

RESPONSE DOCUMENT No. IV



**Karachi Water and Sewerage Board
Local Government & Housing Town Planning Department
Government of Sindh**

West Karachi Recycled Water Project 1

Dated
June 4, 2023

IMPORTANT NOTICE/DISCLAIMER

This Response to Questions Document (the 'Response Document') is further to the Prequalification Document and the various queries received from the Prospective Bidders in respect of the prequalification process relating to the West Karachi Recycled Water Project 1 (the 'Project').

This Response Document is being circulated by the Authority, solely for use by the recipients in preparing and submitting their Prequalification Applications for participation in the prequalification process in relation to the Project.

Unless expressly specified otherwise, all capitalized terms used herein shall bear the meaning ascribed thereto in the Prequalification Document.

This Response Document is not an agreement; its sole purpose is to provide interested parties with information that may be useful to them in preparing their Prequalification Applications in respect to the RFQ. The RFQ and this Response Document includes statements which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Prospective Bidder may require. This Response Document may not be appropriate for all persons, and it is not possible for the Authority (including its employees, personnel, agents, consultants, advisors and/ or contractors etc.) to consider the investment objectives, financial situation and particular needs of each party, that relies on, reads or uses this Response Document.

Neither the Authority nor its employees, personnel, agents, consultants, advisors and contractors etc., make any representation (express or implied) as to the accuracy or completeness of the information contained herein, or in any other document made available to any person in connection with the prequalification process for the Project and the same shall have no liability for this Response Document or for any other written or oral communication transmitted to the recipient in the course of the recipient's evaluation of the Project. Neither the Authority, nor their employees, personnel, agents, consultants, advisors and contractors etc., will be liable in any manner whatsoever to reimburse or compensate the recipient for any costs, fees, damages or expenses incurred by the recipient in evaluating or acting upon this Response Document or otherwise in connection with the Project.

The Authority or any of its advisors has no liability for any statements, opinions or information provided in the RFQ. Each Prospective Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in the RFQ. The Prospective Bidders are required to undertake their independent assessment and to seek independent professional advice on any or all aspects of the RFQ. No decision should be based solely on the basis of the information provided in the RFQ and this Response Document.

The Authority expressly disavows any obligation or duty (whether in contract, tort or otherwise) to any Prospective Bidder. No Prospective Bidder is entitled to rely on the Authority's involvement in the preparation of this Response Document or in the prequalification process as a basis for preparing the Prequalification Application.

RESPONSES TO PROSPECTIVE BIDDERS' QUERIES

SR.	SECTION	PROSPECTIVE BIDDER'S QUERY	AUTHORITY'S RESPONSE
1.		Since the documents outside Pakistan submitted for prequalification of the Project need to be notarized and certified by the Ministry of Foreign Affairs and the Embassy, it will take a long time. Could the tenderee consider extending prequalification application submission deadline for one month, i.e., to 12 July 2023?	In line with multiple Prospective Bidders request, the Prequalification Application Submission Deadline has been extended to 06 July 2023 in accordance with the SPP Rules.
2.		The current water fee payment mode of the Project is that the project company directly collect the water fee from users of the S.I.T.E. We hope to change the water fee payment mode to be firstly collected by Government institutions or state-owned enterprises and then transferred to the project company.	It will be the Concessionaire's responsibility to collect the user payment by entering into relevant legal arrangements with users of the S.I.T.E. No involvement of state-owned enterprises is foreseen at this present moment; however to address some of the revenue collection issues, the Government of Sindh is considering offering a minimum revenue guarantee on a declining basis to allow the concessionaire sufficient time to build up collection capacity and to address any teething issues. Additionally, the concessionaire is free to hire a Collection Agent under the Concession Agreement to minimize the collection risk.
3.		At present, the water is priced according to the actual amount of water purchased. It is hoped that the volume water price can be considered in the composition of the water price, so as to enhance the feasibility of the Project financing.	Each of the potential customers in S.I.T.E. is likely to have its own water needs and volume requirements based on the unit's production capacity and on the basis of surveys carried out during Project preparation. Accordingly, it is assumed that payment of water on an actual usage basis gives the correct Project commercial structure. The starting tariff will be notified for year 1 and indexed on an annual basis for the duration of the Concession Agreement (see response to No. 6 below as well).
4.		Whether the tenderee can make it clear that there will be no other water supplier in the project area; In addition, there are many illegal private water	It will be the Authority's responsibility to ensure the Concessionaire is the single supplier of industrial grade recycled water once the area is identified. Other illegal water supplies will be removed by the

		supply in the industrial park where the Project is located. Can the tenderee clearly define the time limit for removing the private water supply pipeline and have relevant laws and regulations to enforce relevant penalties on the illegal water supply party?	Authority prior to Commercial Operation Date as per approved Project structure.
5.		At present, the project financing is difficult. Could the tenderee coordinate ADB to issue the financing intention letter for the project and specify the loan limit, term and interest rate?	Apart from Viability Gap Fund, ADB cannot make any financing commitment at this stage. However, the Government of Sindh and its advisors consulted a lot of local commercial banks who have displayed a strong interest in financing this transaction.
6.		In view of inflation and other factors, it is hoped that the annual water price adjustment can be adjusted according to the local inflation rate and paid in US dollars.	The water price will be paid in local currency as per applicable laws, with suitable annual pricing adjustments to cater for inflationary as well as other factors; this adjustment formula per annum will be identified in the concession agreement during the RFP Stage.
7.		At present, the Project is guaranteed by the Government of Sindh province, could the tenderee raise the guarantee level to sovereign credit guarantee.	The Project will be guaranteed by the Government of Sindh province, which is an acceptable bankability solution for the investors and banking industry given the various successful financial closures that have happened in the Sindh PPP space over the past ten years.
8.		<p>As per the PQ requirement, our principals would like to confirm whether to submit "Apostille Certificate" from the Ministry of Affairs in Japan for the Power of Attorney and Affidavits.</p> <p><u>Submission of Power of Attorney and Affidavit [Form-D, H and L]</u></p> <p>This Power of Attorney shall be on stamp paper and notarised with the Notary Public.</p> <p>For a Power of Attorney executed and issued in member/contracting states of</p>	<p>The Apostille Convention (the Convention) stipulates, <i>inter alia</i>, the issuance of a single Apostille certificate by a "<i>Competent Authority</i>" (of a member/contracting State of the Convention) in the place where the document originates.</p> <p>For the purposes of Japan, we understand ¹ (though, each bidder is required to verify independently), that the designated '<i>Competent Authority</i>' is the Ministry of Foreign Affairs of Japan (MOFA) in Tokyo. Therefore, the Affidavit and Power of Attorney(s) executed and issued in Japan will have to be legalized by the MOFA in Tokyo following which an '<i>Apostille Certificate</i>' (as issued by MOFA</p>

¹ As per the information provided on the official website of the "*HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW*" <https://www.hcch.net/en/states/authorities/details3/?aid=328>

	<p>the Apostille Convention, to the extent recognized in Pakistan, the same will have to be legalized by the designated authority of the country where the Power of Attorney is executed; provided, however, if the Power of Attorney is not issued in member/contracting states of the Apostille Convention, the same will have to be notarized by Notary Public and attested by the Pakistani Embassy / Consulate in the country where the Power of Attorney is executed and, once brought into Pakistan, the same is to be attested by Ministry of Foreign Affairs, Pakistan and adhesive stamped.</p>	<p>in Tokyo) shall be submitted along with the Prequalification Application.</p>
<p>9.</p>	<p>With reference to your Response Document No.2 for the Prequalification Documents, the Power of Attorney shall be replaced with the one to authorize a person to sign the Documents to be valid for the RFQ stage and the RFP stage.</p> <p>In accordance with our company's rules and regulations, it is not acceptable to submit the Power of Attorney for RFP at this stage of RFQ.</p> <p>Please allow us to submit it for the RFP stage <u>in the Bidding Process as requested in the original RFQ.</u></p>	<p>In case a Prospective Bidder cannot submit a power of attorney to cover both the RFQ and RFP stages, it can provide a power of attorney only for the RFQ stage.</p> <p>Please note that such Prospective Bidder will have to submit an additional power of attorney to cover the RFP stage.</p> <p>The Prospective Bidders may now submit the Power of Attorney in form and substance attached as <i>Exhibit I – Power of Attorney to Authorize a Person to Sign the Documents and Exhibit II – Power of Attorney</i> to this Response Document No. IV or as were attached to the Response Document No. II.</p>

EXHIBIT I – POWER OF ATTORNEY TO AUTHORIZE A PERSON TO SIGN THE DOCUMENTS

NOTES FOR EXECUTION OF POWER OF ATTORNEY

- *To be executed by each Prospective Bidder and in case the Prospective Bidder is a Consortium, by each Consortium Member, authorizing the relevant attorney to sign the required documents on its behalf.*
- *Provisions in square brackets may be included or excluded if necessary.*
- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Prospective Bidder (and in case of the Consortium, each Consortium Member, wherever required) should submit for verification the extract of the charter documents and documents such as a resolution / power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Prospective Bidder / Consortium Member.*
- *This Power of Attorney shall be notarised with the Notary Public.*
- *For a Power of Attorney executed and issued in member/contracting states of the Apostille Convention, to the extent recognised in Pakistan, the same shall be legalized through obtaining apostille certification by the designated authority of the country where the Power of Attorney is executed; provided, however, if the Power of Attorney is not issued in member/contracting states of the Apostille Convention, the same will have to be notarized by Notary Public and attested by the Pakistani Embassy / Consulate in the country where the Power of Attorney is executed and, once brought into Pakistan, the same is to be attested by Ministry of Foreign Affairs, Pakistan and adhesive stamped.*

KNOW ALL MEN BY THESE PRESENTS, WE, _____ (name of the entity and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name) _____ holding [CNIC / Passport] Number _____ and presently residing at _____, who is presently employed with us and holding the position of _____, as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to do in our name and on our behalf:

- (a) all such acts, deeds and things as are necessary or required in connection with or incidental to the requirements of the prequalification document issued on April 17, 2023 (the “**Prequalification Document**”) by Karachi Water and Sewerage Board (“**KW&SB**”) in relation to the West Karachi Recycled Water Project 1 (the “**Project**”), including but not limited to signing and submission of all documents and providing information / responses to KW&SB, representing us in all matters before KW&SB, and generally dealing with KW&SB in all matters in connection with our Prequalification Application for the Project; and
- (b) *[all such acts, deeds and things as are necessary or required in connection with or incidental to the requirements of a request for proposal document (“**RFP**”) to be issued by KW&SB in relation to the Project, including but not limited to signing and submission of all documents and providing information / responses to KW&SB in respect of the*

RFP, representing us in all matters before KW&SB, and generally dealing with KW&SB (and the GoS), and / or any other governmental agencies or any person, in all matters in connection with or relating to or arising out of our Bid and its acceptance by KW&SB and for the Project.]

We hereby ratify all acts, deeds and things lawfully done by the Attorney in relation to the Project (including with respect to the submission of our Prequalification Application [*and/or Bid*] in response to the Prequalification Document [*and/or the RFP respectively*]) pursuant to this Power of Attorney and we hereby agree that all prior and / or future acts, deeds and things done by the Attorney in relation to the Project (including with respect to the submission of our Prequalification Application [*and/or Bid*] in response to the Prequalification Document [*and/or RFP respectively*]) shall, and shall always be, deemed to have been done by us.

Further, we hereby agree to ratify all acts, deeds and things lawfully done by the Attorney pursuant to this Power of Attorney and that all acts, deeds and things done by the Attorney shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, _____, HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____, 20____.

For & On Behalf of:

(name of the entity)

By Its Duly Authorized Signatory

.....

(Signature)

(Name, Title and Address)

SIGNATURE OF ATTORNEY

[NOTARISED]

.....

(Signature)

(Name, Title and Address of the Attorney)

EXHIBIT II – POWER OF ATTORNEY

NOTES FOR EXECUTION OF POWER OF ATTORNEY

- *To be executed by each Consortium Member, authorizing the Lead Member to sign the required documents on each Consortium Member's behalf.*
- *Provisions in square brackets may be included or excluded if necessary.*
- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Prospective Bidder (and in case of the Consortium, each Consortium Member, wherever required) should submit for verification the extract of the charter documents and documents such as a resolution / power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Prospective Bidder / Consortium Member.*
- *This Power of Attorney shall be notarised with the Notary Public.*
- *For a Power of Attorney executed and issued in member/contracting states of the Apostille Convention, to the extent recognized in Pakistan, the same will shall be legalized through obtaining apostille certification by the designated authority of the country where the Power of Attorney is executed; provided, however, if the Power of Attorney is not issued in member/contracting states of the Apostille Convention, the same will have to be notarized by Notary Public and attested by the Pakistani Embassy / Consulate in the country where the Power of Attorney is executed; and once brought into Pakistan, the same is to be attested by Ministry of Foreign Affairs, Pakistan and adhesive stamped.*

WHEREAS, the Karachi Water and Sewerage Board, Government of Sindh (“**KW&SB**”) has invited applications from interested parties for the ‘WEST KARACHI RECYCLED WATER PROJECT 1’ (the “**Project**”) pursuant to the prequalification document issued on April 17, 2023 by KW&SB (as amended from time to time) (the “**Prequalification Document**”);

WHEREAS, _____, _____ and _____ (each hereinafter referred to individually as a “**Consortium Member**” and collectively as “**Consortium Members**”) intend to form a consortium (the “**Consortium**”) in accordance with the requirements of the Prequalification Document;

AND WHEREAS, it is necessary for the Consortium Members to designate one of them as the ‘**Lead Member**’ with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Project and its execution.

AND WHEREAS, the Consortium Members issue this Power of Attorney for the appointment of the ‘**Lead Member**’ with all necessary powers and authority to represent and irrevocably bind all the Consortium Members in all matters connected with the bidding process and during execution of the relevant agreements in relation to the Project, in case the Consortium is awarded the Project.

KNOW ALL MEN BY THESE PRESENTS

WE, _____, having our registered office at _____, M/s. _____, having our registered office at _____, and M/s. _____, having our registered office at _____, [*the respective names and addresses of the registered office*] do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s. _____, having its registered office at _____, being one of the members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "**Attorney**") and hereby irrevocably authorise the Attorney (with power to sub-delegate) to:

- (a) conduct all business for and on behalf of the Consortium and any one of us during the prequalification process being conducted by KW&SB pursuant to the Prequalification Document and to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the Project, including but not limited to signing and submission of all applications and other documents and writings, participate in conferences / meetings, respond to queries, submit information / documents, sign and execute contracts and undertakings and generally to represent the Consortium in all its dealings with KW&SB, and / or any other governmental agency or any person, in all matters in connection with or relating to or arising out of the Consortium's Prequalification Application;
- (b) [*conduct all business for and on behalf of the Consortium and any one of us during the bidding process being conducted by KW&SB pursuant to a request for proposal document ("RFP") to be issued by KW&SB in relation to the Project and to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the Project, including but not limited to signing and submission of our Bid, all applications and other documents and writings, participate in conferences / meetings, respond to queries, submit information / documents, sign and execute contracts and undertakings including the acceptance of notification of award, as applicable (if awarded the Project) and generally to represent the Consortium in all its dealings with KW&SB (and the GoS), and / or any other governmental agencies or any person, in all matters in connection with or relating to or arising out of the Consortium's Bid and its acceptance by KW&SB.*]

We hereby ratify all acts, deeds and things lawfully done by the Attorney in relation to the Project (including with respect to the submission of our Prequalification Application [*and/or Bid*] in response to the Prequalification Document [*and/or the RFP respectively*]) pursuant to this Power of Attorney and we hereby agree that all prior and / or future acts, deeds and things done by the Attorney in relation to the Project (including with respect to the submission of our Prequalification Application [*and/or Bid*] in response to the Prequalification Document [*and/or RFP respectively*]) shall, and shall always be, deemed to have been done by us.

Further, we hereby agree to ratify all acts, deeds and things lawfully done by the Attorney pursuant to this Power of Attorney and that all acts, deeds and things done by the Attorney shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE THE ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS _____ DAY OF _____ 20____.

FOR: _____

[insert name of Consortium Member] (Signature)

NAME: _____

[Insert name of the person executing this Power of Attorney on behalf of the Consortium Member]

TITLE / DESIGNATION: _____

[Insert title / designation of the person executing this Power of Attorney on behalf of the Consortium Member]

ADDRESS: _____

[Insert address of the person executing this Power of Attorney on behalf of the Consortium Member]

FOR: _____

[insert name of Consortium Member] (Signature)

NAME: _____

[Insert name of the person executing this Power of Attorney on behalf of the Consortium Member]

TITLE / DESIGNATION: _____

[Insert title / designation of the person executing this Power of Attorney on behalf of the Consortium Member]

ADDRESS: _____

[Insert address of the person executing this Power of Attorney on behalf of the Consortium Member]

FOR: _____

[insert name of Consortium Member] (Signature)

NAME: _____

[Insert name of the person executing this Power of Attorney on behalf of the Consortium Member]

TITLE / DESIGNATION: _____

[Insert title / designation of the person executing this Power of Attorney on behalf of the Consortium Member]

ADDRESS: _____

[Insert address of the person executing this Power of Attorney on behalf of the Consortium Member]

FOR: _____

[insert name of Consortium Member] (Signature)

NAME: _____

[Insert name of the person executing this Power of Attorney on behalf of the Consortium Member]

TITLE / DESIGNATION: _____

[Insert title / designation of the person executing this Power of Attorney on behalf of the Consortium Member]

ADDRESS: _____

[Insert address of the person executing this Power of Attorney on behalf of the Consortium Member]

(To be executed by all the Consortium Members in favour of the Lead Member)