

Invitation to Bid for Swiss Challenge

NakaBuhi Residences – 4PH Project

**(Joint Venture with the
Municipal Government of
Buhi)**

Local Government Unit
MUNICIPALITY OF BUHI

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Section I. Invitation to Swiss Challenge

Republic of the Philippines
Local Government Unit of Buhi
PUBLIC-PRIVATE PARTNERSHIP SELECTION COMMITTEE
Buhi, Camarines Sur

NOTICE OF INVITATION TO SWISS CHALLENGE

The **Local Government Unit of Buhi** and the Original Private Sector Proponent—Legazpi Premium Development Corporation--intends to apply the sum of **TWO BILLION, SIX HUNDRED NINETY-THREE MILLION, SEVEN HUNDRED FORTY-EIGHT THOUSAND, FOUR HUNDRED NINE-FIVE PESOS AND POINT ZERO-FOUR CENTAVOS (PhP 2,693,748,495.04)** for the construction of 2,016 (6-storey) housing units in Sta. Justina, Buhi, Camarines Sur.

The **Local Government Unit of Buhi** now invites comparative proposals for the same.

All prospective Challengers must purchase bid documents, and must meet the following major criteria: (a) Filipino citizen in case of sole proprietorship, or in case of partnership, corporation, cooperative or joint venture, **60%** Filipino-owned, and (b) Challenger/s should submit its NFCC computation, among others, and must have completed, within ten (10) years from the date of submission and receipt of bids, a contract similar to the project. The non-discretionary pass/fail criteria will be used in the eligibility check and preliminary examinations of bids.

A complete set of Bidding Documents may be purchased by interested Challengers from the address below and upon payment of a non refundable fee for the Bidding Documents in the amount of **Seventy-Five Thousand Pesos Only (P75, 000.00)**.

The schedule of key procurement activities are as follows:

Publication of Invitation to Swiss Challenge April 15, 2024	
1. Posting of Bid Security by the Original Proponent	April 15, 2024
2. Submission of Expression of Interest	April 15, 2024 to April 22, 2024
3. Issuance of Bidding Documents	April 15, 2024 to May 6, 2024
4. Pre Bid Conference	April 23, 2024 at 1:00 P.M. @ Office of the Municipal Mayor Conference Room, New Municipal Building, San Buena, Buhi, Camarines Sur
5. Deadline of receipt/Opening of Bids	May 6, 2024 at 1:00 P.M. @ Office of the Municipal Mayor Conference Room, New Municipal Building, San Buena, Buhi, Camarines Sur
6. Evaluation of Proposals	May 7, 2024 at 9:00 A.M. @ Office of the Municipal Mayor Conference Room, New Municipal Building, San Buena, Buhi, Camarines Sur
7. Right to Match – May 8 to 17, 2024	Not applicable if without Challenger
8. Notice of Award – May 20, 2024	Notice of Award – April 29, 2024
9. Contract Preparation – May 21 to 27, 2024	Contract Preparation –April 30, 2024 to May 6, 2024
10. Contract Signing – May 28, 2024 to June 6, 2024	Contract Signing – May 7 to 16, 2024
11. Notice to Proceed – June 7, 2024	Notice to Proceed – May 17, 2024

All dealings, including electronic transactions, by the prospective Challengers (including owner representing a single proprietorship) with the PPP-Selection Committee and its Secretariat or TWG, shall be made only by a representative duly authorized by proper authentic sworn document/s submitted on or before the transaction.

Failure to comply with any of the foregoing requirements is a ground for automatic disqualification of a Challenger. The Local Government Unit of Buhi reserves the right to accept or reject any Bid, to annul the bidding process, and to reject all Bids at any time prior to contract award, without thereby incurring any liability to the affected Challenger/s.

For further information, please refer to:

MR. HERIBERTO M. MORAÑA

PPP-SC Secretary
Office of the Sangguniang Bayan
Local Government Unit of Buhi
Buhi, Camarines Sur

Or

ELY Z. YAPAN, EnP

Municipal Budget Officer
Ground Floor, New Municipal Bldg.
San Buena, Buhi, Camarines Sur

(Sgd)Dr. ELY Z. YAPAN, ENP
Chairman—PPP Selection Committee

Date of Publication: April 15, 2024 @ www.buhi.gov.ph

Section II. Instructions to Challengers

INSTRUCTION TO CHALLENGERS FOR THE COMPETITIVE CHALLENGE PROCESS

A. Powers and key responsibilities of the LGU PPP Selection Committee

Pursuant to Municipal Ordinance No. 23-276, the PPP Selection Committee (PPP-SC) of the Local Government Unit of Buhi as duly constituted by virtue of Executive Order No. 018, Series of 2024 will be administering the Competitive Challenge Process for the Project, and will be responsible for:

- 1) the publication of the invitation to submit comparative proposals;
- 2) the conduct of the pre-bid conference and the issuance of bid notices and bulletins;
- 3) the interpretation of the bidding rules;
- 4) the evaluation of comparative proposals; and
- 5) the recommendation for the award of the Project.

B. Conduct of the Competitive Challenge Process

The Competitive Challenge will follow the Two-Envelope System for soliciting comparative proposals.

Under the two-Envelope System, the bids or comparative proposals of challengers for the Project ("Challengers") shall consist of:

- i. the Technical Proposals; and
- ii. the Financial Proposals

(collectively referred to as the "Comparative Proposal"). The Comparative Proposals must be prepared and submitted on or before the deadline set by the PPP-SC for the submission of comparative proposals ("Comparative Proposal Submission Date") as one bid package or tender but contained in two (2) separately sealed envelopes. The Technical Proposals, and the Financial Proposals will be evaluated based on the evaluation criteria stipulated in this Terms of Reference ("TOR").

The general procedure for the Competitive Challenge will be as follows:

1. The Technical Proposals and the Financial Proposals of prospective Challengers will be submitted in two (2) separately sealed envelopes to the PPP-SC on the Comparative Proposal Submission Date. The Technical Proposals—which shall contain the Eligibility Documents — shall be opened first. Its completeness and responsiveness will be determined using a "pass-fail" criteria. If the technical proposal of a Challenger fails, his financial proposal will no longer be opened and will be returned to him on the same day. If the technical proposal passes the evaluation, the financial proposal thereof will be opened on the same day.

2. The Financial Proposals of technically compliant Challengers will be opened and evaluated. To be considered for evaluation, the Challenger must propose the following:
 - a. A Minimum capital of PhP 741,557,140.65. This amount includes the direct and indirect costs for the project.
 - b. Housing units of at least 2,016, with each unit consisting of 6 storeys.
 - c. A profit-sharing scheme where the LGU gets at least 10% of the profits.

Within 10 days from receipt of notice, the Original Proponent will have the right to match the offer of the most responsive challenger. If the Original Proponent matches the offer, the Original Proponent will be declared the winner and will be awarded the contract. If the Original Proponent fails to match the same offer, the most responsive challenger shall be awarded the contract. In accordance with Municipal Ordinance No. 23-276, the most responsive challenger must also reimburse the Original Proponent its costs for the preparation of its Project study, the amount of which will be based on the Standard Professional Practice of The Architecture Act of 2004, as a condition for award.

C. Eligibility Criteria and Requirements

The Eligibility requirements are set forth below. Only prospective challengers who meet the minimum legal, technical and financial eligibility requirements set by the LGU Buhi will be deemed eligible to have their Technical and Financial Proposals considered for evaluation by the PPP-SC.

1. Legal Qualification

A prospective Challenger or challenger will be deemed to have met the legal requirements if:

- a. The prospective Challenger is a Philippine citizen, or is a corporation or partnership that is at least 60% owned and controlled by Philippine nationals;
- b. If the prospective Challenger is a corporation or partnership, it shows proof of registration with the Securities and Exchange Commission (SEC) in the form of a certified copy of its SEC Certificate of Registration including its Articles of Incorporation, By-laws, including all amendments thereto, and latest General Information Sheet;
- c. It presents its current Business or Mayor's Permit or license;

- d. It submits all the sworn statements and legal requirements prescribed in this TOR duly executed by its authorized representative, including a statement that it is not included in any blacklist issued by any governmental agency of the Government of the Philippines, whether as an individual contractor, partnership, corporation, or any other juridical entity, or as a member of a joint venture or consortium.

2. Technical Qualification

A prospective challenger, or any of its affiliates¹, will be deemed to have satisfied the technical requirements if:

- a. It shows local or international experience in successfully financing, designing, and developing residential houses and commercial buildings with project costs of no less than P 50M each in the last five (5) years;
- b. It nominates key personnel to work on the Project with the required professional and educational qualifications set forth below.

Position	Qualification Requirement	Years of Experience
Project Manager/ Engineer /	Professional or licensed manager, engineer or architect with local and/or international experience in the design and planning of at least one (1) residential and one commercial building with project cost of not less than P 200M.	10
Lead Architect/ Designer	Professional architect with local and/or international experience in the design and planning of at least one (1) residential and one commercial building with project cost of not less than P 200M.	10
Civil/ Structural Engineer	Professional engineer with local and/or international experience in the construction of at least one (1) residential and one commercial building with project cost of not less than P 100M.	10

¹ An "affiliate" means a person, corporation or any entity controlled by or controlling the prospective Challenger, or associated with the prospective Challenger or challenger under common ownership and control.

Position	Qualification Requirement	Years of Experience
Geodetic Engineer/ Surveyor	Professional engineer in charge of the line and grade	10
Professional Electrical Engineer	Professional engineer with local and/or international experience in the design and planning of the electrical works of at least one (1) residential and one commercial building with project cost of not less than P 50M.	10
Sanitary Engineer	Professional engineer with local and/or international experience in the design and planning of the sanitary works of at least one (1) residential and one commercial building with project cost of not less than P 50M.	10
Mechanical Engineer	Professional engineer with local and/or international experience in the handling of elevator, pumps, fire protection works and the like of at least one (1) residential and one commercial building with project cost of not less than P 50M.	10
Laboratory Technician	Professional technician with experience in materials quality control of at least one (1) residential and one commercial building with project cost of not less than P 50M.	10
Materials engineer	Professional technician with experience in materials quality control of at least one (1) residential and one commercial building with project cost of not less than P 50M.	10
Environmental Planner		10

3. Financial Qualification

A prospective challenger, or its affiliate, will be deemed to have met the financial qualification requirements if:

- a. Its audited financial statements show positive net income for the last three (3) fiscal years.

- b. It has a net worth equivalent to at least PhP 1,625,000,000.00 for the last fiscal year based on its latest audited financial statements, which should not be earlier than the fiscal year ending 31 December 2023.
- c. They present at least one (1) bank testimonial letter from a reputable domestic universal or commercial bank, or international bank duly licensed or recognized by the *Bangko Sentral ng Pilipinas*, certifying that the prospective Challenger is banking with them, is in good financial standing, and is qualified to obtain credit facilities from such bank to finance the Project.

4. Eligibility Documents and Submission

To prove compliance with the foregoing requirements, prospective Challengers (including their affiliates, each member of the consortium, and their contractors) must submit the following documents in their prescribed forms and in the enumerated order:

- a. Mayor's Permit;
- b. DTI registration if sole proprietorship; SEC Registration if Partnership or Corporation; CDA Registration if cooperative;
- c. General Information Sheet;
- d. Organizational Structure (including the key technical personnel to be utilized in the project);
- e. Statement of Single Largest Completed Contract;
- f. List of all on-going and completed contracts in the Government and in the Private Sector;
- g. Net Financial Contracting Capacity;
- h. Audited Financial Statements for 2023;
- i. Bank Certification on Financial Qualification as of the date of submission of bid;
- j. Omnibus Sworn Statement that it has all the legal requirements prescribed in this TOR, including a statement that it is not included in any blacklist issued by any governmental agency of the Government of the Philippines, whether as an individual contractor, partnership, corporation, or any other juridical entity, or as a member of a joint venture or consortium.^[1]_{SEP}

5. Contents of the Technical Proposal

The Technical Proposal shall be a Project Feasibility study to be prepared by each prospective Challenger, which must contain the following minimum information and analysis:

- a. **Executive Summary**
- b. **Background of the Project**
- c. **LGU Profile**
- d. **Project Description, Objectives and Experience**
- e. **Project Proponent/Challenger Profile and Experience**
- f. **Institutional Analysis** – Key Stakeholders and Institutions
- g. **Current Status and Condition of the Properties**
- h. **Business Proposal and Strategic Plan for the Town Center**
- i. **Project Components** – Technical Components and Features (in compliance with the minimum design standards and technical specifications of the Project)
- j. **Project Cost** - Breakdown of Project Development, Pre-Construction, and Construction Costs
- k. **Preliminary Architectural Design and Floor Plan** - Must meet the minimum design standards and technical specifications
- l. **Project Implementation Work Plan and Schedule**
- m. **Environmental and Social Analysis** - Must provide for a wastewater treatment plant and material recovery facility
- n. **Financial Analysis** - Key Financial Assumptions, Project Financing Plan, Proposed Public Market Lease Rates, LGU Revenues from the Project, Financial Return, Sensitivity Analysis
- o. **Economic Analysis** (applying NEDA prescribed methodology) - Economic Costs and Benefits, Economic IRR, Benefit-Cost Ratio, Economic Sensitivity Analysis
- p. **Value for Money Analysis** (applying PPP Center approach and methodology)
- q. **Risk Analysis**
- r. **Legal Analysis and Statement of Conformity to the Terms of the Draft Contract**

s. Conclusion

The Technical Proposal must be accompanied by the original Bid Security in the prescribed form and amount as provided for in this TOR.

6. Contents of the Financial Proposal

The Financial Proposal shall be prepared following the requirements prescribed and containing the information indicated below:

- a. **Annex FP-1, Financial Proposal Letter**—Financial Proposal letter duly signed by the authorized representative of the qualified Challenger stating that:
 - i. A Minimum capital of PhP 741,557,140.65 shall be infused. This amount includes the direct and indirect costs for the project.
 - ii. Housing units of at least 2,016, with each unit consisting of 6 storey.
 - iii. A profit-sharing scheme where the LGU gets at least 10% of the profits.
- b. In case of a draw, another round of Financial Bids among the challengers will be conducted to break the tie. This process will continue until a winning Challenger emerges.
- c. No conditional Financial Proposals or offers will be considered or accepted by the LGU. The Challenger must prepare its Financial Proposal strictly following the form provided in this TOR.

If awarded the Project, the amounts indicated in the winning Challenger's Financial Proposal will be incorporated in the relevant articles and schedules of the Memorandum of Agreement.

D. Evaluation of Proposals

The evaluation of Comparative Proposals will consider the completeness of the proposals and their responsiveness to the minimum design and technical specifications prescribed in this TOR and the Memorandum of Agreement.

The general criteria are:

- a. The contents of the Eligibility Documents, the Technical Proposals, and the Financial Proposals should be complete and include all the requirements enumerated in the Instructions to Challengers.

- b. All Challengers must comply with the minimum design and technical specifications set out in this TOR.
- c. Non-delivery or non-inclusion of key components will result in the disqualification of the Challenger for submitting a proposal that is non-responsive.

The Eligibility Documents, and the Technical and Financial Proposals will be evaluated as follows:

E. Right to Match

The Original Proponent will have the right to match the offer submitted by the most responsive challenger within ten (10) days from receipt of notice. The Original Proponent will exercise its right to match through a letter signed by its duly authorized representative addressed to the PPP-SC Chairman.

If the Original Proponent matches the offer or if there would be no responsive or complying Challenger or Comparative Proposal, the Original Proponent will be awarded the contract and shall enter into the Memorandum of Agreement with the Municipality.

If the Original Proponent fails to match the best offer received by the LGU-Buhi, the contract will be awarded to the most responsive challenger. In accordance with Municipal Ordinance No. 23-276, the most responsive challenger shall also reimburse the Project study costs of the Original Proponent equivalent to PhP 28,520,175.70.

F. Award of the Project

Notice of Award

Pursuant to the approved timeline, the Notice of Award shall be issued within three days after evaluation of the matching offer, or within five days after the deadline for submission of sworn expression of interest, if there are no competitive challenger.

Contents of the Notice of Award

The Notice of Award shall inform the winning Private Sector Proponent of the decision to award the contract in its favor and shall require it to submit the following:

a. Performance Security in the following amount and form:

Form of Bid Security	Amount
Cash, manager's check or standby letter of credit issued by a domestic universal or commercial bank duly licensed by the BSP	2% of Challenger's committed capital investment
Bank guarantee issued by a duly licensed domestic or commercial bank, or surety bond issued by the GSIS or a duly licensed surety company	2% of Challenger's committed capital investment

b. In case a Project company will be formed, proof of company registration with the SEC in accordance with Philippine laws.

c. Other conditions that the LGU-Buhi may require.

Failure of the winning Private Sector Proponent-Lessee to submit the requirements above within thirty (30) days or such reasonable extension that may be provided, or failure on its part to sign the Memorandum of Agreement within the prescribed period, shall cause its disqualification and the forfeiture of its Bid Security.

Signing of the Contract

Within five (5) calendar days from the submission of proof of compliance with all conditions for award, the LGU-Buhi will advise the winning Private Sector Proponent whether or not its submissions are satisfactory. Within five (5) days from the receipt of the advice of the LGU that all conditions for award have been fully complied, the winning Private Sector Proponent-Lessee must sign the Memorandum of Agreement with the LGU-Buhi.

In the event of refusal, inability or failure of the winning Private Sector Proponent-Lessee to sign the Memorandum of Agreement within the prescribed time, the LGU-Buhi shall call on the Bid Security without prejudice to any other right or action that the LGU-Buhi may decide to exercise or institute against the same proponent.

In such event, the LGU-Buhi may consider the next most responsive proposal and so on, until the Memorandum of Agreement has been validly awarded and signed.

At any rate, the signing of the Memorandum of Agreement must be done

within ten (10) days once authority to sign has been granted to the Local Chief Executive by the Sangguniang Bayan of Buhi.

Notice to Proceed

A notice to proceed or commence implementation or similar certification shall be issued to the Private Sector Proponent-Lessee after the signing of the Memorandum of Agreement and fulfilment of conditions precedent for contract effectivity.

G. General Conditions for the Competitive Challenge

Bid Security

All challengers must post a Bid Security to guarantee that they will abide by the rules of the Competitive Challenge Process, comply with all the conditions and requirements specified in the Notice of Award, post the required performance security, and enter into the Memorandum of Agreement with the LGU-Buhi if awarded the Project, all within the prescribed periods.

The Bid Security shall be in the form of cash, bank manager's/cashier's cheque, or an irrevocable standby letter of credit issued by a reputable foreign or domestic universal or commercial bank acceptable to the LGU-Buhi. The Bid Security shall be valid for a period of one hundred eighty (180) days from the Comparative Proposal Submission Date.

The amount of the Bid Security shall be as follows:

Form of Bid Security	Amount
Cash, manager's check or standby letter of credit issued by a domestic universal or commercial bank duly licensed by the BSP	2% of Challenger's committed capital investment
Bank guarantee issued by a duly licensed domestic or commercial bank, or surety bond issued by the GSIS or a duly licensed surety company	2.5% of Challenger's committed capital investment

The original Bid Security shall be enclosed in a separately sealed envelope and marked "*BID SECURITY OF (Name of Challenger).*"

The Bid Security must be placed in the envelope containing the Technical Proposal. Failure to post the Bid Security as instructed shall be a ground for rejection of the Proposal.

Unless otherwise agreed between the Challenger and the LGU, the Bid Security of an unsuccessful Challenger shall be returned and released upon the award and signing of the Contract and the submission by the winning Challenger of its performance security, or upon expiration of the validity period of the Bid Security, whichever is later.

The Bid Security shall be forfeited due to any of the following reasons:

- a. If a *Challenger* withdraws its bid after the Comparative Proposal Submission Date.
- b. If any member of the joint venture or consortium withdraws prior to the actual award and/or signing of the Memorandum of Agreement which can be a ground for the nullification of the award unless it is determined that the Winning Challenger is still capable of successfully carrying out the Project or has provided a suitable substitute with equal or better qualifications than the withdrawing member and is deemed acceptable to the LGU-Buhi.
- c. Material or willful misrepresentation in the Competitive Challenge Process.
- d. Illegal conduct or attempt to influence the PPP-SC's evaluation of the comparative proposals or the results of the Competitive Challenge.
- e. If the winning Challenger fails to furnish the documents or complete the conditions and requirements stated in the Notice of Award, or
- f. If the winning Challenger fails to sign the Memorandum of Agreement within ten (10) calendar days upon receipt of notification by the LGU-Buhi.

Submission of Expression of Interest and Purchase of TOR

Only parties who have purchased the TOR or Competitive Challenge documents for SEVENTY FIVE THOUSAND PESOS (P75,000.00) and have submitted written expressions of interest addressed to the PPP-SC shall be eligible to participate in the Competitive Challenge Process.

The deadline for the submission of formal expressions of interest as well as the purchase of the TOR will be on or before April 22, 2024, 5:00 P.M at the Mayor's Office – Research and Special Project, Ground Floor, Buhi Public Library Building, San Buena, Buhi, Camarines Sur.

The LGU-Buhi reserves the right to cause the blacklisting of any person or company that will submit a sworn expression of interest but will fail to submit a Comparative Proposal on the comparative proposal submission date. If blacklisted, such party shall be barred from participating in all Philippine Government procurement opportunities. Other reliefs and sanctions may also be sought by the LGU-Buhi, if warranted.

Pre-Bid Conference

Prospective Challengers may attend the Pre-Bid Conference to clarify issues and raise questions regarding the Project, the TOR, and the Competitive Challenge Process. Attendance will not be compulsory. Unless otherwise informed in writing, the Pre-Bid Conference will be held on **April 23, 2024, 1:00 P.M.** at the **Mayor's Office Conference Room**, New Municipal Building, San Buena, Buhi, Camarines Sur.

Queries

All inquiries regarding the Competitive Challenge and comments on the TOR must be submitted in writing to the Chairman of the PPP-SC and received by the LGU-Buhi/PPP-SC on or before **April 22, 5:00 P.M.**. Answers will be furnished to all Challengers who submitted their Expressions of Interest and purchased the TOR, in the form of supplemental bid bulletins or notices posted in the LGU-Buhi's official website (www.buhi.gov.ph). The PPP-SC shall not entertain inquiries which are not in writing, duly signed by the Challenger's authorized representative, and addressed to the PPP-SC Chairman.

Any deviation from or exception to the terms of the TOR and the Memorandum of Agreement which has not been previously covered by a supplemental notice or bid bulletin shall result in the rejection of the comparative proposal for being non-responsive.

Site Inspection and Due Diligence

All requests for site inspections and other due diligence activities as part of Comparative Proposal preparation shall be made in writing and addressed to the PPP-SC. The LGU-Buhi will coordinate and schedule all activities in accordance with its pertinent policies, rules and procedures.

Cost and Expenses

Prospective Challengers shall bear all costs associated with their participation in the Competitive Challenge including the preparation and submission of their comparative proposals, and all possible losses or damages resulting from their participation. The LGU-Buhi shall not be held responsible or liable in any way for such costs regardless of the results of the Competitive Challenge.

Preparation of Comparative Proposals

The Comparative Proposal must be signed in the name of the prospective challenger followed by the signature, name and title of the person authorized to bind the Challenger to the Comparative Proposal. Each page of the Comparative Proposal must be either signed or initialed by such authorized representative.

The Comparative Proposal, and all correspondences and documents relating to it, shall be prepared and written in the English language. Any printed literature or document furnished by the prospective Challenger written in a foreign language shall be accompanied by an English translation authenticated by a Philippine consular official. In case of conflict, the English translation shall prevail.

All documents or certifications issued by foreign authorities or executed outside the Philippines shall also be duly notarized and authenticated before a Philippine consular official at the Philippine embassy nearest the place of issue.

Prospective Challengers shall use and adhere strictly to the prescribed bid forms included in the TOR. All supporting documents and information required by the TOR shall be submitted together with the Comparative Proposal.

Submissions or modifications received after the Comparative Proposal Submission Date shall not be accepted or considered, and shall be returned to the challenger unopened.

All documents submitted in response to the TOR shall become the property of the LGU-Buhi which may use said documents and copy the same for proposal evaluation purposes. Notwithstanding the foregoing and without prejudice to any subsequent agreement, proprietary information protected by intellectual property laws shall not be appropriated by the LGU-Buhi and will be considered confidential.

The contents of the Eligibility Documents, the Technical Proposals and the Financial Proposals must be presented in the order and form indicated in this TOR, and must be enclosed in separately sealed envelopes or boxes.

The three (3) envelopes/boxes must be separately sealed and appropriately addressed and marked as follows:

<p>REPUBLIC OF THE PHILIPPINES</p> <p>LOCAL GOVERNMENT UNIT OF BUHI</p> <p>NAKABUHI RESIDENCES 4PH PROJECT</p> <p>[ELIGIBILITY DOCUMENTS/TECHNICAL PROPOSAL/FINANCIAL PROPOSAL]</p> <p>[STATE NAME AND ADDRESS OF CHALLENGER]</p> <p>DO NOT OPEN UNTIL MAY 6, 2024</p>

Envelopes/boxes must be correctly marked as "ORIGINAL" or "COPY NO. ____." The prospective challenger's name and address must also be written on the envelope/box to enable the PPP-SC to return the submitted Comparative Proposals unopened in appropriate cases.

If the envelopes are not properly sealed and/or marked as instructed above, the PPP-SC shall not assume any responsibility for the loss or premature opening of the submitted Comparative Proposal.

Further, envelopes which are not properly sealed and/or marked as instructed above shall automatically be disqualified for evaluation and the same shall be returned to the Challenger.

All prospective challengers must submit the following:

- a) One (1) original and complete set of the Eligibility Documents and the Technical Proposal;
- b) Two (2) duplicate copies of the Eligibility Documents and the Technical Proposal;

- c) One (1) original of the Bid Security in a separately sealed envelope contained in the Technical Proposal and marked "Bid Security of (name of Challenger)";
- d) Two (2) duplicate copies of the Bid Security in a separately sealed envelope. One duplicate copy shall be submitted together with the duplicate copy of the Technical Proposal;
- e) One (1) original of the Financial Proposal;
- f) Two (2) duplicate copies of the Financial Proposal

The Comparative Proposal must be printed either in standard A4 or letter size (8 ½" x 11") paper and bound together in ring binders of adequate size, if necessary. Comparative Proposals must be paginated and written at a minimum 12-sized font. Spacing between lines must be at least single to double space.

Each prospective challenger shall submit only one bid or comparative proposal, either individually or as a partner or member of a bid consortium or joint venture. A prospective Challenger who submits or participates in more than one proposal will cause all such proposals in which the same Challenger has participated, to be disqualified. This restriction covers the participation of contractors or subcontractors in more than one bid or proposal.

Prospective challengers are required to submit their Comparative Proposals to:

THE PPP-SC CHAIRMAN
PPP-SELECTION COMMITTEE
4PH HOUSING PROJECT
Buhi, Camarines Sur

All Comparative Proposals must be submitted on or before **May 6, 2024, 1:00 P.M.** ("Comparative Proposal Submission Date") at the Municipal Budget Office, Ground Floor, New Municipal Building, San Buena, Buhi, Camarines Sur. The date and time of submission shall be recorded through the use of the official clock on the wall of the said office.

The opening of the envelopes/boxes containing Bid Documents of Challengers shall immediately follow the Comparative Proposal Submission Date.

Proposals submitted after the Comparative Proposal Submission Date and Time as prescribed above shall be considered late and shall be rejected and returned unopened.

Only two (2) duly authorized representatives for each prospective challenger will be allowed to attend and participate in the opening of proposals. They

shall sign the register confirming their attendance. Subject to certain rules, this event shall be open to the public.

Grounds for Disqualification

A Comparative Proposal shall be rejected or a challenger disqualified from further participation in the Competitive Challenge for any of the following or related reasons:

- a) Late submission of a Comparative Proposal or any part thereof;
- b) Failure to comply with the TOR instructions or to meet the Eligibility criteria and requirements provided therein;
- c) Failure to submit the required supporting documentation;
- d) Material or willful misrepresentation in the Competitive Challenge Process;
- e) Illegal conduct or attempt to influence the LGU-Buhi's evaluation of the Comparative Proposals or the results of the Competitive Challenge;
- f) Failure to pass post-qualification or determination by the PPP-SC that the Challenger will be unable to fulfil the terms or conditions of the Comparative Proposal;
- g) Failure to comply with the conditions for award within the time prescribed;
- h) Refusal, inability or failure to enter into the Memorandum of Agreement after contract award; and
- i) Other grounds for rejection or disqualification of bids or proposals under all applicable laws.

Challengers' Responsibilities

This TOR does not purport to contain all of the Project information that an interested party may need. It has been prepared to assist prospective challengers in making their own evaluation. In all cases, Challengers should conduct their own due diligence on the Project and make their own independent analysis of the information provided to them.

Neither the LGU-Buhi, the PPP-SC, nor any of their officers, employees, agents, representatives or advisors make any representation (expressed or implied) or warranty as to the accuracy or completeness of this TOR or the information contained herein or provided to prospective Challengers. They shall have no

liability for it or for any other written or oral communication transmitted to the recipient in the course of the recipient's evaluation of the proposed transaction.

This TOR has made certain interpretations, explanations and summaries of Philippine laws, rules, regulations, court decisions, and other government authorizations. These are discussed solely to acquaint the recipient with the subjects concerned in a general manner. Nothing contained in the TOR is intended to take the place of independent professional advice concerning the legal, technical, commercial and financial aspects of the Project or this transaction.

Right to Reject Proposals

The LGU-Buhi reserves the right to reject any or all comparative proposals, waive any minor defects, and accept the most advantageous proposal to the LGU-Buhi.

Unlawful Practices

By submitting a Comparative Proposal and participating in the Competitive Challenge Process, the prospective challenger acknowledges and agrees that:

- a) The LGU-Buhi may, at its election and at its sole and absolute discretion, at any time by written notice to all concerned, terminate the TOR and the procurement process for the Project for any reason;
- b) There is no implied contract, representation or warranty on the part of the LGU-Buhi other than those provided in the TOR;
- c) Its participation in the Eligibility and Competitive Challenge Process is conducted without misrepresentation, corrupt practice, coercion, collusion or fraud;
- d) It will not engage in any form of political or other lobbying with respect to the Project or to influence the outcome of the Eligibility and the Competitive Challenge;
- e) It does not have any conflict of interest that would give it any unfair advantage in the Competitive Challenge process, or would allow it to influence the decision of the LGU-Buhi/PPP-SC or acquire information about the Project which is not in the public domain or that has not been disclosed to all prospective Challengers.

For purposes of this section, corrupt practice, fraud, collusion, and coercion are defined as follows:

- a) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the Competitive Challenge or in contract execution; this also includes similar acts punishable under the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019);
- b) "fraud" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the LGU-Buhi, and includes collusive practices among prospective Challengers (prior to or after proposal submission) designed to establish financial offers or prices at artificial, non-competitive levels and to deprive the LGU-Buhi of the benefits of free, transparent and open competition;
- c) "collusion" means a scheme or arrangement between two or more prospective challengers, with or without the knowledge of the LGU-Buhi, designed to establish financial offers or prices at artificial, non-competitive levels; and
- d) "coercion" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their involvement in the Competitive Challenge, or affect the execution of the contract.

Conflict of Interest

All prospective challengers found to have a conflict of interest shall be disqualified. A challenger may be considered to have conflicting interests with another challenger in any of the events described in paragraphs (a) through (c) below and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (g) below:

- a) have common controlling shareholders;
- b) have received any direct or indirect subsidy from any of the challengers;
- c) have the same legal representative for purposes of their respective Comparative Proposals;
- d) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the proposal of another challenger, or influence the decisions of the LGU-Buhi regarding the bidding;
- e) submit more than one proposal in the competitive challenge;

- f) participated as a consultant in the preparation of the design or technical specifications of the Project which is the subject of the Competitive Challenge; or
- g) a firm or an organization who lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the Project, if the personnel would be involved in any capacity on the same project.

In addition, a prospective challenger must not be related to any member of the Sangguniang Bayan and the LGU-Buhi Mayor by consanguinity or affinity up to the third civil degree, or any of the LGU-Buhi's officers or employees having direct access to information that may substantially affect the result of the Competitive Challenge, such as, but not limited to, the members of the PPP-SC, the members of the Technical Working Group, the PPP-SC Secretariat, and the members of any Project Management Office. This prohibition shall apply to the following persons:

- a) If the Challenger is an individual or a sole proprietorship, to the Challenger himself;
- b) If the Challenger is a partnership, to all its partners and officers;
- c) If the Challenger is a corporation, to all its officers, directors, and controlling shareholders, and
- d) If the Challenger is a consortium or joint venture, the provisions of items (a), (b), or (c) of this clause shall correspondingly apply to each of the members of the consortium or joint venture, as may be appropriate.

Relationship of the nature described above or failure to comply with the provisions of this section will result in the rejection of the challenger's Comparative Proposal.

Governing Law

The provisions of the Local Government Code, its IRR, Municipal Ordinance No. 23-276, and in a suppletory manner as to procedure, RA 9184 and its IRR.

Section III. Technical Specifications

In its technical proposal covered by the Unsolicited Proposal, the PSP indicated that it will generally take the project's objectives, scope of work, the deliverables and the timeline as set in the Unsolicited Proposal under specific conditions as indicated in this Inception Report.

The PPP-SC-TWG outlined the following as scope as submitted by the PSP in the Unsolicited Proposal:

1. Review of studies and plans. The PSP should demonstrate an inventory and assessment of previous studies and plans made in relation to the DHSUD-LGU Buhi standards;
2. Drafting of the Contract of Agreement and the Preparation of the Terms of Reference basing from the Technical and Financial Proposal to be submitted by the PSP.

Formulation of the Design for the PSP Processes

Important Considerations in the Conduct of the Project Study:

- Part of the area is topographically depressed area, considerable amount of filling materials will be required line and grade of the future buildings;
- The proposed site has a natural depression, which corresponds to the valley of a stream;
- To further promote green development, specifically promoting energy efficient municipality, we are also looking at revisiting urban design approach. It is expected that a significant increase in seasonal temperatures due to climate change in the next few decades. Cooling the residential units of the project by designing the Low/Mid Rise Buildings, road network and other buildings relative to prevailing wind patterns and sun path is suggested for inclusion in planning. This urban design principles are translated into adaptation strategy of the PSP;
- The National Green Building Code, regulates the design of buildings. It provides design regulations to promote resource efficiency, reduced GHG emissions, and enhanced site suitability;
- Some provision may include high solar reflectance index regulations (regulating the colors of roofs and buildings to reduce heat absorption), green facade area requirements for buildings sides frontages and rears exposed to at least 4 hours of sunlight, promoting white and green roofs to reduce heat gain, and regulating building orientation, height and density to maximize natural cooling and maximize shading by designing relative to sun path and wind patterns;

- One of the most overlooked interventions which we are reviving would be the emphasis on maximizing shade along the streetscapes. This design approach reduces heat gain of buildings and sidewalks, enhances the pedestrian walking environment to encourage non-motorized pedestrian mobility, and provides areas for GHG sequestration. It is suggested to revisiting set-back requirements along roads to ensure that adequate spaces are set aside for the establishment of road side trees;
- Consider pilot testing the use of permeable surfaces to further reduce thermal mass along sidewalks. Apart from aesthetics, we also see the advantages of permeable surfaces to contribute in reducing urban flooding and enhanced recharge of ground water;
- In terms of off-grid renewable solar energy, the PSP shall explore partnerships to lease the areas of our public government buildings for the purposes of solar power generation. This will reduce consumption of engird derived from fossil fuel.

1. Formulation of the Design for the 4PH Housing Project Site Development and Construction Works.

The site development and construction works design shall include the following:

- Site preparation
- Road to be used during construction and operation
- Erosion control, flood control, and diversion and drainage system for uncontaminated surface runoff
- Slope protection system
- Sanitary system
- Power and water supply system
- Buffer zone
- Gate, entrance facilities and waste inspection area
- Perimeter fence
- Signage
- Workshop for repair and maintenance of construction equipment

2. Electro-Mechanical Works Design

Appropriate design should be prepared for the following:

- Electrical power and distribution system
- Water Supply Resource Development
- Internal traffic management controls
- Communication system
- Fire alarm/protection system
- Powerhouse
- Submergible Pumps
- Elevator System

An operations and maintenance manual for use of the electro-mechanical works should be prepared and submitted.

3. Architectural Design

The facilities should be designed to be functionally effective, enable economic operations and require minimum maintenance.

4. Quantity and Cost Estimates

The bill of quantities for all works and cost estimates of pay items for each component of the design should be prepared. All construction quantities and costs shall be estimated to an accuracy of plus or minus 10 percent inclusive of appropriate taxes. The methods of payment per item (lump sum, unit cost) which would be most appropriate to enable and facilitate cost and quality control shall be defined.

5. Housing Project Specifications

A list of all equipment required for the construction of the Project should be prepared. The list should include technical specifications for each type and size of construction equipment.

6. Tender and Contract Documents

The following documents for Contracting of Civil and Electro-Mechanical works and procurement of equipment should be prepared:

- Instructions to tenderers
- Complete set of final construction drawings (including sequencing plans for each 4-storey Building
- Technical specifications
- Bill of quantities
- Conditions of contract
- Form of contract
- Bidding form

7. Health and Safety Manual

A manual to guide all aspects of construction and monitoring with regard to health and safety, including measures to deal with, accidents and injuries. Communication, medical care, emergency response, and evacuation procedures are to be outlined, as well as all other potentially useful procedures for ensuring the health and safety of all workers, visitors, and surrounding residents at the site should be prepared.

8. Project Implementation Schedule

The schedule should include the timeline for pre-qualification, bidding, evaluation and award and construction of the tenement building and appurtenances.

- 2,016 housing units (14 6-storey buildings)
- _____ commercial establishments

EXTERIOR FINISHES:

- Driveways, walk-ways, parking
- Play area, basketball court
- Exterior façade
- Exterior landscape

INTERIOR FINISHES:

- Ground Floor/common areas
- Chapel
- Retail units/commercial units
- Residential units
- Residential toilets
- Fire exit stairs
- Electrical
- Plumbing

APPURTENANCES:

- Elevator
- Rain water harvesting facility
- Installation of renewable energy (solar power supply) · Wastewater treatment facility
- Materials recovery facility
- Road network

Section IV. DRAFT CONTRACT

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement") is made, entered into and executed this ____ day of _____ 2024, by and between:

The Municipal Government of Buhi, a Local Government Unit existing under laws of the Republic of the Philippines, with principal office at New Municipal Building, San Buena, Buhi, Camarines Sur, represented by its Municipal Mayor, REY P. LACOSTE, duly authorized under Sanggunian Bayan Resolution No. _____, dated , 2024, and here under referred to as the "LGU".

-and

_____, a corporation duly organized and existing under the laws of the Republic of the Philippines, with office address at _____, represented herein by its President, _____, by virtue of the Secretary Certificate issued by its Corporate Secretary and hereinafter referred to as the "DEVELOPER".

The LGU and DEVELOPER, may be individually referred to as a "Party" and collectively as the "Parties".

WHEREAS, Republic Act (R.A.) No. 11201 created the (DSHUD) as the primary national government entity responsible for the management, policy, regulation, and program coordination of housing, human settlement, and urban development concerns;

WHEREAS, the Pambansang Pabahay Para sa Pilipino (4PH) Program is a government housing project through the Department of Human Settlement and Urban Development (DHSUD) in tandem with its key shelter agencies, which aims to service the housing needs of the Philippines for over six million families by 2028;

WHEREAS, the LGU entered into a Memorandum of Understanding (MOU) with DHSUD dated November 28, 2023, and agreed to identify land that is suitable and safe for enrolment to the Program and the development of housing units under the 4PH Program;

WHEREAS, the DEVELOPER along with their affiliates, have signified their willingness to participate in the 4PH Program by financing the LGU's Housing Project's (the "Project") land development and housing construction component through direct developmental loans with key Shelter Agencies (KSAs) and/or Government Financial Institutions (GFIs), or through its compliance to the balanced

housing development requirements, through direct participation and which shall be commensurately credited as present and future compliance of their main projects;

WHEREAS, the LGU and DEVELOPER have expressed their willingness to complement each other and jointly pursue the objectives of the 4PH Program, whereby the DEVELOPER shall provide the necessary land and housing development on land owned and identified by the LGU for the implementation of a housing project for target beneficiaries;

NOW, THEREFORE, for and in consideration of the foregoing premises, the Parties have agreed as follows:

I. REPRESENTATION, WARRANTIES AND RESPONSIBILITIES OF THE LGU

I.1 Representation and Warranties. The LGU hereby represents and warrants that:

1. It has the full power, authority, and legal right to execute this Agreement and the Deed/s to exercise its rights and perform its obligations hereunder, and to consummate the transactions contemplated herein;
2. The execution, delivery and performance by it of this Agreement of the deed/s do not and will not violate any provision of applicable law or constitute a breach of any contract to which the LGU is a party or by which it may be bound;
3. It shall comply with all applicable laws, rules, and regulations, issuances and orders of relevant government agencies in the performance of its obligations under this Agreement and the Deed/s, including any future construction or development activities therein;
4. All consents necessary for the due execution, delivery, and performance of this Agreement and the Deed/s have been obtained;
5. It has absolute ownership over the property or parcel/s of land where the Project will be developed, with a total area of approximately FORTY-ONE THOUSAND, FIVE HUNDRED FIFTY-EIGHT (41,558) square meters, covered by Transfer Certificate of Title ("TCT") No. _____ located in Barangay Sta. Justina, Buhi, Camarines Sur and more particularly described in the Provisional Technical Description and Lot Information (the "Land") The said titles were issued by the Registry of Deeds of Camarines Sur;
6. The LGU shall cause and ensure that all of the aforementioned land titles shall be free from all liens, claims, or encumbrances, and that the subject property shall be free and unoccupied by any settlers upon or at the time of development by the DEVELOPER;
7. It shall enter into agreement/s with the DEVELOPER laying down the terms and conditions of the development of the Project;

8. It shall account for the applicable local transfer taxes and registration fees covering the Land, when necessary. It shall likewise account for the real property taxes due on the applicable Land;
9. It shall limit the allowable activities to be conducted on the Land and within the Project to residential, small and medium sized enterprises, and other related activities, and shall prohibit activities that have the potential to cause or may actually cause any form of disturbance or nuisance to the Project and its Beneficiaries;
10. It shall allow and recognize the DEVELOPER participation in the Project by way of land development, and housing development;
11. It shall enter into and execute the necessary document covering the conveyance of the housing units to the Beneficiaries, whether as individuals or as an association (if applicable);
12. It shall permit the DEVELOPER to primarily manage the execution of the land and housing developments of the Project, in coordination with the Beneficiaries, which shall be include but not be limited to:
 - a. Planning and design of land development and its engineering components;
 - b. Subdividing the lots to the qualified Beneficiaries;
 - c. Procuring and appointing of contractors and subcontractors;
 - d. Managing the financing for the Project;
 - e. Managing and monitoring the day-to-day development activities, including the timetable, safety, and quality control; and
 - f. Turning over the completed land and housing developments.

II. REPRESENTATIONS, WARRANTIES AND OBLIGATIONS OF THE DEVELOPER

II.1 Representation and Warranties. The DEVELOPER hereby represents and warrants that:

- II.1.1 They are duly organized, validly existing, and in good standing under the laws of the Republic of the Philippines;
- II.1.2 They have the full power, authority, and legal right to execute this Agreement, to exercise their rights and perform their obligations hereunder, and to consummate the transaction contemplated herein;
- II.1.3 The execution, delivery, and performance by them of this Agreement do not and will not violate any provision of applicable law, or constitute a breach of any contract to which they may be bound;

- II.1.4 They shall cause their contractors to agree to account for all defects in the land and housing developments and warrant the Project shall be developed and completed in accordance with the development plans approved by the regulatory bodies and the concerned parties;
- II.1.5 All consents necessary for the due execution, delivery and performance of this Agreement have been obtained;
- II.1.6 They shall hold the LGU and its officials and personnel free and harmless from any and all claims, actions, liabilities, losses and suits which may be brought or instituted by any party whatsoever by reason of the fault, failure, negligence, delay, or any conduct on its part or that of its Contractor, its respective officers, employees, and agents in the performance of their corresponding obligations under this agreement, without prejudice to its claim against the proper erring party;
- II.1.7 The obligations expressed to be assumed by them under this MOA are, under the laws of the Republic of the Philippines, legal, valid, and binding obligations, enforceable against them in accordance with the terms and conditions hereof, and that all acts, conditions, and things required by their Articles of Incorporation to be done, fulfilled, or performed in order to enable it to enter into, execute, deliver, exercise its rights, and perform its obligations hereunder; and
- II.1.8 The DEVELOPER shall execute the necessary Deed/s with the LGU, laying down the terms and conditions of the land and housing development for the LGU, which may be done in phases, and on which the Project shall be established and registered by the latter with the relevant national and local government agencies.

II.2 Obligations of the Developer

- II.2.1 Land development. The DEVELOPER shall finance the land development of the Project with the approved detailed costing/bill of materials and labor for the Project but not to exceed the maximum amount of _____ (PhP _____ .00) or _____ PHILIPPINE PESO (PhP _____ .00) per square meter or the actual cost contribution of the DEVELOPER, whichever is higher, at its exclusive expense, for the design, engineering, and construction of the land development for the Project, which shall include the construction of roads, drainage, and open space facilities, as well as any taxes, fees, and charges that may be assessed on the project;
- II.2.2 House Construction. The DEVELOPER shall finance the housing development of the project with the approved detailed costing/bill of materials and labor for the Project but not to exceed the maximum amount of _____ (PhP _____ .00) or _____ PHILIPPINE PESO (PhP _____ .00) per unit or the actual cost contribution of the DEVELOPER, whichever is higher, at its exclusive expense, for the design, engineering, and construction of the land development for the

Project, which shall include the construction of roads, drainage, and open space facilities, as well as any taxes, fees, and charges that may be assessed on the project;

II.2.3 Financing. It shall secure funding for the development of the proposed housing project(s) including the land development and building construction from the Social Housing Finance Corporation (SHFC), (or other GFIs enrolled in the Program) consistent with the standards of DHSUD under the Program and other concerned regulatory agencies;

II.2.4 It shall enter into a Collection Servicing Agreement with SHFC (or other GFIs) and the LGU for the collection of the monthly amortization and housing loan payment of beneficiaries selected by the LGU and the payment of developmental loan secured by the DEVELOPER;

II.2.5 It shall promote to the beneficiaries the social housing loan programs of SHFC (or other GFIs) and assist the beneficiaries in their application for SHFC Social Housing Loans through orientation of the guidelines and loan requirements of SHFC;

II.3 Free and Harmless Clause. The DEVELOPER and/or their Affiliates, including their directors, officers, employees, agents, and representatives, shall be free and harmless from and against any and all claims, demands, actions, suits, damages payable to third parties by reason of any delays in the enforcement of the Project or failure of the LGU to fully support the Project, unless such is caused by the fault, negligence, or willful misconduct of the DEVELOPER or its representatives in the fulfillment of its obligations as specified under this Agreement,

III. MISCELLANEOUS PROVISIONS

III.1 Complete Agreement. This Agreement contains the full and complete agreement between the Parties on the subject matter, and the same shall supersede any and all representations, understandings or agreements, verbal or written, implied or express, previously made or entered into by them. This MOA may only be amended upon the written mutual agreement of the Parties.

It is understood that all terms and conditions herein provided are subject to and subordinate to the existing laws, rules and regulation of the LGU. In case of conflict, the pertinent provisions of the law, rules, and regulations shall prevail;

III.2 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument;

III.3 Good Faith. In complying with and implementing the terms of this Agreement, the Parties shall exercise good faith and cooperation to ensure the fulfillment of their common objective of providing adequate, livable, affordable, and inclusive housing and communities to the Filipinos;

III.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors-in-interest and permitted assigns;

III.5 Non-Waiver of Rights. The Rights of the Party will not be prejudiced or restricted by any indulgence or forbearance extended by it to the other Party, and no waiver by a Party in respect of any breach of this Agreement will operate as a waiver in respect to any current or subsequent breach thereof;

III.6 Force Majeure. No Party shall be liable for any failure or delaying the performance of its respective obligations as herein provided if any force majeure event shall be the proximate cause of the same; For purposes of this Agreement, a "Force Majeure Event" shall include, but not limited to: (i) declared or undeclared war, armed hostilities, revolution, rebellion, insurrection, riot, public disorder, and the like; (ii) unforeseen rock formations in the geodetic layers of the identified deep well sites; and (iii) extreme and unforeseen weather conditions, fire, unusual flood, earthquake, and similar calamities or acts of God, and Government's local or national, declaration of community quarantines and other restrictions; and (iv) expropriation on any part of the site on which the Project will be located.

The Party invoking the existing of a Force Majeure Event shall immediately notify the other Party, specifying the nature and details of the Force Majeure Event, how it affects the Party's ability to comply with its obligations hereunder, and a proposed mitigating action to address the same. Upon the cessation of such Force Majeure Event, the Parties shall immediately resume the performance of their obligations hereunder. However, if the Force Majeure Event extends for a period in excess of 180 continuous days, the Parties hereto shall meet to discuss the basis and terms upon which this Agreement be continued or mutually terminated;

III.7 Dispute Resolution. Any conflict or dispute that may arise out of this Agreement on the interpretation or implementation of any provision hereof shall be settled amicably within thirty (30) days, through the authorized representatives of the Parties. Either Party may initiate amicable discussions by sending written notice to the other Party, specifying the alleged dispute and proposing a schedule for the amicable settlement thereof;

III.8 Separability. If any term, provision, or constitution provided in this Agreement is subsequently declared void, contrary to law, or unenforceable by a court of competent jurisdiction, the validity of the other terms, provisions, or conditions not affected by such a declaration shall remain valid and binding. The Parties shall however endeavor and exert best efforts to agree on the substitution of the void, illegal, or unenforceable provisions with legally acceptable clauses approximating as closely as possible the sense, intent, and purpose of the affected provisions and of this Agreement as a whole; and

III.9 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the Republic of the Philippines.

IN WITNESS WHEREOF, the Parties hereto have signed and executed this Agreement this _____, in _____.

_____:

LOCAL GOVERNMENT UNIT
OF BUHI:

President

REY P. LACOSTE
Municipal Mayor

WITNESS:

ACKNOWLEDGEMENT

Republic of the Philippines

BEFORE ME, a Notary Public for and in _____, Philippines, this _____, personally appeared the following:

- | <u>Full Name</u> | <u>Competent Evidence of Identity Date/Place Issued</u> |
|-------------------|---------------------------------------------------------|
| 1. _____ | |
| 2. Rey P. Lacoste | |

Known to me to be the same persons who executed the foregoing instrument and acknowledged to me that they acted in a representative capacity, that they are duly authorized to represent as such, that the same is their own free and voluntary act and deed as well as of the entity and corporation they respectively represent.

This instrument, consisting of seven (7) pages including this page where this acknowledgement is written, has been signed on each and every page thereof by the parties and their witnesses.

WITNESS MY HAND AND SEAL on the date and at the place first above written.

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2024.

Section V. BID FORMS

BID FORM NO. 1 - BID LETTER

Date: _____

DR. ELY Z. YAPAN, ENP

Chairman, Buhi PPP-SC
NakaBuhi Residences – 4PH Project
Buhi, Camarines Sur

Gentlemen:

In accordance with the Bidding Document for the construction of the **NakaBuhi Residences - 4PH Project** on a **Joint Venture Agreement** Scheme for the **LGU Buhi** the undersigned, having been authorized, as evidenced by a Special Power of Attorney, appended hereto as Annex _____, representing the Challenger **<<(Name of Challenger)>>**, a consortium whose members bind themselves together, a corporation/firm organized and existing under laws of _____, a partnership consisting of _____ with business address at _____, hereby bids to undertake the **NakaBuhi Residences - 4PH Project**.

The Challenger also commits to undertake the Project in _____ (_____) calendar days, reckoned from the Effectivity Date of the Agreement.

Further, the Challenger agrees, upon receipt of the written Notice of Award, to execute the Agreement.

Enclosed is the Challenger's Proposal Bond in the sum of _____ (Words and Figures; State in U.S. Dollars or Philippine Pesos at BSP rates prevailing five (5) days before bid opening date) in the form of _____ cash, _____ manager's check, _____ cashier's check, _____ irrevocable standby letter of credit, callable on demand (Please check applicable form).

The CHALLENGER also agrees that if this bid proposal is accepted and the Challenger fails to execute the Agreement within _____ calendar days from receipt of Notice of Award, the Proposal Bond accompanying this bid shall be forfeited in favor of "LGU" for such failure.

The bid shall be valid for no less than one hundred twenty (120) calendar days from the bid opening date.

The CHALLENGER warrants that no official or employees of the **LGU Buhi** has been employed or retained in the preparation of this Bid Proposal.

Very truly yours,

Name of Project Proponent/CHALLENGER

Business Address

By: _____
Name in Print and Signature

Designation

WITNESSES:

Name in Print and Signature

Address

Name in Print and Signature

Address

BID FORM NO.2 - ACCEPTANCE OF CRITERIA AND WAIVER

REPUBLIC OF THE PHILIPPINES)
PROVINCE, LGU OF _____)S.S.

WAIVER

I, _____, President/General
Manager of _____, a corporation of duly registered
in the Securities and Exchange Commission (SEC) with address at
_____ after having been duly sworn
in accordance with law, depose and say:

1. That I am duly authorized by the company I represent to enter into agreement with the Government of the Republic of the Philippines through the **LGU Buhi** in the pre-qualification and bidding for the **NakaBuhi Residences - 4PH Project**;
2. That pursuant to Section 5.6 of the Implementing Rules and Regulations of the Republic Act No. 7718, I hereby submit this WAIVER;
 - a. I accept the prequalification and evaluation criteria established by the LGU-PBAC
 - b. I waive my right to seek a writ of injunction or prohibition or restraining order against the LGU and/or its PPP-SC to prevent or restrain the prequalification process or any proceedings related thereto, the holding of a bidding or any proceedings related thereto, the negotiation of an award of the contract to successful Challenger, and the carrying out of the awarded contract;
 - c. This waiver, however, shall be without prejudice to the right of a disqualified or losing Challenger to question the lawfulness of its disqualification or rejection of its bid by appropriate administrative or judicial processes not involving the issuance of a writ of injunction or prohibition or restraining order.

Done this _____ day of _____ 20__ in _____.

Affiant:

SUBSCRIBED AND SWORN to before me this _____ day of _____ 200_ in
_____ affiant exhibited to me this CTC No. _____
issued on _____ at _____.

Notary Public:

Doc. No. _____:

Page No. _____:

Book No. _____:

Series of 20__

BID FORM NO. 3 - STATEMENT OF BIDS

Name of Project: **NakaBuhi Residences – Buhi 4PH**

LGU Name: Local Government Unit of Buhi

1.0 GENERAL

In accordance with the provision of the Bidding Documents for the **NakaBuhi Residences - 4PH Project**, and all attachments, exhibits and documents referred to therein, _____ hereby offers to finance and construct the **NakaBuhi Residences - 4PH Project** and operate and maintain it on behalf of the LGU in accordance with provision set forth herein.

CHALLENGER understands that the LGU shall rely on the following representations in evaluating and ranking the Bids and that inability of the CHALLENGER to substantiate the basis for any representation may result in adjustment of his rating, or in the event of the misrepresentation, disqualification from the bid.

CHALLENGER understands that this Bid shall be incorporated directly into and made part of the Agreement. The Bid and other guarantees shall constitute material terms of the Agreement.

2.0 PROJECT DESCRIPTION

The CHALLENGER warrants the financing and construction the **NakaBuhi Residences - 4PH Project** on a **Joint Venture Agreement**, assuming cost overruns, delays and specified performance risk, taking into consideration the design issued with the Bidding Documents, to operate and maintain the facility/project for cooperation period of _____ years and turn over to the LGU after the specified cooperation period.

Guaranteed Construction Period: _____ (Number) Years/Months.

The Challenger warrants to complete the construction of the project on or before _____, 20__.

Guaranteed Date of Start of Commercial Operation:

(indicate each major component of the Project)

3.0 PROPOSAL BOND

As required by the LGU, upon submission of the Bid, CHALLENGER shall post with LGU a Proposal Bond in the amount specified in the Instructions to Challengers in US \$ or its equivalent in the Philippine Pesos at the BSP exchange rate prevailing five (5) days before bid opening date.

Proposal Bond:

(State Amount)

(Form of Security)

(Bonding Company)

(Bonding Number)

(Validity Period)

4.0 CHALLENGER'S CAPITALIZATION AND ORGANIZATION

List below as participants and/or other interested parties in the organization and their equity holdings:

NAME OF PARTICIPANT	PARTICIPATION*	SHARE OF TOTAL EQUITY (%)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

* Refers to participation as in "Principal Sponsor", "Consultant", "Contractor", "Operator", "Financier", "Equipment Supplier", etc.

List below the officials of the organization and their company affiliations. In case of a consortium, this refers to the Board of Directors of the Principal Sponsor.

MEMBERS OF THE BOARD OF DIRECTORS:

NAME	COMPANY
_____	_____
_____	_____
_____	_____

CORPORATE OFFICIALS:

NAME	POSITION
_____	_____
_____	_____
_____	_____

5.0 NOTICES

Communications with Project Proponent regarding this Bid should be directed to:

Name : _____
 Title : _____
 Address : _____

 Telephone No. : _____
 Telefax No. : _____

6.0 EXCEPTIONS

Deviations/Clarifications (if any) to the Bid Documents and Agreement are attached to this Bid. If no deviations/clarifications are presented, please indicate.

_____ Deviations/Clarifications presented
 _____ No deviations/clarifications presented

7.0 CERTIFICATION

CHALLENGER certifies that all of the statements and representations made in this Bid including exhibits, documents and other attachments are true to the best of the CHALLENGER's knowledge and belief, and agrees to be bound by representations, terms, and conditions in the Bidding Documents and the Agreement.

Submitted by:

 Name of Project Proponent/CHALLENGER

 Name and Signature of Authorized Representative

 Designation

 Date Signed

WITNESSES:

_____ (Name and Signature)	_____ (Name and Signature)
_____ (Address of Witness)	_____ (Address of Witness)

BID FORM NO. 4 - DEVIATIONS/CLARIFICATION SHEETS

Challengers are not permitted to deviate from the principal requirement of the Bid Documents and the Agreement. Bids exhibiting non-conformance shall be rejected. However, minor deviations from the Challenger's standard practice and/or advantageous to the LGU will be allowed if such deviations are within standard practice and/or advantageous to the LGU.

Such deviations shall be clearly detailed in the form attached (additional sheets shall be used as necessary) and the entries shall be referred to the Bid Documents and/or the Agreement, Section or Clause Number to which they refer.

Deviations and clarifications not submitted in the specified manner may be rejected.

CONFORME: _____

BID FORM NO. 5 - PRESENTATION OF DEVIATIONS/CLARIFICATION FROM THE BID DOCUMENT/DRAFT AGREEMENT

SECTION/CLAUSE NO.	TEXT	CHALLENGER'S PROPOSAL

BID FORM NO. 6 - CHALLENGERS PROPOSED TARIFF/RATE SCHEDULE

(To be included in Second Envelope)

Challengers are to complete this form as part of their proposal. This form is to be included in the second envelope marked "FINANCIAL PROPOSAL". (The presentation must contain the discounted tariff/rate at the date of submission of the bids for the project in its entirety or for its component parts as may be required in the bid documents).

Pro Forma
(Name of Surety Company)
(Office Address)
Bond Number _____

CHALLENGER'S BOND

FOR PROJECT : NAKABUHI RESIDENCES – 4PH
Buhi, Camarines Sur

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, duly organized and existing under the laws of the Republic of the Philippines, with office address at _____, as the Challenger, hereinafter called the PRINCIPAL and _____, duly organized and existing under the laws of the Republic of the Philippines, with office address at _____, hereinafter called the SURETY are held firmly bound unto the **LGU Buhi** hereinafter called the OBLIGEE, in the sum of PESOS _____ (P_____), Philippine Currency, callable on demand for the payment of which sum, well and truly to be made, we bid ourselves, our successor and assigns, jointly and severally and firmly by these presents.

WHEREAS, the condition of the aforementioned OBLIGEE require the CHALLENGER to submit a bond for the bid for the above project;

WHEREAS, the PRINCIPAL agree to comply with all the terms and conditions of the said bid with the aforementioned OBLIGEE;

NOW AND THEREFORE, the conditions of this obligation are such that if the above bonded PRINCIPAL shall, in case he becomes the successful Challenger in the said bid mentioned above, accept a contract with the said OBLIGEE under the terms and conditions of said bid, then this obligation shall be null and void; otherwise it shall remain in full force and effect for a period of one hundred twenty (120) calendar days following the opening of bids.

WITNESS OUR HANDS AND SEALS this __day of _____, 2024 at _____, Philippines.

PRINCIPAL
By: _____

SURETY
By: _____

SIGNED IN THE PRESENCE OF: _____

GLOSSARY OF TERMS

CASH FLOW - A financial statement showing the cash generated and disbursed by a project. Net cash flow is reported profit plus (i) depreciation, (ii) depletion and capital expenditures, and (iii) amortization. This is a measure of the company's liquidity, and alternatively can be looked at as consisting of net income (earnings) plus noncash expenditures (such as depreciation charges).

CONSTRUCTION - Refers to new construction, rehabilitation, improvement, expansion, alteration, and related works and activities including the necessary supply of equipment, materials, labor and services and related items needed to build or rehabilitate an infrastructure or development facility.

CONTRACTOR - Refers to any entity accredited under Philippine laws which may or may not be the project proponent and which shall undertake the actual construction and/or supply of equipment for the project.

CONTRACTUAL ARRANGEMENT - Refers to any of the following contractual arrangements or schemes, as well as other variations thereof as may be approved/authorized by the President, by which infrastructure and/or development projects may be undertaken pursuant to the provisions of the IRR of RA 6957 as amended by RA 7718.

BUILD-AND-TRANSFER (BT) - A contractual arrangement whereby the project proponent undertakes the financing and construction of a given infrastructure or development facility and after its completion turns it over to the government agency or local government unit concerned, which shall pay the proponent on an agreed schedule its total investment expended on the project, plus a reasonable rate of return thereon. This arrangement may be employed in the construction of any infrastructure or development projects, including critical facilities which, for security or strategic reasons, must be operated directly by the Government.

BUILD-LEASE-AND-TRANSFER (BLT) - A contractual arrangement whereby a project proponent is authorized to finance and construct an infrastructure or development facility and upon its completion turns it over to the government agency or local government unit concerned on a lease arrangement for a fixed period after which ownership of the facility is automatically transferred to the government agency or local government unit concerned.

BUILD-OPERATE-AND-TRANSFER (BOT) - A contractual arrangement whereby the project proponent undertakes the construction, including financing, of a given infrastructure facility, and the operation and maintenance thereof. The project proponent operates the facility over a fixed term during which it is allowed to charge facility users appropriate tolls, fees, rentals, and charges not exceeding those proposed in its bid or as negotiated and incorporated in the contract to enable the project proponent to recover its investment, and operating and maintenance expenses in the project. The project proponent transfers the facility to the government agency or local government unit concerned at the end of the fixed term which shall not exceed 50 years. This shall include a supply-and-operate situation which is a contractual arrangement whereby the supplier of equipment and

machinery for a given infrastructure facility, if the interest of the Government so requires, operates the facility providing in the process technology transfer and training to Filipino nationals.

BUILD-OWN-AND-OPERATE (BOO) - A contractual arrangement whereby a project proponent is authorized to finance, contract, own, operate and maintain an infrastructure or development facility, in which the proponent is allowed to recover its total investment, operating and maintenance costs plus a reasonable return by collecting tolls, fees, rentals or other charges from facility users. Under this project, the proponent which owns the assets of the facility may assign its operation and maintenance to a facility operator.

BUILD-TRANSFER-AND-OPERATE (BTO) - A contractual arrangement whereby an Agency/LOU contracts out the building of an infrastructure facility to a private entity such that the contractor builds the facility on a mm-key basis, assuming cost overruns, delays, and specified performance risks. Once the facility is commissioned satisfactorily, title is transferred to the implementing agency. The private entity, however, operates the facility on behalf of the implementing agency under an agreement.

CONTRACT-ADD-AND-OPERATE (CAO) - A contractual arrangement whereby the project proponent adds to an existing infrastructure facility which it is renting from the Government and operates the expanded project over an agreed franchise period. There may or may not be a transfer arrangement as regards the added facility provided by the project proponent.

DEVELOP-OPERATE-AND-TRANSFER (DOT) - A contractual arrangement whereby favorable conditions external to a new infrastructure project to be built by the project proponent are integrated into the arrangement by giving the same the right to develop adjoining property, and thus, enjoys some of the benefits the investment creates such as higher property or rent values.

REHABILITATE-OPERATE-AND-TRANSFER (ROT) - A contractual arrangement whereby an existing facility is turned over to the private sector to refurbish, operate and maintain for a franchise period, at the expiry of which the facility is turned over to the Government. The term is also used to describe the purchase of an existing facility from abroad, importing, refurbishing, erecting and consuming it within the host country.

REHABILITATE-OWN-AND-OPERATE (ROO) - A contractual arrangement whereby an existing facility is turned over to the private sector to refurbish and operate with no time limitation imposed on ownership. As long as the operator is not in violation of its franchise, it can continue to operate the facility in perpetuity.

DEVELOPMENT PROGRAM - Refers to national, regional or local government plans or programs included in, but not limited to, the Medium-Term Philippine Development Plan, the Regional Development Plans and Local Development Plans.

DIRECT GOVERNMENT GUARANTEE - Refers to an agreement whereby the Government or any of its Agencies/LGUs assume responsibility for the repayment of debt directly incurred by the project proponent in implementing the project in case of a loan default.

ECONOMIC INTERNAL RATE OF RETURN (EIRR) - The rate at which the present value of the net economic benefits from a project over a specific period of operation equals the economic project costs. The project's EIRR is generally compared with a hurdle rate as a consideration to continue developing and/or implementing the project.

FACILITY OPERATOR - Refers to a company registered with the Securities and Exchange Commission, which may or may not be the project proponent, and which is responsible for all aspects of operation and maintenance of the infrastructure or development facility, including but not limited to the collection of tolls, fees, rentals or charges from facility users.

FINANCIAL INTERNAL RATE OF RETURN (FIRR) – The rate at which the net cash inflows of a project are discounted so that their total net present value is equal to the total project cost. A project's FIRR is generally compared with a hurdle rate, sometimes determined as the long term cost of capital, as a consideration to continue pursuing the project.

GOVERNMENT UNDERTAKINGS – Refers to any form of contribution and/or support provided under Rule 13 of the IRR of RA 6957 as amended, e.g. cost sharing, credit enhancements, which the Government may extend to the project proponents under any of the contractual arrangements authorized under the IRR.

ICC – Refers to the Investment Coordination Committee of the National Economic and Development Authority (NEDA) Board.

IRR – Shall mean the Implementing Rules and Regulations of Republic Act No. 6957, as amended by Republic Act No. 7718.

LIST OF PRIORITY PROJECTS – Refers to the list of private sector infrastructure or development projects approved in accordance with Sections 2.6 and 2.7 of the IRR.

LOCAL GOVERNMENT UNITS (LGU) – Refers to provincial, city and/or municipal government entities.

NEGOTIATED CONTRACT – Refers to contracts entered into by the Government for convenience even if broader tendering would have been possible. This type of contract may be resorted to only in cases prescribed under Rule 10 of the IRR.

NET PRESENT VALUE (NPV) – The difference between the net cost inflows of a project discounted at a given rate less the cost of the project. The decision rate for the NPV criterion is to accept projects with NPV greater than or equal to zero.

PREQUALIFICATION, BIDS AND AWARDS COMMITTEE (PBAC) – The PBAC for LGUs has the following members:

- City or municipal Local Chief Executive or Governor as Chairman
- The Chairman of the appropriations committee of the sanggunian concerned

- A representative of the minority party in the sanggunian concerned, if any, or if there be none, one chosen by said sanggunian from among its members
- The local treasurer
- Two representatives of non-governmental organizations that are represented in the local development council concerned, to be chosen by the organizations themselves
- Any practicing certified public accountant from the private sector, to be designated by the local chapter of the Philippine Institute of Certified Public Accountants, if any
- Representatives of the Commission on Audit shall observe the proceedings of such committee and shall certify that the rules and procedures for prequalification, bids and awards have been complied with. The PBAC can have as many as 10 members.

PRIVATE SECTOR INFRASTRUCTURE OR DEVELOPMENT PROJECTS - The general description of infrastructure or development projects normally financed and operated by the public sector but which will now be wholly or partly implemented by the private sector, including but not limited to, power plants, highways, ports, airports, canals, dams, hydropower projects, water supply, irrigation, telecommunications, railroad and railways, transport systems, land reclamation projects, industrial estates or townships, housing, government buildings, tourism projects, public markets, slaughterhouses, warehouses, solid waste management, information technology networks and database infrastructure, education and health facilities, sewerage, drainage, dredging, and other infrastructure and development projects as may otherwise be authorized by the appropriate agency. Such projects shall be undertaken through contractual arrangements as defined herein, including on variations that may be approved by the President of the Philippines.

PROJECT PROPONENT - Refers to the private sector entity with contracted responsibility for the project and which has an adequate base to implement said project consisting of equity and firm commitments from reputable financial institutions to provide, upon award, sufficient credit lines to cover the total estimated project cost.

PUBLIC UTILITY PROJECTS - Refers to projects including public roads and thoroughfares, railways and urban rail mass transit, electricity and gas distribution systems, city and municipal water distribution and sewerage systems, and telecommunication systems serving the general public, and such other public services as defined under the Public Services Act, as amended.

UNSOLICITED PROPOSALS - Refers to such private sector infrastructure or development projects which may be entered into by an Agency/LGU subject to the requirements/conditions prescribed in Rule 11 of the IRR of RA 6957 as amended by RA 7718.