economic and/or financial relationship with a country regarded as a tax haven.
- The environmental obligations that are established in these Specifications and in the standard contract.

### **20.2. Contract's essential obligations:**

- The Contractor shall be bound by the tender that it has submitted, whose performance, in all its terms and conditions, shall constitute an obligation essential to the Contract.
- Compliance with the special terms and conditions of performance established in Clause 24.1 of these Specifications shall be an essential obligation of the Contract.
- Effective dedication or allocation of the human and/or material resources indicated and committed in the tender to the performance of the contract.
- The obligations of these Specifications and the Standard Contract which the nature of obligation essential to the Contract is specifically attributed to.

## **CLAUSE 21.- OBLIGATIONS OF THE SUCCESSFUL BIDDER**

In addition to the obligations established under the current regulations in force, the operator will also be under an obligation to:

- a. Specify, at the request of the contracting authority, the specific individuals who will be responsible for providing the services and communicate any replacement or change in these individuals, demonstrating that their employment complies with the laws in force.
- b. Appoint a person to be in charge of the smooth running of the work and behaviour of the staff, who will also act as a link with the contracting authority and the contract manager.
- c. Assume the advertising costs of the invitation to tender established in these Specifications. To that effect, the contracting body will discount the amount of the aforementioned costs from the first invoice sent and the following ones, where necessary.
- d. Carry out a proper environmental management of its service, taking the necessary measures to minimise the impact it may have (keeping to a minimum the noise impact on the surroundings, properly managing waste and packages etc.) in accordance with current legislation in force.
- e. Maintain confidentiality with regard to information or records that are not public or common knowledge and are possibly related to the subject matter of the contract, which they have become aware of due to the contract.
- f. Respect, in any case, the provisions of Framework Act 3/2018, of 5 December, on the Protection of Personal Data and Guarantee of Digital Rights and the regulations implementing it.
- g. Comply with the current legal tax, employment and social provisions in force as well as the general regulations on occupational risk prevention. To that end, the Successful Bidder must have at its disposal and produce, at the request of the contracting authority, a Treasury Certificate of Contractors and Subcontractors for the entire contractual period.
- h. Deliver all the necessary documents for satisfying the contract in Catalan and use it in the performance of the services forming the subject matter of this contract.
- i. Take out a civil liability insurance policy for an amount that is sufficient to cover all liabilities of any kind that may arise from the performance of the contract.
- j. Ensure that all actions under this contract ensure respect for the principles of non-discrimination and equal treatment relating to non-discrimination on the grounds of sex, sexual orientation, gender identity, ideology, nationality, race, ethnicity, religion, age, functional diversity or any other nature, as well as the principles of dignity and freedom of persons.
- k. Provide the information stated under Act 19/2014, of 29 December, on Transparency, Access to Public Information and Good Governance.
- l. Comply with the following obligations concerning the ethical principles and rules of conduct which bidders and contractors must abide by in their work, under the provisions of Article 55(2) of Act 19/2014, of 29 December, on Transparency, Access to Public Information and Good Governance:

- Adopt ethically exemplary conduct, refrain from promoting, proposing, encouraging or becoming involved in any corrupt practice, both in terms of the provisions of the Criminal Code concerning corruption and in relation to ethically reprehensible practices, informing the competent authorities of any sign of these practices which, in its opinion, is present or may affect the procedure or the contractual relationship and refrain from taking any other action that could compromise the principles of equal opportunities and free competition.
- Comply with the ethical principles, rules and standards inherent to the activities, professions and/or trades corresponding to the provisions to which this contract applies.
- Refrain from taking any action that places the public interest at risk in terms of the scope of the contract or the contracted provisions.
- Report, for as long as the contract remains in force, any irregularities that may occur in the tender process.
- Immediately inform the contracting body of any conflict of interests, understood as any situation in which the members of staff employed by the awarding authority or a supplier of the contracting services acting on behalf of the awarding authority participating in the completion of the tender procedure or that may have an influence on its outcome have, whether directly or indirectly, a financial, economic or personal interest that may appear to compromise their impartiality and independence in the context of the tender procedure. And also considering the provisions concerning conflicts of interests in Directive 2014/24/EU.
- Refrain from directly or indirectly asking a public servant or person in public office to influence the award, continuation or maintenance of the contract on their own behalf or on behalf of others.
- Refrain from offering or providing a public servant or person in public office personal or material advantages, either for them or for third parties, regardless of the personal or professional relationship they may or may not have with them, or to persons involved in the tender procedure or able to influence it.
- Respect the principles of the free market and competition and refrain from engaging in conducts that seek to or may result in competition being affected, restricted or falsified, such as, for example, collusion or fraudulent competition (safeguarding tenders, elimination of tenders, dividing up markets, tender rotation, etc.). Furthermore, report any action or conduct of which it becomes aware that may seek to bring about these aims, and which relates to the tender or contract.
- Refrain from using confidential information, obtained through the tender or performance of the contract to directly or indirectly obtain an advantage or benefit of any kind in its own interests.
- Refrain from trying to unduly influence the decision-making process of the awarding authority, obtain confidential information that may provide an undue advantage in the tender procedure or negligently provide misleading information that may have an important influence on decisions relating to exclusion, selection or award.
- Collaborate with the contracting body in any actions it may take to monitor and/or assess compliance with the contract, in particular providing the information requested to this end.
- Meet the information provision obligations established by legislation on transparency and public-sector contracts for successful bidders in relation to the authority or authorities in question, without prejudice to compliance with the transparency obligations that apply to them directly under the law.
- Report any action it may become aware of and which may represent a breach of the above-mentioned obligations.

m. Submit a summary report on the execution of the Contract in PDF format.

## **CLAUSE 22. COMPLIANCE WITH ETHICAL PRINCIPLES AND RULES OF CONDUCT BY CONTRACTORS.**

In accordance with Article 55(5) of Act 19/2014, dated 29 December, on Transparency, Access to Public Information and Good Governance, contractors must comply with ethical principles and rules of conduct as determined below:

- Adopt ethically exemplary conduct, refrain from promoting, proposing, encouraging or becoming involved in any corrupt practice, both in terms of the provisions of the Criminal Code concerning corruption and in relation to ethically reprehensible practices, informing the competent authorities of any sign of these practices which, in its opinion, is present or may affect the procedure or the contractual relationship and refrain from taking any other action that could compromise the principles of equal opportunities and free competition.
- Comply with the ethical principles, rules and standards inherent to the activities, professions and/or trades corresponding to the provisions to which this contract applies.
- Refrain from taking any action that places the public interest at risk in terms of the scope of the contract or the contracted provisions.
- Report, for as long as the contract remains in force, any irregularities that may occur in the tender process.
- Immediately inform the contracting body of any conflict of interests, understood as any situation in which the members of staff employed by the awarding authority or a supplier of the contracting services acting on behalf of the awarding authority participating in the completion of the tender procedure or that may have an influence on its outcome have, whether directly or indirectly, a financial, economic or personal interest that may appear to compromise their impartiality and independence in the context of the tender procedure. And also considering the provisions concerning conflicts of interests in Directive 2014/24/EU.
- Refrain from directly or indirectly asking a public servant or person in public office to influence the award, continuation or maintenance of the contract on their own behalf or on behalf of others.
- Refrain from offering or providing a public servant or person in public office personal or material advantages, either for them or for third parties, regardless of the personal or professional relationship they may or may not have with them, or to persons involved in the tender procedure or able to influence it.
- Respect the principles of the free market and competition and refrain from engaging in conducts that seek to or may result in competition being affected, restricted or falsified, such as, for example, collusion or fraudulent competition (safeguarding tenders, elimination of tenders, dividing up markets, tender rotation, etc.). Furthermore, report any action or conduct of which it becomes aware that may seek to bring about these aims, and which relates to the tender or contract.
- Refrain from using confidential information, obtained through the tender or performance of the contract to directly or indirectly obtain an advantage or benefit of any kind in its own interests.
- Refrain from trying to unduly influence the decision-making process of the awarding authority, obtain confidential information that may provide an undue advantage in the tender procedure or negligently provide misleading information that may have an important influence on decisions relating to exclusion, selection or award.



- Collaborate with the contracting body in any actions it may take to monitor and/or assess compliance with the contract, in particular providing the information requested to this end.
- Meet the information provision obligations established by legislation on transparency and public-sector contracts for successful bidders in relation to the authority or authorities in question, without prejudice to compliance with the transparency obligations that apply to them directly under the law.
- Report any action it may become aware of and which may represent a breach of the above-mentioned obligations.

## **CLAUSE 23.- OUTSOURCING AND ASSIGNING**

23.1. The Successful Bidder may partially outsource the contract, in accordance with the provisions set out in these Specifications and in Articles 215, 216 and 217 of the LCSP.

The successful bidder must inform the contracting body in writing, after the contract has been awarded and, at the latest, when it starts to be performed, of its intention to subcontract work; state the part of the service that it intends to subcontract as well as the subcontractor's identity, contact details and legal representative(s); provide sufficient proof of its suitability for performing that part of the service given the technical and human resources at its disposal and its experience; and confirm that it is not prohibited from entering into contracts.

During the execution phase of the contract, should the contracting company intend to modify the subcontracted companies, the Contracting Authority must authorise the modification of the outsourcing companies identified in the tender. This authorisation will not be granted if the same solvency conditions that were offered in the tendering phase are not met

23.2. Under the 51st Additional Provision of the LCSP, the contracting body may make direct payments to subcontractors where the payment terms established in Article 216 of the LCSP are not met.

Payments made by the contracting body shall be understood as having been made by the main contractor. Under no circumstances shall the contracting authority be held liable for a delay in payment attributable to the main contractor's refusal to accept the invoice submitted by the subcontractor.

23.3. The Contractor may not, under any circumstances, subcontract services to natural or legal persons affected by any incapacity or prohibition from contracting with the public sector that are determined by current legislation.

Third parties subcontracted by the contractor shall not conduct financial transactions in tax havens – according to the list of countries prepared or endorsed by the European Institutions or, failing that, by the Spanish State – or outside tax havens, that are deemed criminal, under legally established terms, for example, for money-laundering, tax fraud and crimes against the Public Treasury.

If the subcontracted third parties have any ties of a legal nature tax havens, the successful bidder must inform the contracting body of those connections (which it will publicise on the Contracting Authority Profile) and present it with documents detailing the financial transactions and all information relating to these activities of the subcontracted companies.

23.4. Rights and obligations arising from the Contract are prohibited from being assigned to a third party.

#### **CLAUSE 24.- SERVICE DELAYS**

The successful bidder must perform the contract for the entire period established as well as the partial terms stated for any successive performance. If the successful bidder defaults, no prior notice will be required on the part of the Contracting Authority.

When there is a delay in complying with a partial or final delivery term that is attributable to the successful bidder, the contracting authority may choose to terminate the contract.

In the course of processing the case, the successful bidder shall be allowed to present its arguments within a period of five working days and the contracting body shall make its decision after the relevant reports are issued.

The successful bidder may suspend its performance of the contract if it is not paid for over four months.

#### **CLAUSE 25.- LIABILITY IN EXECUTING THE CONTRACT AND PENALTIES**

25.1. The successful bidder shall compensate the contracting authority or its staff for any damage or harm and indemnify it for any damage, loss and/or injury caused by fraud or negligence in the performance of the obligations arising from the award. It shall also be liable for any damages or harm caused to third parties during the performance of the contract.

25.2. In the event of any breach of, or defective compliance with, the obligations assumed by the successful bidder, the contracting authority may terminate the contract or require the successful bidder to perform it.

25.3. The breach or defective performance of the contractual obligations shall result in the imposition of penalties. The various classes of breaches, for the purposes of this contract, are defined below:

##### Minor:

- ✓ Failure to collaborate with the contracting authority's staff.
- ✓ Partial breach of performance of the services defined in this Contract which does not constitute a serious breach.
- ✓ Failure to inform the contracting authority of the inclusion of new members of staff or changes to the staff assigned to the contract.
- ✓ Breach of Occupational Risk Prevention regulations, classed as minor under their specific regulations.
- ✓ Breach in the use of established uniformity.

##### Serious:

- ✓ Refusal to adhere to the requirements stipulated by the contracting authority or failure to respect them.
- ✓ Partial breach of the services defined in this contract which does not constitute a very serious breach.



- ✓ Failure to have substitute staff available for a given service.
- ✓ Should workers have to work longer hours than is permitted and, should this occur, the failure to inform the contracting authority.
- ✓ Facilitating, by action or omission, access to the contracting authority's premises by persons not assigned to the contracted service.
- ✓ Failure to provide, in due time and form, all information concerning the provision of the service as requested by the contracting authority.
- ✓ Repeated commission of minor breaches.
- ✓ Lack of cover of the service for a period of time owing to a lack of substitute staff or other reasons, provided that this is not a very serious breach.
- ✓ Breach, when this does not constitute a very serious breach, of the obligations arising from general regulations on occupational risk prevention and, especially, those from the health and safety plan for the provision of services, classed as serious by the corresponding specific regulations.

Very serious:

- ✓ Failure to provide the service, whether due to abandonment or other causes.
- ✓ Passivity, neglect or indifference in the provision of the service.
- ✓ Refusal to adhere to the requirements stipulated by the contracting authority, or failure to respect them, where this leads to very serious harm in the performance of the contract.
- ✓ Using work systems, elements, materials, machinery or staff other than those provided for in the specifications or in the successful bidder's tenders, where appropriate, when this leads to very serious harm.
- ✓ Failure to provide sufficient staff to cover the minimum services established.
- ✓ Very serious breach of the provisions relating to outsourcing, where applicable.
- ✓ Misrepresentation of the services stated by the successful bidder in its invoice.
- ✓ Recurrence of serious breaches.
- ✓ Incorporating staff who lack knowledge of their obligations or prior training.
- ✓ Breach of regulations on Occupational Risk Prevention, classed as very serious by their specific corresponding regulations and especially the health and safety plan in the provision of services.
- ✓ Breach of the instructions for the safety of third parties in the provision of services.

In the course of processing the case, the successful bidder shall be allowed to submit any arguments it deems necessary, and the contracting authority's contracting body shall make a decision.

25.4. Regardless of the damage reparation, if a breach does not result in the termination of the contract, the contracting authority may enforce the following penalties, proportionate to the degree of harm, danger and/or frequency:

- VERY SERIOUS breaches: 5% of the contract value
- SERIOUS breaches: 3% of the contract value
- MINOR breaches: 1% of the contract value

Penalties may be paid by deducting their values from the invoice(s) payable to the successful bidder.

The CONTRACTING AUTHORITY reserves the right to terminate the contract due to repeated shortcomings in the performance of the service if over three of the penalties indicated above are applied.

25.5. In addition to the general penalties established in the previous paragraphs, a series of Service Level Agreements (SLAs) and performance requirements are set forth, with automatic penalties for non-compliance that will be deducted from the invoice of the month in which the breach occurred, in accordance with the provisions outlined in the technical specifications or PPT.

25.6. The procedure to be followed in the case of generic penalties will be as follows:

- The contracting body shall notify the successful bidder in writing of the incident/breach that occurred, its severity and its characteristics.
- The successful bidder shall be given a maximum of 10 calendar days to present the arguments it deems relevant, indicating the measures it has taken to prevent the occurrence of a new incident/breach.
- The contracting body shall notify the successful bidder of the decision made, taking into account the arguments presented and, where applicable, the application of the corresponding penalty.

Should any aspect of the Successful Bidder's conduct be classified as a breach, the penalty system described will be applied.

In any event, and as indicated, the amount required to be paid in penalties applied to the Successful Bidder for non-compliance may be deducted from the corresponding invoice, without prejudice to the guarantee responding to the effectiveness of the same, in accordance with the stipulations of Article 110 of Law 9/2017, dated November 8, regarding contracts in the public sector

25.7. In addition to the obligations in the applicable regulations and those arising from this contract and the documentation attached to it, the specific obligations of the successful bidder are as follows:

- i. At all times, submit to the instructions and observations issued by the contracting body and/or contract manager.
- ii. Satisfy all taxes, fees and duties levied on the exercise of the activity for which the contract is intended.
- iii. The company will be obliged, and will be fully responsible in relation to its employees, for the fulfilment of the obligations derived from the labour (work, Social Security and Risk Prevention), tax and any other applicable general obligations, being solely responsible for the obligations that the applicable regulations impose on it.  
In addition, the contracting body may at any time require the successful bidder to provide documents proving compliance with its aforementioned obligations.
- iv. Provide all the necessary and sufficient staff for the execution of the contract, in accordance with the conditions established in the contractual specifications, and with responsibility to offer the execution of the contract to the full satisfaction of the contract manager.

- v. Compliance with all the services established in the contractual terms and conditions.
- vi. Comply with the instructions given by the contracting authority for the provision of the service.

## **CLAUSE 26.- TERMINATION**

26.1. This contract may be terminated for any of the reasons established in Article 211 and 313 of the Public Sector Contracts Act (LCSP).

26.2. In addition to the provisions set out in the above-mentioned Article and those already provided for in these Specifications, the following shall also be deemed grounds for termination:

- Delay in starting delivery of the service.
- Non-compliance or defective compliance with the conditions for performing the contract established in these Specifications and the Technical Specifications.
- Non-compliance with the essential contractual obligations.
- Others established legally by this type of contract.
- Manifest and proven technical incapacity or negligence relating to performing the tasks covered under this contract; manifest refusal or resistance on the part of the successful bidder to abide by the instructions given by the contracting authority to adapt the contract to its needs; repeatedly failing to attend working meetings, failing to comply with any partial deadlines that may be set, omitting information, and any attitude or negligence whatsoever that may affect the performance of the contract.
- Any situation provided for as a ground for prohibition from entering into contracts which arises once the contract has been signed.
- Being in control or associated with other candidates or bidders, having reached an agreement with other participants in the tender procedure and having outsourced any tasks to other companies participating in this invitation to tender without authorisation from the contracting authority.
- Failure to keep due confidentiality over information or records that are not public or common knowledge and which may relate to the subject matter of the contract, which it has knowledge of through the contract.
- Partial breach of the provisions defined in this contract, when this constitutes a very serious breach.
- Repeated non-compliance with any of the special performance conditions set out in these Specifications, when they have not been assigned the status of essential contractual obligations.

## **CLAUSE 27.- EXECUTION**

The performance of the contract shall be run and managed exclusively by the successful bidder, which shall bear all the business risk. The successful bidder shall at all times appoint persons who shall perform the services, determine the work to be carried out under the contracting authority's general instructions and issue the appropriate guidelines to ensure the proper implementation of the contract. The successful bidder shall provide its technical, material, organisational and human resources to ensure the contract's proper performance, appoint skilled and specialist staff who shall perform, on its behalf and at its expense, the tasks covered in the contract, and must ensure that the staff assigned have the qualifications, training and appropriate professional level for the services to be performed. The successful bidder may not dissociate itself from the performance under any circumstances.

## CLAUSE 28.- AMENDING THE CONTRACT

28.1. The system set forth in Title I, Chapter I, Section 3(4) of the LCSP shall apply to any possible contractual amendments that may be made, depending on whether or not specific grounds for amendment have been envisaged. The framework agreement may be modified for legally established reasons, as well as for those outlined in these Specifications.

28.2. The reasons that may trigger an amendment of the framework agreement are as follows:

### **Subjective:**

- A. Total or partial succession of the original contractor as a result of a corporate restructuring process, complying with the requirements and conditions set out in Article 98 of the LCSP, provided that this does not involve any other substantial amendments to the contract and is not aimed at circumventing the application of the Directive.

### **Objective:**

The objective reasons for contractual modification shall be those provided for in **Clause 1, Section B.3** of these Specifications, if applicable.

28.3. The procedure for amending the framework agreement shall be as follows:

- Explanatory report from the contract manager, stating the need to proceed with the contract amendment.
- Legal Report from the Contracting Department indicating the cause, as applicable.
- Hearing procedure for the Contractor for a period of ten working days and appearance in which it declares it has been informed of the scope of this new work.
- Approval of the modification and award of the competent Contracting Authority.
- Readjustment of the final tender bond.

28.4. Amendments that are approved shall be binding on the Contractor. The successful bidder therefore accepts any amendment to the contract proposed by the contracting body which complies with the provisions of these Specifications or the Contract and undertakes to perform it once the corresponding agreement has been adopted.

There will be no restriction in downward amendments to the Contract. Where downward amendments are in excess of twenty per cent of the award value, the successful bidder may request the termination of the contract and the payment of the work performed, without any right to compensation or payment for loss of profit.

## CLAUSE 29.- DATA PROTECTION

In accordance with Framework Act 3/2018, dated 5 December, regarding the protection of personal data and the guaranteeing of digital rights in accordance with (EU) Regulation 2016/679 of the European Parliament and of the Council, dated April 27, 2016, regarding the protection of natural persons with regard to the processing of personal data and on the free movement of this data, and repealing Directive 95/46/EC, which regulated the right of information in the collection of personal data, the following points are stated:

- a. The documents required as part of this tendering process that contain personal data are a necessary requirement for participating in this contract.
- b. With regard to the documentation submitted by the bidders that contains personal data of natural persons (workers, technical personnel, contractors, etc.), the bidder guarantees that they have obtained the prior consent of the data subjects to provide this information to the contracting authority for the purpose of participating in this tendering process.
- c. The documents submitted by bidders which contain personal data shall be delivered to the offices of the contracting authority, located in Barcelona, at Carrer Calàbria, 66, (08015), where they shall be processed by the contracting authority in order to classify, appraise and compare the proposals of the bidders and to ensure compliance with the purposes established in the public procurement regulations applicable to the contracting authority. The recipients of this information shall be the CONTRACTING AUTHORITY, any third parties that carry out auditing tasks or any third parties that necessarily have to access the data in order to implement the contract.
- d. By submitting the tender and the documents requested, the bidder authorises the contracting authority to process the corresponding information under the terms set out and, in the event they are awarded the contract, within the framework of the performance of the contract. The data provided shall be retained for as many years as deemed necessary to fulfil the legal obligations.
- e. Data subjects may exercise their rights of access, rectification, erasure, restriction of processing and right to object to processing by writing to the Contracting Authority as data controller, at the address indicated in paragraph c) above, attaching a copy of their Spanish national identity document or other official document that provides proof of the identity of the person exercising that right. The data subject may also file a claim before the competent control authority.

Processing of personal data by the successful bidder

In the event that the contract entails processing of personal data or access by the contractor or subcontractor to data of this type, additional provision 31 of the LCSP will be applicable. In this case, access to this data will not be considered data communication, when the prescriptions described in current regulations are fulfilled.

In relation to the processing of personal data, the successful bidder is subject to the following obligations:

- a) To process data solely in accordance with the instructions of the CONTRACTING AUTHORITY and/or Ajuntament de Barcelona, and not use them for purposes other than the contracted provision.
- b) Not communicate data, even for their conservation, to other persons, with the exception of Public Bodies or Private Entities in which they have to be managed in strict compliance with the Law or the functions entrusted to them by the CONTRACTING AUTHORITY

Notwithstanding the above, and provided that the Specifications allow for outsourcing, the CONTRACTING AUTHORITY expressly authorises the Successful Bidder to subcontract with third parties under the terms indicated, acting in this case in the name of and on behalf of the CONTRACTING AUTHORITY solely for the provisions of the data protection regulations.

Data processing carried out by any subcontractor shall comply with the instructions issued by the CONTRACTING AUTHORITY and/or Ajuntament de Barcelona, the Successful Bidder undertaking to comply with each one of them in accordance with the terms set out in Article 12 of the LOPDGDD. The Successful Bidder is obligated to provide the CONTRACTING AUTHORITY with a copy of the data processing contract entered into with any subcontractors within a maximum period of 10 days from its signing.

- c) The Successful Bidder is obliged to adopt the measures necessary to guarantee data security as determined in Article 9 of the LOPDGDD and Section VIII of the RLOPD. Specifically, the security measures established for the medium level will be applied.

The bidders may request information from the CONTRACTING AUTHORITY about the security measures that must be implemented for the processing of personal data covered under these Specifications.

Any personal data processing that may be carried out by the successful bidder shall require the prior consent of CONTRACTING AUTHORITY

Additionally, the Successful Bidder shall monitor and provide the necessary means to control the improper disclosure of personal data contained in Ajuntament de Barcelona files that may occur as a result of negligent implementation of security measures by the successful bidder, and undertakes to notify the CONTRACTING AUTHORITY of any incident that may affect the security of the personal data processed.

The CONTRACTING AUTHORITY reserves the right to perform checks during the period of validity of the contract in order to verify compliance with the established security measures, and to take the appropriate corrective measures if applicable. Furthermore, the CONTRACTING AUTHORITY reserves the right to ask the successful bidder for documentation proving compliance with the current data protection regulations, which must be delivered within seven days of the request.

- d) The Successful Bidder will provide, whenever the CONTRACTING AUTHORITY so requests, access to the personal data being processed during the term of the contract.
- e) In the event that the Successful Bidder provides, generates or uses applications or computer services of any type, where the processing of personal data for which Ajuntament de Barcelona is responsible is carried out, it undertakes to comply with the requirements of the sole additional provision of the RLOPD.
- f) The successful bidder, and all the staff involved in the provision of the service covered under this contract are obliged to comply with the duty of confidentiality referred to in Article 10 of the LOPDGDD. This duty will last even after the contract has ended, whatever the reason.
- g) In those cases, where international data transfers must be made outside the European Economic Area (EEA) by the successful bidder for the performance of the services provided indicated in these Specifications, prior authorisation from the CONTRACTING AUTHORITY shall be necessary.



- h) Upon completion of the service provision covered in this contract, the Successful Bidder must return, if applicable, any personal data subject to processing stored in their equipment and/or media to the CONTRACTING AUTHORITY. They must proceed in the same way with regard to any media or document in which they appear, in the format and condition in which they are taken, on the date of the aforementioned decision, proceeding immediately thereafter to their deletion.

However, should there be a legal obligation to safeguard the information or to preserve it in order to face possible legal responsibilities, the successful bidder will not proceed to destroy it and shall keep a blocked copy of that data until the corresponding period ends.

- i) Furthermore, and in addition to the aforementioned obligations, the successful bidder undertakes to sign each and every one of the documents required by the CONTRACTING AUTHORITY, in order to ensure compliance with data protection regulations.
- j) In the event that the successful bidder should fail to fulfil any of these obligations, the successful bidder shall be considered the Data Controller, and shall be liable in all cases for any infringements it may have committed. The Successful Bidder shall indemnify the CONTRACTING AUTHORITY for any losses, claims, liabilities or proceedings, including fines and penalties, that the latter may have suffered as a result of the failure to comply with the personal data protection regulations, including those arising from third parties or relevant bodies.

## **CLAUSE 30.- CONFIDENTIALITY**

### Confidentiality

All the information to which the successful bidder has access in the course of the performance of the contract is confidential. The successful bidder and the successful bidder's staff assigned to the performance of the contract cannot make personal use of, nor provide third parties with, data or any information regarding the work contracted, or to which they have access during the performance of the contract, without written authorisation from the CONTRACTING AUTHORITY or Ajuntament de Barcelona; therefore, they are obliged to implement all the means at their disposal in order to preserve the confidential and reserved nature of both the information and the results obtained from the tasks carried out, in accordance with Article 133 LCSP.

In any case, while carrying out tasks that do not involve personal data processing, the successful bidder and their staff are prohibited from accessing personal data, and are under the obligation of secrecy regarding any data that the staff may have gained knowledge of as a result of the contracted service.

Furthermore, the bidder shall expressly indicate which documents and/or information in their tender are considered to be confidential.

### Transparency

The successful bidder is informed that, in order to comply with the provisions of Act 19/2014 of 29 December on transparency, access to public information and good governance, information related to the contract in question shall be published.



## **CLAUSE 31.- SOCIAL PROCUREMENT.**

The subject matter of the contract includes the following sustainable public procurement measures:

1. Contract-award criteria:
  - a. Tenders which, under the Specifications, may be considered abnormal or disproportionate will be excluded where, during the process of the hearing, it is shown that the salaries contemplated in the tenders are below the ones established in the collective bargaining agreement.
2. Special terms and conditions of performance:
  - a. Paying the price to the subcontracted companies.
  - b. Declaration that the tendering companies do not carry out financial transactions in tax havens.

## **CLAUSE 32.- SYSTEM OF APPEALS**

*32.1. In the case of contracts with an estimated value exceeding 100,000 euros:*

1. Special appeals may be made in the matter of contracting regulated in Article 44 and following Articles of the LCSP before the Catalan Court of Public Sector Contracts as the competent body for the resolution of the appeal, against the announcement of tender, the Specifications and contract documents that establish the conditions that must govern the procurement, as well as the acts of process adopted in the adjudication procedure, provided that the latter decide directly or indirectly on it, they determine the impossibility of continuing the proceedings or produce defencelessness or irreparable detriment to legitimate rights or interests, acts for which candidates' admission or non-admission are decided, including tenders that are excluded due to being abnormally low as a result of the implementation of LCSP Article 149, against awarding agreements and contractual modifications based on the breach of what the LCSP Articles 204 and 205 provide for.

Similarly, special appeals may be lodged based on the assumptions provided for in Article 39.2 of the LCSP. Special appeals in the field of procurement are optional in nature. Alternatively, contentious administrative appeals may be filed, in accordance with Law 29/1998, dated 13 July, regulating judicial review.

2. The appeal may be lodged by natural and legal persons whose rights or legitimate interests have been or may be adversely affected by the decisions which are being appealed, and in any event by the bidders.

3. The deadline for presenting special appeals in the field of procurement will be 15 working days, which will be counted in accordance with the provisions of Article 50 of the LCSP, depending on the act that is being appealed against.

However, when the appeal is based on one of the causes of nullity provided for in section 2 of Article 39 of the LCSP, the period for lodging the special appeal will be that indicated in letters a) and b) of Article 50.2 of the LCSP.

4. The writ of appeal may be submitted to the registry of the Contracting Authority, to the registry of the competent body for the resolution of the appeal, or in any of the places established in Article 16.4 of Law 39/2015, dated 1 October, regarding the common administrative procedure for public administrations.

Once two months have elapsed from the month following the lodging of the appeal without notification of its resolution being received, the interested party may consider the effects of lodging the judicial review to have been dismissed.

5. The text of the appeal must specify the act being appealed against, the reason for the appeal, the evidence that the appealing party is presenting as valid and, in if applicable, the request for adoption of provisional measures, attaching the documentation required by Article 51 of the LCSP.

32.2. In the case of contracts with an estimated value below 100,000 euros:

1. The acts resulting from this award procedure may be challenged through administrative channels in accordance with Article 44.6 of the LCSP before the first deputy mayor of the Economy, Work, Competitiveness, and Finance of Ajuntament de Barcelona, within the deadlines and requirements specified in the notification of the corresponding act.

2. When challenging the announcement of the tender or these Specifications, the deadline for filing an appeal is one month from the day after publication on the authority's Contracting Authority Profile.

3. The maximum period for issuing and giving notice of the decision on the appeal shall be three months. Should this period elapse without any decision having been given, the appeal shall be deemed to have been dismissed.

4. If the appeal is expressly rejected or no decision is made, an appeal for judicial review may be filed before the administrative courts of Barcelona, within a period of two months from the day following the date on which the corresponding notice is received (if the decision is an express decision) or in a period of six months from the day following the date on which the appeal is considered rejected as no decision is made.

## LEGAL VALIDATION OF THE DOSSIER

It is noted that the legal content of all documentation included in the bidding process has been validated by the CONTRACTING AUTHORITY'S Corporate Director of Legal Advice, the Legal System, and Procurement prior to the tender, in accordance with Articles 28 and 116 of the LCSP.

Barcelona, 21 January 2025



Mercè Piñol Arnal  
*Corporate Director of Legal Advice, the Legal System, and Procurement*  
Barcelona de Serveis Municipals, S.A.

**ANNEX No. 1A**  
**DECLARATION OF COMPLIANCE REGARDING THE NON-EXISTENCE OF**  
**ILLEGAL ECONOMIC AND/OR FINANCIAL TIES TO A COUNTRY CONSIDERED**  
**A TAX HAVEN.**

**(MANDATORY declaration, to be included in the envelope regarding**  
**“documentary proof of the prerequisites”)**

Mr/Ms ....., with National ID number ....., acting on behalf of  
..... (bidder) , in their capacity as  
..... and with sufficient authority to sign this declaration of  
compliance, aware of the invitation to tender for the contract  
....., **DECLARES UNDER THEIR**  
**RESPONSIBILITY:**

That the company they represent or its subsidiaries or intermediary companies:

☐ Do not conduct financial operations in tax havens considered to be illegal - according to the country list issued by the European Institutions or endorsed by them, or in their absence, by the Spanish State - or outside these and considered to be illegal in the legally established terms such as the crimes of money laundering, tax fraud or offences against the public treasury.

☐ Has/have ties of a legal nature to tax havens (this shall be publicised on the **Contracting Authority Profile**) and presents the following documents detailing the financial transactions and all information relating to these activities:

.....

And for the appropriate purposes, this declaration of compliance is signed in ..... on  
..... of .....

Signature

**ANNEX No. 1B**  
**DECLARATION OF COMPLIANCE REGARDING PRIOR ACTIVITIES RELATED TO**  
**THE SUBJECT MATTER OF THE CONTRACT**

**(MANDATORY declaration, to be included in the envelope regarding**  
**“documentary proof of the prerequisites”)**

Mr/Ms ....., with National ID number ....., acting on behalf of  
..... (bidder) , in their capacity as  
..... and with sufficient authority to sign this declaration of  
compliance, aware of the invitation to tender for the contract  
....., **DECLARES UNDER THEIR**  
**RESPONSIBILITY:**

*Option 1:*

*1.- That neither the company that I represent, nor any associated companies, has participated in the elaboration of the technical specifications or the preparatory documents for the contract. 2.- That the company I represent has not been awarded nor participated in the performance of contracts related to the subject matter of the tender, nor is it a company linked to them, as defined by the LCSP.*

*Option 2 (in the event of having participated in the drafting of the technical specifications or preparatory documents for the contract):*

*1.- That the company I represent, or the associated company named  
....., has participated in the drafting of the technical specifications or  
preparatory documents for the contract by drafting the documents indicated below:  
.....*

And for the appropriate purposes, this declaration of compliance is signed in ..... on  
..... of .....

Signature

**ANNEX No. 1C**

**DECLARATION OF COMPLIANCE REGARDING DESIGNATION OF AN EMAIL ADDRESS AS THE PREFERRED METHOD FOR RECEIVING ALL NOTIFICATIONS**

**(MANDATORY declaration, to be included in the envelope regarding  
“documentary proof of the prerequisites”)**

Mr/Ms ....., with National ID number ....., acting on behalf of  
..... (bidder) , in their capacity as  
..... and with sufficient authority to sign this declaration of  
compliance, aware of the invitation to tender for the contract

**STATES:**

That, in relation to the invitation to the tender for the aforementioned contract and in accordance with the issue of the corresponding notifications, in compliance with the provisions of Article 28 of Act 11/2007, of 22 June, regarding Electronic Access of Citizens to Public Services, the following email address is provided as the preferred method for receiving notifications: .....

Also declares that this email address allows certification of the date and time at which the object of the notification is made available to the interested party, as well as access to its content, at which time the notification will be understood to have been made for all legal purposes.

Likewise declares that communications by the contracting authority, by the means identified, will have all the effects of notifications provided for in the Public Sector Contracts Act.

And for the appropriate purposes, this declaration of compliance is signed in .....on  
..... of .....

Signature

**ANNEX No. 2****TEMPLATE FOR THE FINANCIAL TENDER AND REFERENCES TO BE  
ASSESSED USING QUANTITATIVE/AUTOMATED  
EVALUATION CRITERIA**

**(MANDATORY declaration, to be submitted in the envelope “to be assessed using quantitative evaluation criteria”)**

**Instructions for correctly completing the form:** The contractor will need to select one of the options for each section except for those that specifically require filling-in.

Where a price and/or percentage needs to be entered, this can only contain two decimal places.

In the event that no option is selected, or more than one option is chosen and/or the wording of any of the sections is altered, a score of 0 points will be awarded for that section. In the event that the wording altered should imply a breach of the PPT and/or other documentation in this procedure, the tender will be excluded.

Mr/Ms ....., with address at .....,  
, aware of the notice published in

.....

.....and the conditions and requirements that are required for the award of the service of “.....”, undertakes on behalf of (themselves or the company they represent) .....to fulfil them in strict accordance with the following conditions:

**A) FINANCIAL TENDER**

Item	Bid before VAT (absolute values and a maximum of two decimal places)
Service of creating and producing an animated film for the 4D “Dididado” cinema at Parc d’Atraccions Tibidabo, including pre-production, production, post-production, supply, installation, and maintenance	<p style="text-align: center;">_____ €</p> <p style="text-align: center;">(Maximum value: €120,000.00)</p>

**B) OTHER QUANTITATIVE CRITERIA:****B1. Maximising the cinema's effects**

*To evaluate the customer experience regarding the showing of the film, bidding companies must indicate their choices in the following table concerning improvements of the cinema's effects. Bidding companies must indicate the options in their proposal. The improvements in the tender shall include both the incorporation of the effect into the script and the supply and installation of the devices for that effect.*

Criteria	Mark with an X <u>each</u> <u>of the options</u> included in the tender
Fog effect	
Lightning effect	
Bubble effect	
Aroma effect	

**B2. Additional preshow video**

*To assess the overall experience of the attraction, including wait times, bidders must indicate if they offer a second 2D short in addition to what was requested in the Technical Specifications Document, the content of which must be different.*

Criteria	Mark with an X each of the options included in the tender
YES, a second video is offered	
NO, a second video is not offered	

**B1. Language adaptation**

*To assess the ability to cater to various nationalities within the clientele, bidders are required to specify all the options available in their bid concerning translation into different languages.*

Criteria	Mark with an X <u>all</u> of the options included in the bid
English is offered as a translation language	
Spanish is offered as a translation language	

**Validity period of the tender ..... 4 months**

***(tenders that contain a value and/or term in excess of the value specified in the invitation to tender shall be excluded from the procedure)***

And for the appropriate purposes, this declaration of compliance is signed in .. on  
..... of .....

Signature



**ANNEX No. 3****AWARD CRITERIA****1. CRITERIA LINKED TO THE SUBJECT MATTER OF THE CONTRACT ASSESSED AUTOMATICALLY ..... UP TO 55 POINTS****A) FINANCIAL TENDER..... UP TO 35 POINTS**

The maximum score (35 points) shall be awarded to the bidding company that submits the greatest price reduction, while the remaining companies will receive a score calculated using the following formula:

$$P_i = P_{\max} \times \left( \frac{L - O_i}{L - O_{\min}} \right)$$

Where:

- $O_i$  = Amount of the tender
- $O_{\min}$  = Amount of the minimum tender
- $P_i$  = Final score
- $P_{\max}$  = Maximum score
- $L$  = Tender budget

**CRITERIA FOR DETERMINING THE PRESENCE OF PRESUMABLY ABNORMALLY LOW TENDERS.**

- A tender will be considered likely to contain abnormal/ disproportionate values when the percentage of a low tenders higher than the arithmetic mean of all average low percentages offered by five percentage points.
- Where the number of bids admitted into the tender process is equal to or below five (5), the criteria shall not apply for assessing the inclusion of abnormal or disproportionate values.
- If there are more than 10 tendering companies, using the calculation of the average tender, the lowest tender and/or highest tenders shall be eliminated if there is a difference of more than 5% compared to the next tender.
- If there are more than 20 tendering companies, using the calculation of the average tender, the lowest or two lowest tender(s) and/or highest or two highest tender(s) shall be eliminated if there is a difference of more than 5% compared to the next tender.
- If several related companies (Article 42 of the Commercial Code) each present their respective proposals in a tender only the lowest tender among those submitted by all those companies is taken into account for the calculation of the abnormality.
- Tenders capable of containing abnormal or disproportionate values shall be excluded where, during the hearing process with the tendering company that has submitted a tender classed as abnormally low, it becomes apparent that the unit prices of the workers' salaries contemplated in the tender are lower than those established in the applicable collective bargaining agreement.

**B) OTHER CRITERIA ASSESSED AUTOMATICALLY..... UP TO 20 POINTS****B1. Maximising the cinema's effects (up to 8 points)**

*The proposals shall be scored according to the following scoring table, with the total score being the sum of the options selected by the bidding companies, and 0 points if no option is selected.*

Criteria	Score
Fog effect	2 points
Lightning effect	2 points
Bubble effect	2 points
Aroma effect	2 points

**B2. Additional preshow video (up to 7 points)**

*The proposals shall be scored according to the following scoring table.*

Criteria	Score
YES, a second video is offered	7 points
NO, a second video is not offered	0 points

**B3. Language adaptation (5 points)**

*The proposals shall be scored according to the following scoring table, with the total score being the sum of the options selected by the bidding companies, and 0 points if no option is selected.*

Criteria	Score
English is offered as a translation language	2.5 points
Spanish is offered as a translation language	2.5 points

**2. CRITERIA LINKED TO THE SUBJECT MATTER OF THE CONTRACT  
ASSESSED QUALITATIVELY..... UP TO 40  
**POINTS****

**1. Script (up to 25 points)**

To assess the originality, innovation, and suitability to the needs described in the technical specifications document, bidding companies must present a descriptive report that includes the definition of the idea and general concept, storyline, as well as the artistic proposal and set design. The proposal must also include the film script and dialogue.

This section must be summarised in at most ten (10) pages and in Arial 10 font.

The assessment shall consider whether the overall idea and concept are well-developed, whether the script is original and innovative, and whether the storyline aligns with the requirements outlined in the technical specifications and the strategic pillars of the amusement park, taking into account the strategic pillar of education through entertainment in any of its disciplines

such as geography, history, literature, etc. To maximise excitement and sensations for the audience experiencing the attraction, an assessment will be made on whether the storyline incorporates adventurous elements, a fast-paced tempo, and a high number of surprises during the course of the film. Additionally, it should contain numerous moments that make children laugh.

The highest score shall be awarded to the idea that best meets BSM's needs in these aspects, while the others shall be evaluated comparatively. Information that exceeds the established limit will not be taken into account for assessment.

## **2. Quality of the graphics (up to 20 points)**

To assess the graphic quality of the film's images, bidding companies must present graphic material from other films they have produced that aligns with the graphic style they will apply to the production of the film covered in the contract. To do this, they must present images, video links, or any materials that the bidding company deems appropriate to make the proposed idea as understandable as possible.

This section must be summarised in at most ten (10) pages and in Arial 10 font.

The assessment will consider whether the graphics are of high quality, align with current animation styles, and feature clear, high-definition images. Contrast in colour usage, vibrant colours with effective use of light and shadow, and good lighting perspectives will also be taken into account. The assessment will consider whether the presented image is consistent with the amusement park's graphic identity, philosophy, and strategic pillars.

The highest score will be awarded to the idea that best meets BSM's needs in these aspects, while the others will be evaluated comparatively. Information that exceeds the established limit will not be taken into account for assessment.

**Causes for exclusion arising from the assessment:** Tendering proposals will not be assessed, and will therefore be excluded from the procedure, in any of the following cases:

- When the price(s) offered by the bidder(s) exceed the maximum price(s) established.
- When the object of the assessment does not meet the minimum requirements set out in the Technical Specifications Document (PPT).
- Failure to reach **the minimum score of 22.5 points** in the assessment of the criteria subject to value judgement (without taking into account the score obtained in the improvements section).

**TOTAL SCORE: from 0 to 100 points.**

**ANNEX No. 4**

**(Declaration, IF APPLICABLE, to be given to the proposed successful bidder)**

.....  
.....

....., ..... .....

To whom it may concern,

The undersigned, hereby certifies:

- ☐ That the deeds requested in the Specific Clauses regulating this invitation to tender to demonstrate the personality and capacity of the Bidder have not been amended compared to those in your possession, submitted on ..... to participate in the procedure.....
- ☐ That the tax identification number card is the one already in your possession, submitted on ..... to participate in the procedure.
- ☐ That the documents accrediting my representation as the person signing the tender have not been amended or revoked compared to those in your possession, submitted on ..... to participate in the procedure.

And in witness thereof, this declaration is signed on ..... .....

Signature

**ANNEX No. 5.A****BANK GUARANTEE TEMPLATE**

*(Drawn up by a notary in accordance with Article 197.1 bis of the Civil-Law Notary Regulations, Validated by the Legal Advice Department at the General Deposit Fund, the province's Solicitor General of the State or the other authorities' equivalent bodies)*

**(Declaration, IF APPLICABLE, to be given to the proposed successful bidder)**

The Bank ..... and on its behalf ..... in their capacity of ..... and according to the powers resulting from the Power of Attorney executed before the Notary of ..... , Mr/Ms ..... dated ..... , with number .... of their official records, which they affirm to be fully in force, acts as a joint guarantor for the company, in the interest and benefit of ..., and up to the sum of euros (...% of the contract amount), for the purpose of guaranteeing the exact fulfilment by the mentioned company of all obligations specified in the corresponding Contract for the award of the services of " ..... " .

The guarantee provided by the Bank ..... is granted with an express and formal waiver of the benefits of discussion, division, order, and any other that may apply in this case. For this purpose, the Bank declares its intention to bind itself and is hereby jointly and severally bound with the company ..... until the settlement of the ..... aforementioned services and the end of the warranty period, to pay unconditionally and within a maximum of eight days following the request, the sum or sums up to the guaranteed amount of (...% of the contract amount) EUROS specified in the request. The Bank expressly and solemnly waives any exception or reservation regarding the payment of the amounts claimed, regardless of the cause or reason upon which such claims may be based, even if opposition or claims are made by ..... , or by third parties, whoever they may be.

**ANNEX No. 5.B****TEMPLATE CERTIFICATE FOR THE SURETY INSURANCE FOR THE FINAL BOND**

*(Drawn up by a notary in accordance with Article 197.1 bis of the Civil-Law Notary Regulations, Validated by the Legal Advice Department at the General Deposit Fund, the province's Solicitor General of the State or the other authorities' equivalent bodies)*

**(Declaration, IF APPLICABLE, to be given to the proposed successful bidder)**

Certificate number .....

.....(henceforth, the "Insurer"),  
with address at .....,  
....., and with Tax ID (CIF) .....,  
duly represented by Mr/Ms .....  
....., with sufficient powers to bind it in this act, as evidenced by.....

**INSURES**

....., NIF/CIF tax number  
.....,  
as the policyholder, against....., hereinafter referred to as  
the "insured", up to the amount, in euros ..... (...% of the contract value).....,  
to guarantee full compliance by the insured party with all the obligations applicable to such  
party as a result of having been awarded the performance of the services corresponding  
to  
..... .

Failure to pay the single, first or subsequent premiums shall not entitle the insurer to  
cancel the contract, nor shall it be terminated, nor the insurer's coverage suspended, nor  
shall the insurer be released from its obligations, in the event that the insurer is required to  
pay the guarantee.

The insurer shall not prevent the insured party from exercising the exceptions it may be  
entitled to against the holder of the insurance.

The insurer hereby undertakes to pay compensation to the insured party on the first request  
made by

....., and to pay, unconditionally  
and within a maximum of eight days when required to do so, the sum or sums  
corresponding to the insured figure indicated in the order for payment.

This surety insurance shall remain valid until the settlement of the contract and the end of  
the guarantee term.

Place: ..... Date: .....

Signature:  
Insurer



**ANNEX No. 6****BREAKDOWN OF THE BASE BUDGET FOR THE TENDER**

Labour (approx. 68%)	€81,600.00
DIRECT Costs Installation	€18,000.00
TOTAL (sum of direct costs)	€99,600.00
<u>Indirect costs</u>	
General overheads (approx. 3%)	€3,600.00
Business profit (approx. 14%)	€16,800.00
TOTAL (sum of indirect costs)	€20,400.00
TOTAL COSTS (direct + indirect costs)	€120,000.00