

## **PUBLIC CALL NOTICE Nº 001/2017**

### **PUBLIC CALL FOR MARKET PROSPECTION AND OBTAINMENT OF TECHNICAL CONTRIBUTIONS FOR STUDIES CONDUCTED BY THE STATE OF BAHIA FOR THE CONSTRUCTION AND CONCESSION OF THE WESTERN HIGHWAY SYSTEM / SALVADOR - ISLAND OF ITAPARICA BRIDGE**

#### **1. PRELIMINARY PROVISIONS**

The **STATE OF BAHIA**, through its **STATE PLANNING SECRETARIAT** (SEPLAN – Secretaria do Planejamento), situated at Av. Luiz Viana Filho, nº 250, Centro Administrativo da Bahia, Salvador, registered under CNPJ/MF nº 13.937.099/0001-02, herein represented by its Chief Officer, **JOÃO FELIPE DE SOUZA LEÃO**, appointed by simple decree, published in the State Official Gazette, “Diário Oficial do Estado” of 01/01/2015, hereinafter referred to as **SEPLAN**, by means of this **PUBLIC CALL**, invites national and foreign companies from the infrastructure sector as well as from the financial and capital market to assess the studies prepared for the Project of Construction, Exploration and Concession of the named Sistema Viario Oeste – SVO PROJECT. It is also the intention of this PUBLIC CALL that the Interested Parties present a prior statement of interest in participating in the public competitive bidding to be completed by the STATE OF BAHIA, which will aim at this PROJECT.

#### **2. OBJECT**

The purpose of this Public Call is to prospect those interested in evaluating the participation in the competition for the construction, operation and financing of the SVO, and to allow the improvement of the concession with its possible technical contributions, in order to guarantee transparency in the process, as well as attractiveness, efficiency and legal certainty to the PROJECT.

Companies interested in participating in the future bidding process will be able to review the studies already produced or contracted by the State of Bahia and carry out complementary studies, with the purpose of enabling the implementation and operation of the PROJECT, which involves the concession of the Bridge linking the municipality of Salvador to Itaparica Island, as well as highways associated with this infrastructure.

Participation in this Public Call is not binding on any of the parties, it will not be a condition for participation in the competition to be held, nor substitute for the subsequent public consultation, to be carried out under the terms of the Federal Public-Private Partnership Law Nº 11.079 / 04 and State Law Nº 9.433 / 05.

#### **3. STATEMENT OF INTEREST PRESENTATION**

##### **3.1. Mandatory requirements for participation**

Stakeholders should be aware of and comply with all applicable laws, statutes, requirements and regulations of the Federative Republic of Brazil and any other country or jurisdiction in which the parties concerned are legally constituted. Failure to comply with any of these requirements may result in the removal of the interested party to this PUBLIC CALL.

### **3.2. Documentation required for participation**

The responses to the PUBLIC CALL by interested parties should include the items listed below, without which they will be excluded:

3.2.1. data of the Company concerned, including the company name and registration number (CNPJ, State or Municipal Registration), address and main contact;

3.2.2. constitutive act, statute or social contract, with any subsequent changes in force, duly registered, accompanied, where appropriate, by the corporate documents proving the election or appointment and investiture of the current administrators;

3.2.3. balance sheet and financial statements (statement of income), in addition to the terms of opening and closing of Daily Registries, duly registered with the Board of Trade or the competent trade registration body;

3.2.4. negative certificate of bankruptcy or concordat, and judicial or extrajudicial recovery;

3.2.5 attestation of technical qualification (professional and operational qualification), proving the previous performances pertinent and compatible with the OBJECT of this PUBLIC CALL, in characteristics, quantities and term.

### **4. THE STUDY SCOPE**

The activities to be developed by the interested companies may cover the following scope:

**4.1.** Critical review of studies already received or carried out by the State of Bahia, which are:

4.1.1 Preliminary Studies resulting from the Statement of Interest Procedure - PMI-SEPLAN / 2010.

4.1.2 Studies of Physical and Seismic Surveys.

4.1.3 Marine Hydraulics studies.

4.1.4 Basic Engineering Design.

4.1.5 Environmental Studies (EIA-Rima).

4.1.6 Urban Studies.

4.1.7 Socioeconomic Development Studies.

4.1.8 Demand Studies.

4.1.9 Legal-Economic-Financial Studies.

**4.2.** Studies of ancillary revenues and investments associated with the PROJECT, including real estate, commercial, tourist, agricultural, logistic, industrial and service production projects in the area of influence of the PROJECT;

**4.3.** Financial structuring studies, which should consider all possible models and viable forms of financing, including, but not limited to, financing: between countries; Multilateral agencies; Commercial and investment banks; State banks; Investment funds; State funds; Pension funds; National development funds, including the Northeast Development Fund - FDNE, of the Northeast Development Superintendence - SUDENE; Real estate funds; Debentures and others;

4.3.1 In the financial structuring studies, it should be considered that:

- 4.3.1.1. The concession period for operation and exploitation of the PROJECT infrastructure will be a maximum of 35 (thirty-five) years, including the construction period.
- 4.3.1.2. Contributions and financial consideration may be made by the State of Bahia and/or by the Union, in the event that the tariff revenues do not provide the financial balance of the PROJECT, provided that they are duly authorized.
- 4.3.1.3. **THE STATE OF BAHIA** may endeavor, at its discretion and in the region of direct influence of the PROJECT, to declare the public utility, for purposes of expropriation, of areas that may be constituted in industrial districts, logistical centers, tourist districts, commercial and service centers, or that will be destined to other economic activities that will be encouraged for regional development and planned urbanization.
- 4.3.1.4. That the interested party may propose mechanisms for raising funds from real estate valuation resulting from the project.

## **5. MEMORANDUM OF UNDERSTANDING**

Companies and institutions interested in evaluating the conducted studies and offering complementary critical studies may sign a Memorandum of Understanding, which will establish the basis on which this cooperation will be carried out, considering the terms set forth in the Memorandum draft contained in this Call (Single Annex).

## **6. TRANSPARENCY OF INFORMATION AND TECHNICAL COOPERATION**

**6.1.** The State of Bahia will provide support to the technicians and consultants of the companies that show interest by providing the technical, legal and economic information available and necessary for the evaluation of the studies and preparation of complementary studies.

**6.2.** The State of Bahia shall prepare and make available, if requested, physical space in which the technical conditions sufficient for eventual use of the team designated by the interested party to carry out the studies referred to in Clause One of this Memorandum of Understanding are guaranteed.

## **7. POSSIBLE USE OF THE INTERESTED PARTY'S STUDIES AND COSTS REFUND**

**7.1.** Costs incurred by any of the interested parties in the preparation and presentation of studies will be its sole responsibility, shall not be entitled to any form of compensation, reimbursement or indemnification by the State of Bahia.

**7.2.** The studies that may be accepted in whole or in part, as subsidies for the definition and structuring of project, will have their costs reimbursed, in whole or in part by the successful bidder, pursuant to art. 21 of the Federal Law No. 8,987 / 95, and repayment shall be limited to the amounts estimated by the applicant, evaluated by the Executive Working Group – Highway System Project GTE and approved by SEPLAN. The maximum amount to be reimbursed for the full studies listed in item 4 of this instrument will be R\$ 15 (FIFTEEN) million reais.

**7.3** In order to ensure the fair evaluation and remuneration of partial subsidies, proposals submitted should be presented in documents corresponding to specific analyzes and proposals, based on the products, reports and notebooks listed in item 4.1 and sub items.

**7.4** The value for any eventual reimbursement of studies will be based on the following criteria:

- 7.4.1. complexity of the activities involved;
- 7.4.2. number of projects, studies, surveys and researches conducted;
- 7.4.3. prices in the Brazilian market, for services of similar scale and complexity;
- 7.4.4. studies offered by the interested party will only be made publicly available to others if they are incorporated into the design.

## **8. TECHNICAL ANALYSIS OF CONTRIBUTION**

**8.1.** It will be incumbent upon the Executive Working Group - GTE of the Project to analyze the technical contributions coming from the studies carried out under this Call.

**8.2.** The GTE will prepare a technical report responding to the contributions made by all stakeholders, within the scope of the present Public Call.

## **9. TERMS AND FORMAT OF PROPOSAL PRESENTATION**

**9.1.** Proposals should be sent to SEPLAN via electronic version in DOC and PDF format, addressed to the e-mail [gasec.seplan@seplan.ba.gov.br](mailto:gasec.seplan@seplan.ba.gov.br) or by means of a data storage device or printed version (SVO), to the address located at Av. Luiz Viana Filho, nº 250, 2nd Avenue, CAB, CEP: 41.745-003, Salvador- BA - SEPLAN - Call Notice 01/2017 - Salvador Bridge - Island of Itaparica, until 6:00 pm on September 29, 2017.

## **10. REGISTRATION PROCESSES AND SIGNING OF MEMORANDUM OF UNDERSTANDING**

**10.1.** The interested party is solely responsible for maintaining the e-mail address updated in its Statement of Interest, for all purposes and effects.

**10.2.** After registering the Statement of Interest, the companies will be invited to discuss and celebrate the Memorandum of Understanding, according to the model provided in the Single Annex.

## **11. GENERAL PROVISIONS**

**11.1.** The present PUBLIC CALL is signed in Portuguese and English languages, and in the event of any disagreement as to the interpretation of its contents, it is established that the Portuguese language version will be prevalent.

**11.2.** All the information and documents passed on to the companies will be available on the website: <http://www.pontesalvadorilhadeitaparica.ba.gov.br/>.

**11.3.** Any doubts prior to sending the Proposal must be sent electronically, by e-mail [gasec.seplan@seplan.ba.gov.br](mailto:gasec.seplan@seplan.ba.gov.br).

**11.4.** All questions and clarifications will be disclosed through the Internet, at the address <http://www.pontesalvadorilhadeitaparica.ba.gov.br/>, without the identification of the requesting party.

**11.5.** The missing cases will be settled by the Executive Working Group - GTE of the SVO Project - Salvador Bridge - Ilha de Itaparica.

Salvador-BA, \_\_\_\_\_ 2017.

**JOÃO FELIPE DE SOUZA LEÃO**  
**Secretary of Planning**

## SINGLE ANNEX

### MEMORANDUM OF UNDERSTANDING

#### MEMORANDUM OF UNDERSTANDING CELEBRATED BETWEEN THE STATE OF BAHIA AND THE COMPANY

\_\_\_\_\_.

**THE STATE OF BAHIA**, a legal entity governed by public law, registered under CNPJ / MF Nº 13.937.032/0001-60, situated at Avenida Luiz Viana Filho, 3a. Avenida, no. 390, Ala Sul, 3º andar, Prédio da Governadoria, Centro Administrativo da Bahia, Salvador - Bahia, hereinafter referred to simply as **BAHIA STATE**, hereby represented by the Executive Chief of the State, His Excellency the Governor of the State **RUI COSTA**, and \_\_\_\_\_, duly represented by \_\_\_\_\_ **[Position / occupation of the legal representative of the company in this instrument]**, hereinafter referred to simply as **COMPANY [or other possible name]**,

#### CONSIDERING

The strategic character of the SVO PROJECT - Bridge Salvador- Itaparica Island for the development of the State of Bahia;

That the Federal Government has already approved the change of part of the route of Federal Highway BR-420, in order to partially integrate it into the PROJECT and that the same is being done for sections of BR-242 in Bahia;

That the State of Bahia has already carried out studies for the implementation of the PROJECT and that these are public and available;

#### AGREE

To sign this Memorandum of Understanding, by means of the clauses and conditions to be agreed upon:

#### CLAUSE ONE - OBJECT

The purpose of this Memorandum is to establish the basis on which the Participants are willing to carry out technical, economic and environmental feasibility studies, complementary to the construction and operation of the Western Highway / Salvador-Itaparica Bridge System, in order to review and validate its implementation.

## **CLAUSE TWO - CONDITIONS AND RESPONSIBILITIES OF THE PARTICIPANTS**

### **2.1. COMPANY (or other name specified in the preamble) is responsible for:**

I - Starting its activities after the signing of this Memorandum of Understanding, with the presentation of an Action Plan within a period of 30 (thirty) calendar days, which shall include the schedule of activities and the indication of which studies it intends to carry out, as well as specific demands for information and documents to be provided;

II - Appointing the technicians who will coordinate and carry out the studies referred to in Clause One of this Memorandum of Understanding;

III - Carrying out the studies and making them available to the State of Bahia;

IV - Presenting the results of the studies referred to in Clause One of this Memorandum of Understanding, by means of a final report in the Portuguese and English languages and in two (two) formats, digital and printed.

### **2.2. The STATE OF BAHIA is responsible for:**

I - appointing the technicians responsible for monitoring the studies referred to in Clause One of this Memorandum of Understanding;

II - providing support to the technicians and consultants of the **COMPANY [or other denomination specified in the preamble]**, providing the technical, legal and economic information available and necessary for the evaluation of the PROJECT and to carry out complementary studies;

III - preparing and making a space available, if requested, with sufficient technical conditions for eventual use by the **COMPANY'S** appointed team **[or other denomination fixed in the preamble]** to carry out the studies referred to in the First Clause of this Memorandum of Understandings.

## **CLAUSE THREE - THE STUDY SCOPE**

The studies included in the object of this Memorandum of Understanding may cover the following scopes:

**3.1.** - Critical review of the studies already produced or contracted by the STATE OF BAHIA, namely:

- a) preliminary analyses from the Expression of Interest Procedure dated from 2010;
- b) seismic and physical surveys;
- c) marine Hydraulics Studies;
- d) front End Engineering Design - FEED;
- e) environmental Studies (EIA-Rima);
- f) Urban Development Projects;
- g) Social and economic development studies;
- h) Market demand studies;
- i) Legal, Economic and financial studies.

**3.2.** Studies of ancillary revenues and investments associated to the PROJECT, including real estate, commercial, tourist, agricultural and livestock industry, logistics, services, and industrial projects within its area of influence.

**3.3.** Financial structuring studies, which should consider all feasible models and forms of financing, including, but not limited to: cross-country financing, financing via Multilateral Agencies, Commercial and Investment banks, State Banks and Investment funds, pension, State funds, Pension Funds, National Development Funds, including The Northeast Development Fund, managed by the Northeast Development Superintendency (SUDENE), Real Estate Funds, Debentures among others;

**3.4.** The financial structuring studies must consider the following premises:

- a) the concession term for the operation and management of the PROJECT'S infrastructure shall not exceed 35 (thirty-five) years, including the construction period;
- b) capital contribution and financial counterpart may be provided by the State of Bahia and/or by the Federal Government in the event that revenues do not allow the financial balance of the PROJECT, provided that they are duly authorized;
- c) that the STATE OF BAHIA may make efforts, at its discretion and in the region of direct influence of the PROJECT, to declare areas of public utility for expropriation purposes that may be constituted in industrial districts, logistics centers, tourist districts, commercial centres and service hubs, or that will be destined to other economic activities to be encouraged with a view to regional development and planned urbanization;
- d) that the interested party may propose mechanisms for funds raising from real estate valuation resulting from the project.

#### **CLAUSE FOUR - USE OF THE STUDIES**

The disclosure of the studies, when the reimbursement of the respective costs is approved, in the terms set forth in Clause Five of this Memorandum of Understanding, will not depend on the authorization of the **COMPANY [or other denomination set forth in the preamble]**.

**Paragraph One** - The content of the complementary studies may not be disclosed or used without the prior written consent of the State of Bahia.

**Paragraph Two** - The studies offered by the **COMPANY [or other denomination set forth in the preamble]** will only be made publicly available to others in the event that they become part of the PROJECT.

#### **CLAUSE FIVE - STUDY COSTS**

The costs incurred by the **COMPANY [or other denomination set forth in the preamble]** in the preparation and submission of studies outlined in Clause Three of this Memorandum of Understanding shall be entirely and exclusively of its responsibility, not being entitled to any kind of remuneration, compensation, indemnification or reimbursement by the **BAHIA STATE**;



**Paragraph One** - Accepted studies, in whole or in part, as subsidies for the definition and structuring of the final project, will have their costs fully or partially reimbursed by the successful bidder, pursuant to art. 21 of Brazilian Federal Law n° 8.987/1995, and should be limited to the values estimated by the proposer, evaluated by the Executive Working Group - GTE of the PROJECT and homologated by **SEPLAN**. The maximum amount to be reimbursed for the full studies listed Clause Three of this instrument will be R\$ 15 (FIFTEEN) million reais;

**Paragraph Two** - In order to ensure the fair evaluation and remuneration of partial subsidies, proposals submitted should be presented in documents corresponding to specific analyses and proposals, based on the products, reports and notebooks listed in Clause Three of this Memorandum of Understanding;

**Paragraph Three** - The amount for possible reimbursement for the studies should be based on the following criteria:

- I - complexity of the activities involved;
- II - quantity of carried out projects, studies, surveys and investigations;
- III - referential prices of the Brazilian market for services of similar scale and complexity;

#### **CLAUSE SIX - SETTLEMENT OF DISPUTES**

**6.1.** Any divergence of views regarding the interpretation of this Memorandum of Understanding shall be settled amicably by the Participants. Any dispute or controversy between the contracting parties that is not settled on a consensual basis shall be submitted to the AUTO-COMPOSITION procedure, which is dealt in Brazilian Federal Law n° 13.140/2015, and later, if necessary, in the absence of consensus, to ARBITRATION in accordance with Brazilian Federal Law n° 9.307/1996, with the changes provided for in Brazilian Federal Law n° 13.129/2015.

**6.2.** The arbitration will be done by a duly qualified institution, with headquarters in Brazil, and conducted in Portuguese language based on Brazilian Substantive law.

**6.3.** The choice of the arbitration chamber shall be exercised by the State of Bahia, among institutions of acknowledged recognition, with regulations adapted to state arbitrations and having professionals with experience in the matter in dispute, within thirty (30) days from the presentation of the controversy by any of the Participants, through formal communication to the other Participant. The arbitration procedure shall observe the Rules of the Arbitration Chamber adopted.

**6.4.** This Memorandum of Understanding is signed in Portuguese and English, and in case of possible disagreement or misunderstanding of its content, it is defined that the original version in Portuguese shall prevail.

#### **CLAUSE SEVEN - DURATION**

This Memorandum of Understanding is valid for 06 (six) months, effective from the date of its signature, and may be renewed by the participants, for a period previously agreed, by means of an Addendum.

**Single paragraph** - This Memorandum of Understanding may be terminated by any of the Participants, by written notice, at least thirty (30) days in advance.

**CLAUSE EIGHT - THE COURTHOUSE**

It is mutually agreed on and understood by and between the parties that the courts of the jurisdiction of Salvador, state of Bahia, will be competent to settle any dispute that could arise from this Memorandum of Understanding, renouncing the participants of any other, however privileged it may be.

And, as they are, thus, fair and agreed, the parties sign this Memorandum of Understanding in four (4) original copies, of equal content and form, 02 (two) in Portuguese and 02 (two) in English.

Salvador-BA, \_\_\_\_\_ 2017

***RUI COSTA***  
***State of Bahia Governor***

**COMPANY**  
***NAME OF THE COMPANY'S REPRESENTANT***  
***Position of the company's legal representant***