

JTMT

REQUEST FOR PROPOSALS
INSTRUCTIONS TO BIDDERS (ITB)

REQUEST FOR PROPOSALS
FOR THE
DESIGN, IMPLEMENTATION, & MAINTENANCE
OF
TRAFFIC SIGNAL DESIGNING SOFTWARE
INSTRUCTIONS TO BIDDERS (“ITB”)

028- 2019

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1. GENERAL INTRODUCTION AND BACKGROUND

- 1.1. The Jerusalem Transportation Masterplan Team (“**JTMT**”) operates through the Association for Urban Planning, Development and Preservation – Jerusalem (R.A.). JTMT advances a variety of projects in Jerusalem proper and metropolitan Jerusalem, including the Jerusalem Mass Transit System Project. As part of its ongoing work, JTMT wishes to develop and maintain unique computerized tools for the implementation, execution, and management of its work. Accordingly, JTMT wishes to purchase from an independent consultant, with proven practical experience in this field, a computerized traffic signal design software system (“**Software**” or “**TSP**”), in accordance with the RFP Documents (as such term is defined below).
- 1.2. The purpose of this ITB (as such term is defined below) is to direct Bidders with respect to all aspects of the preparation of their Bids, including the technical and financial information to be submitted, and to provide details of the Tender Process.

2. DEFINITIONS

Capitalized terms undefined herein shall have the meanings attached to such terms elsewhere in the RFP.

Authorized Representative

The Authorized Representative of the Bidder is the person nominated and authorized by the Bidder to perform actions and other powers on its behalf, including signing documents in the name of the Bidder, all as set forth in the form attached hereto in **Annex F-1**.

Bid

A complete written Bid submitted in accordance with the Instructions to Bidders (ITB), including, but not limited to, the general information of the Bidder, legal confirmation, Technical Bid and Financial Bid and other supporting documents, including all the information and completed forms and declarations required to be submitted by the Bidders in accordance with the provisions of this RFP.

Bidder

A legal entity eligible to respond to the present Request for Proposals and submit a Bid in compliance with the ITB.

Consultant

The Bidder which, upon completion of the Tender Process under this RFP, will sign the Contract with JTMT for the performance of the Services or a part thereof.

Contract

The Contract, attached hereto as **Annex D** to be signed between JTMT and the Consultant following the selection of the Preferred Bidder (as such term is

	defined below) and the successful completion of the Tender Process in accordance with the RFP.
<u>Control</u>	Shall have the meaning ascribed thereto in Article 1 of the Securities Law 1968.
<u>Government</u>	The Government of the State of Israel
<u>JTMT</u>	The Jerusalem Transport Masterplan Team, a division of the Association for Urban Planning, Development and Preservation – (R.A.), delegated by the Jerusalem Municipality and the Ministry of Transport to act as the entity responsible for the implementation of the Jerusalem Mass Transit System Project.
<u>Laws and Regulations</u>	All laws, ordinances, regulations, orders, including municipal by-laws, procedures and permits, and all rules, applicable standards and administrative orders in Israel, as may be issued and in force in the State of Israel and/or as amended and/or modified and/or from time to time.
<u>MOT</u>	The Ministry of Transport and Road Safety of the State of Israel.
<u>Member(s)</u>	The persons or legal entities forming part of the Bidder.
<u>Offense</u>	A criminal offense, in Israel or, if the corporation, company or partnership, recognized by law within its domicile, or any office holder or representative thereof, is not a citizen or a resident of the State of Israel, analogous Offenses committed under the laws of its domicile, which constitutes a felony (“עוון”) or worse, or another criminal Offense which resulted in a prison sentence of at least one (1) year (or longer), and which verdict was handed down during the seven (7) year period prior to the Submission Date of the Bid.
<u>Preferred Bid</u>	The Bid of a Preferred Bidder
<u>Preferred Bidder</u>	A Bidder selected by the Tender Committee to design, implement, and maintain the Bid Software proposed by said Bidder in accordance with the provisions of the Tender Documents.
<u>Related Entity</u>	A legal entity which exercises Control over another entity, a legal entity Controlled by said other entity, and a legal entity under common Control with said other entity.
<u>RFP/ Documents</u>	<u>RFP</u> The Request for Proposals and its appendices, and any other document issued by the Tender Committee during

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the Tender Process.

Services

The services forming the work under this RFP.

Software House

An entity that engages in developing, marketing and maintenance of Software and it maintains proper rights regarding said Software for the purposes of executing and performing all its duties with respect to the RFP.

Submission Date

As set forth in Section 10.15 below.

Tender Committee

The committee formed by JTMT, which will be responsible for recommending the Preferred Bidder/s in compliance with the requirements of the RFP, to the JTMT management board and the governing body of the Association for Urban Planning, Development and Preservation – (R.A.).

Tender Process

The process of selecting the Preferred Bidder followed by the Contract award in accordance with, and subject to, the requirements of this RFP, commencing upon the issuing of the RFP, and ending upon the signing of the Contract with the Consultant.

Third Party

Any person or entity other than (i) the Government; (ii) the Municipality of Jerusalem; (iii) the Bidder, its sub-consultants or Members, or any Related Entity of any of the above; and (iv) JTMT;

TOR

The Terms of Reference, which include the scope of work, describing the scope of work to be provided by the Consultant.

3. THE SERVICES

3.1. The Services to be provided by the Consultant under this RFP are as set forth below and more fully defined in the TOR attached hereto as **Annex A**.

4. LENGTH AND SCOPE OF SERVICES

4.1. The Consultant shall provide the Services pursuant to the Contract attached hereto as **Annex D** for a maximum period of 20 years (an initial period of 10 years, and then two optional extension periods of 5 years each, at JTMT's sole discretion), unless the Services are successfully completed or the Contract is properly terminated prior to such time.

4.2. It is hereby clarified that the Consultant's completion of the Services pursuant to the RFP Documents shall always be subject to JTMT's instructions and JTMT reserves the right at any time to reduce the scope of the Services the Consultant shall provide (and, proportionally, the compensation the Consultant shall receive for such Services).

5. PRE-QUALIFICATION REQUIREMENTS

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Any Bidder who desires to submit a Bid must demonstrate its compliance with all the requirements set forth below (the “**Pre-Qualification Requirements**”).

- 5.1. A Bidder must be duly organized either under the laws of the State of Israel or another state. In the event that a foreign Bidder will be declared as the Preferred Bidder, the engagement of JTMT with such Bidder will be subject to registration of the Bidder as a Foreign Company or as a Foreign Partnership (as applicable) as these terms are defined in the Companies Law, 5759-1999;
- 5.2. The Bidder and/or its sub-contractors, any Related Entity and directors and managers thereof are not residents or nationals of a hostile state which does not have diplomatic relations with the State of Israel
- 5.3. Neither the Bidder nor its sub-contractors have been blacklisted by the World Bank under its fraud and corruption policy.
- 5.4. Neither the Bidder nor its sub-contractors or any directors or managers thereof, who may be involved in the submission of the Bid and/or the Tender Process and/or the provision of the Services as part of the proposed personnel and/or in any other form and/or manner have been convicted of an Offense the limitation period of which has not yet elapsed, and no criminal proceedings with respect to an Offense are being conducted against either of them at the date of submission of the Bid.
- 5.5. A Bidder cannot submit an, or otherwise participate, directly or indirectly, in more than one Bid. For the purpose of this Section, the term “**indirectly**” is meant to include any entity which has Control over such Bidder, is Controlled by such Bidder, or is Controlled by an entity which has Control over such Bidder.
- 5.6. The Bidder's latest audited financial statements do not include a going concern notice, and is not in administration, liquidation, receivership, bankruptcy or winding up process or the like and there are no pending applications or petitions with regard thereto and it is not insolvent.
- 5.7. The Bidder has all the required approvals and affidavits under the Public Entities Transactions Law, 1976, valid as of the Submission Date [applies only to legal entities incorporated in Israel or registered Foreign Company As the term is defined in the Companies Law, 5759-1999].
- 5.8. The Bidder is fully in compliance with all the requirements set forth below:
 - 5.8.1. The Bidder must have at least three (3) years of experience as a Software House in developing the software used to create the Technical Bid (the “**Bid Software**” or the “**Bid TSP**”), which will be calculated from the issuance date the first commercial version of the Bid Software to the Submission Date.

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- 5.8.2. The Bid Software was used for designing traffic light programs for at least fifty (50) intersections with traffic lights, among them at least ten (10) intersections with transit priority.
 - 5.8.3. The Bid Software was used for designing traffic light programs for at least two (2) customers / authorities during the two (2) years prior to the Submission Date.
 - 5.8.4. The Bid Software (even if in previous versions/releases from that included in the Bid) complies with the mandatory requirements listed in Annex E.

6. EXAMINATION AND EVALUATION OF THE BIDS

- 6.1. The evaluation of the Bids shall be conducted in a two-stage process in accordance with the description below:
 - 6.1.1. **First Stage (Pre-Qualification Stage)**: JTMT shall examine and determine if the Bidder and the Bid are in compliance with the Pre-Qualification Requirements set forth in Section 5 above. Only Bidders and Bids that comply with the Pre-Qualification Requirements will advance to the second stage. For the avoidance of doubt, JTMT, at its sole discretion, may ask any Bidder for further evidence beyond that included in the Bid that the Bidder and the Bid Software meets all pre-qualification requirements detailed in Section 5 above.
 - 6.1.2. **Second Stage**: the Bids that comply with the first stage of evaluation will be evaluated with respect to their Technical Bid and Financial Bid (as described in Section 6.5 and Section 6.6 below). At the end of this stage, JTMT will select the Preferred Bid and the Preferred Bidder.
- 6.2. After the second stage, JTMT will select **one or more** Preferred Bid(s) and Preferred Bidder(s) that receive(s) the highest final score(s) ("**FS**") in the Tender Process as described in Section 8.7 below, and the Preferred Bidder(s) will sign the Contract and, in accordance therewith, will have (i) 10 Israeli business days to present the Insurance Certificates to JTMT for approval. (Any request in connection with the insurance requirements as they are set forth in the Contract are to be submitted as a request for clarifications and no later than the dates set forth in Section 9 below.) (ii) 12 calendar months (the "**MOT Approval Deadline**") to obtain MOT approval for the Bid Software (if it does not already have such approval), the requirements of which are set forth in the following link:

https://www.gov.il/he/Departments/Policies/guidelines_using_software_plan_traffic_lights, as will be updated from time to time.

To the extent any Preferred Bidder needs to further develop its Bid Software so that the Bid Software is approved by the MOT prior to the

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MOT Approval Deadline (an “**MOT Approval Applicant Developer**” or “**MAAD**”), JTMT will compensate the MOT Approval Applicant Developer for the costs of such development in an amount that shall be no greater than ILS 200,000 (the “**MAAD Amount**”), all pursuant to the achievement of certain milestones as set forth below (“**Development Milestones**”), all pursuant to the payment terms set forth in the Contract:

Development Milestone	Percentage of MAAD Amount for Payment
Initial submission of Bid Software modules to the MOT.	10%
Complete submission to the MOT of Bid Software modules pursuant to the initial comments received from the MOT.	30%
Completion (and submission) of the final Bid Software module submission pursuant to the remaining MOT comments.	30%
Receipt of temporary MOT approval that is subject to final changes.	15%
Receipt of final MOT approval.	15%

- 6.3. If a Preferred Bidder is not be able to obtain the approval of the MOT for the Bid Software within 12 months of the announcement of its selection as a Preferred Bidder, for any reason at all (an “**MOT Rejected Bidder**”), at JTMT’s sole discretion, the Contract with the MOT Rejected Bidder will automatically terminate on the MOT Approval Deadline as further set forth below in Section 6.4 and JTMT may select a Bidder with the next highest FS, have it sign the Contract, and order said newly selected Preferred Bidder to start the MOT approval process (if applicable) for its Bid Software as set forth above in Section 6.2.
- 6.4. It is hereby emphasized, that if MOT approval of the Bid TSP is not obtained by a Preferred Bidder by the MOT Approval Deadline and the Contract between JTMT and the Preferred Bidder is terminated on the MOT Approval Deadline as set for the in Section 6.3 above, JTMT will not pay for any software licenses supplied by the Preferred Bidder, and – other than amounts transferred to a MAAD at Development Milestones achieved by said MAAD prior to the MOT Approval Deadline – all monies transferred to the Preferred Bidder by JTMT before said termination of the Contract (if any) shall be returned to JTMT in full, and the Preferred Bidder will have no demand or claim

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whatsoever in this regard.

6.5. Evaluation of the Technical Bid.

The technical specifications and requirements of the Bid TSP are detailed in the TOR and **Annex C**. The selection of the Preferred Bid is subject to the maturity of the Bid TSP, and the extent to which the Bid TSP complies with the requirements specified in the TOR, as further set forth in **Annex C**.

The Bid TSP evaluation process includes the following milestones, stages, and requirement:

- 6.5.1. The Bid TSP that passes the first stage set forth in Section 06.1.1 above shall be used by local Israeli signals planners (transportation engineers) to design certain intersections for the purposes of completing the second stage detailed in Section 6.1.2.

Software Workshop

- 6.5.2. The Bidder will run a workshop in English with representatives of JTMT, in order to prepare them to work independently with the Bid Software. The representatives of JTMT (the workshops students) will be traffic engineers or traffic signal designers that will evaluate the Bid Software.

- 6.5.3. The Bidder will prepare or make available for each workshop the professional resources needed to support the design process as necessary, including both workshop materials and software licenses as needed.

6.5.4. Quality Scoring

- 6.5.4.1. Traffic engineers (chosen by JTMT) shall perform signal design for up to 3 chosen intersections with the Bid Software products. Said traffic engineers will analyze and score the Bid Software products according to **Annex C**.

- 6.5.4.2. JTMT will reimburse (i) up to 20,000 ILS for the Bidder's travel expenses; and (ii) up to ILS 30,000 for other Bid Software workshop expenses; related to the execution of the Bid Software workshop in accordance with the RFP Documents. Such reimbursement shall be subject to the submission by the Bidder to JTMT of a proper reimbursement request including written invoices and other supporting documentation.

6.5.5. Technical Bid Evaluation Process Schedule

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<u>Milestone</u>	<u>Content</u>	<u>Goal</u>	<u>Time Frame</u>
Software Workshop	The Bidder will run a minimum 3 day, 20 hour workshop as defined above.	The traffic engineers participating in the workshop are ready for independent work with the Bid Software.	The Software Workshop will take place following the First Stage, as set forth in Section 6.1.1 below.
Design	Design chosen intersections with the relevant Bid Software products.	Become knowledgeable enough with the Bid Software to score the relevant Technical Bid.	Up to 8 weeks.
Quality Scoring	Scoring each Technical Bid.	Ascertaining the TBS (as such term is defined below) of each Technical Bid.	

- 6.5.6. JTMT may, at any time and in its sole discretion, change the evaluation process schedule, in a notice given to the Bidders.
- 6.5.7. The Technical Bid Score [**TBS**] will be measured between 0 and 100, which will be weighted and constitute 80% of the FS. The measurement will be carried out in accordance with **Annex C**.
- 6.5.8. JTMT will appoint a professional committee that will conduct the evaluation process in accordance with internal testing specifications to be held by JTMT's sole discretion.
- 6.5.9. Reserved.
- 6.5.10. In addition to the criteria mentioned in **Annex C**, JTMT may set internal guidelines and sub-tests regarding the manner in which the quality of the Technical Bids will be evaluated.
- 6.6. **Evaluation of the Financial Bid**

After the completion of the evaluation of the Technical Bids, the Financial Bid Score [**FBS**] will be evaluated as follows:

$$FBS = 0.2 * [LFB/SFB] * 100]$$

Where:

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FBS – Bidder's Financial Bid Score.

LFB – Lowest Financial Bid.

SFB – The specific Financial Bid of the Bidder.

6.7. **Selection of the Preferred Bid**

Following the evaluation of the Technical Bids and the Financial Bids (that were not disqualified in the first stage as described above), JTMT will select the Preferred Bids and the Preferred Bidders (subject to the provisions of Section 1.8 above), according to the following formula:

$$FS = TBS + FPS$$

7. **DOCUMENTS TO BE PROVIDED AS PART OF THE BID**

Each Bidder shall provide as part of its Bid the following documents:

- 7.1. A cover letter addressed to JTMT at the address specified in Section 10.12.1 and signed by the Authorized Representative of the Bidder. The cover letter shall list separately each of the documents comprising the Bid submitted by the Bidder.
- 7.2. The Irrevocable Power of Attorney for Authorized Representative attached hereto at **Annex F-1**.
- 7.3. Copies of its charter documents (which shall include at least the Bidder's incorporation certificate and articles of association) and any other documents evidencing its legal status, place of registration and principal place of business, in each case certified as true and accurate copies thereof by the Bidder's legal counsel.
- 7.4. To demonstrate compliance with the requirements of Section 5.7 above, the Bidder shall provide as part of its Bid all required approvals and documents according to the Public Entities Transactions Law 5736-1976 as well as a signed declaration in the form attached in **Annex F-2** [applies only to legal entities incorporated in Israel or registered Foreign Company, as the term is defined in the Companies Law, 5759-1999].
- 7.5. To, *inter alia*, (i) demonstrate compliance of the Bidder and the Bid Software with the requirements of Section 5 above; and (ii) present the Bidder's experience and staffing capabilities to the extent they are relevant to the Tender Process, the Bidder shall provide as part of its Bid a completed and signed declaration in the form attached hereto as **Annex F-3**, and shall attach to such declaration detailed visual, pictorial, or other explanations, files, documents, or materials that demonstrate both its compliance with the Pre-Qualification Requirements and its experience and capabilities, as necessary.
- 7.6. A full and signed Financial Bid form in the form attached hereto as **Annex B**. The Financial Bid form shall be submitted in a sealed, closed and separate envelope.

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- 7.7. A signed Declaration Regarding Contacts and Absence of Conflicts of Interest in the form attached hereto as **Annex F-4**.
- 7.8. Bidders shall include information regarding any litigation or proceedings that are current, pending, or threatened against the Bidder or any of its Related Entities including during the ten year period prior to its submission of its Bid which may result in any material or adverse changes to their business, operations, affairs, condition, assets, prospects, cash flow, or any of their properties or assets which may impact on the Bidder's ability to submit a compliant Bid or may impact the Bidder's ability to provide the Services or any part thereof in the event it is declared the Preferred Bidder, including any litigation or disputes relating to ownership of technology, or intellectual property – in the form attached hereto as **Annex F-5**.
- 7.9. The Confidentiality Undertaking attached hereto as **Annex F-6**.
- 7.10. Each Bidder shall acknowledge its understanding and acceptance of all RFP provisions, terms, and requirements by submitting a set of all RFP Documents that is fully initialed and stamped on each page by the Bidder.
- 7.11. The Contract fully signed on the signature block including a company stamp and initialed on each page.
- 7.12. Notwithstanding anything to the contrary, the Bidder agrees to indemnify JTMT fully for all losses, costs or damages incurred by JTMT or the Government arising from, or as a result of, a breach of any of the declarations, warranties and undertakings submitted as part of the Bid in the forms attached hereto as **Annex F**.

NOTE: All documents which are not in English or Hebrew must be accompanied by a notarized translation into English or Hebrew signed by a notary public certified as an “expert in the English/Hebrew language” confirming that the translation is a true, complete and accurate translation of the original document;

8. FINANCIAL BID

- 8.1. Bidders are requested to provide a Financial Bid according to the Form attached hereto as **Annex B**. As set forth in Section 10 below, Bidders are required to submit all documents that include the Financial Bid in a separate sealed envelope.
- 8.2. Bidders shall fill out the Financial Bid form for each component and quote a price for each item in the Financial Bid Form, all in accordance with instructions and the conditions set forth in **Annex B**.
- 8.3. The Bidder shall not provide any negative values (less than zero). If the Bidder submits any negative values, JTMT shall consider it as a value of zero.
- 8.4. All prices quoted in the Financial Bid Form shall be in ILS, and shall

not include Value Added Tax (VAT). Any price presented in any other currency shall be considered as if it is in ILS pursuant to the relevant exchange rate published by the Bank of Israel on the date/30 days prior to the date the Bid is submitted.

- 8.5. JTMT reserves the right to correct arithmetical errors if a miscalculation has occurred.

Payment of Taxes

- 8.6. Subject to the provisions of Section 14.10 herein under, each Bidder shall be responsible for the payment of all taxes in connection with its Bid and performance of any services.
- 8.7. With respect to JTMT's payment of (i) up to 50,000 ILS as reimbursement for the Bidder's expenses for JTMT's software workshop according to Section 6.5.4.2; and (ii) An amount no greater than the MAAD Amount pursuant to Sections 6.2 and 6.46, if the Bidder is an entity registered outside of Israel, VAT shall be paid to the Israel Tax Authority directly by JTMT. However, If the Bidder is an entity registered in Israel, VAT shall be paid to the Israel Tax Authority directly by the Bidder.

9. REQUESTS FOR CLARIFICATIONS OF THE RFP DOCUMENTS

- 9.1. Bidders may ask questions and request for clarifications or interpretations to RFP Documents. All questions and requests for clarification or interpretation regarding the RFP must be submitted in writing by Email, to **Tenders@jtmt.gov.il no later than January 9th 2020, 12:00PM (Israel time)**.
- 9.2. The clarification questions should be submitted in an open WORD file according to the table below:

#	Part of the RFP Documents	Section	Question

- 9.3. No responses shall be given to questions that are not submitted in as set forth above.
- 9.4. Although JTMT has no obligation to clarify or interpret the RFP Documents, JTMT may issue to all Bidders an addendum for purposes of clarification or interpretation in response to such questions or requests, and such addendum shall form an integral part of the RFP Documents. The identity of the Bidder that submitted the question shall not be disclosed

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9.5. JTMT shall not be bound by, and Bidders shall not rely on, any oral interpretation or clarification to the RFP Documents.

9.6. In the event that JTMT chooses to not answer a question, JTMT will be deemed to have rejected the Bidder's request.

10. THE SUBMISSION OF THE BID

10.1. **Structure & Contents of Bids**

The Bids shall include five (5) parts as described below.

10.2. **Submission of Bid Envelops**

The Bids shall be submitted in **two (2) separate, sealed envelopes**, as follows:

10.2.1. **FINANCIAL BID ENVELOPE**, containing the **Financial Bid**, in one original and two (2) additional hard copies and one soft copy [USB flash drive], signed by the Bidder and its Authorized Representative as required.

10.2.2. **GENERAL BID ENVELOPE**, containing **four (4) parts of the General Bid (including the Technical Bid)**, in one original and two (2) additional hard copies and one soft copy [USB flash drive], signed by the Bidder and its Authorized Representative as required. **It shall be the responsibility of the Bidder to ensure that the hard and soft copies are identical.**

The General Bid contains the following parts:

10.2.2.1. **Part 1 (General Bid Forms)**: General forms for submission, and other documents and obligations as described in Section 7 above.

10.2.2.2. **Part 2 (Technical Bid)**: The Technical Bid in accordance with the terms of the RFP.

10.2.2.3. **Part 3 (RFP Documents)**: All RFP Documents initialed and stamped by the Bidder.

10.2.2.4. **Part 4 (Contract)**: The Contract properly signed in accordance with the terms of the RFP.

10.3. All tables provided as part of this RFP shall be completed and submitted in their original structure, order and categories. No changes whatsoever shall be made to the original tables, except filling in the necessary information.

10.4. The following information shall be clearly indicated on each of the Bid volumes and Bid envelopes:

10.4.1.1. **Bid Submitted To: Jerusalem Transportation**

Masterplan Team in response to Public Tender No. 028-2019 for the Design, Implementation, and Maintenance of Traffic Signal Designing Software.

- 10.4.1.2. For Bid Envelopes – category of Bid [Financial/General].
- 10.4.1.3. For volumes of the General Bid: Name and the relevant Part;
- 10.5. Bidders are specifically instructed that NO identification other than the details listed above shall appear on the outside of the envelopes containing the Bidder's Bids. Placing of company stamps and/or names and/or addresses and/or other identifying markings may lead to invalidating the Bid.
- 10.6. **Joint Venture**. For the avoidance of doubt, JTMT will allow participation in this RFP of corporations and/or partnerships that have been established specifically for the purpose of submitting a Bid in this RFP.
- 10.7. Bidders shall submit their Bids in English or Hebrew, with original (clearly marked "ORIGINAL"), two (2) copies and a soft copy (PDF files on CD/USB flash drive), as well. In the event of any discrepancy between the original and the copies and/or the PDF format, the original hardcopy shall prevail.
- 10.8. No change of or addition to or omission from any of the RFP Documents (including any attachments or the Contract) shall be made, other than as explicitly required therein and other than changes announced by JTMT in a prior and written notice to all the Bidders in this RFP.
- 10.9. Where a Bid and/or the documents attached thereto are stated as conditional, lacking or including any change, addition or omission, JTMT shall be entitled, at its sole discretion, to determine any of the following with respect to such Bid:
- 10.9.1. To disqualify such Bid and terminate the participation of its Bidder in the Tender Process.
- 10.9.2. To deem such Bid, for all intents and purposes, as having been submitted without the said conditions, changes, additions or omissions.
- 10.9.3. To demand that such Bidder, as a condition to its continued participation in the Tender Process, complete or amend the Bid by a date determined by JTMT.

Confidentiality

- 10.10. For the avoidance of doubt, Confidential information contained in the Bid and the RFP Documents, including patented and unpatented inventions, trade secrets, know-how, techniques, specifications, and

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drawings, shall be treated by JTMT as strictly confidential and shall not be disclosed by JTMT to any Third party, provided that every page of the Bid and/or document included therein or part thereof, containing such confidential information shall be clearly identified as confidential by the Bidder, by labeling the said page or document with the words "CONFIDENTIAL" well visible at the top, bottom or across the page. Notwithstanding the foregoing, the mere labeling of the said pages and/or documents as aforesaid does not make such information contained thereon confidential. The determination that any documents and information contain confidential information shall be determined only at JTMT's sole and absolute discretion.

10.11. Notwithstanding the above, JTMT shall be entitled and/or obligated to disclose such confidential information:

10.11.1. To its employees, experts, professional advisers and consultants, for the purpose of and to the extent necessary for the evaluation of the Bid;

10.11.2. To governmental authorities for the purposes of obtaining or maintaining any permits, authorizations, licenses or other approvals required to achieve the goals of the Tender Process as stated in the RFP;

10.11.3. If, and to the extent, required by an order of any relevant court or by Laws and Regulations. In this regard, the Bidders are advised that according to Law and Regulations, every Bidder is entitled to peruse the decision, including the reasons, of the Tender Committee on the results of the Tender Process as well as the Bid of the Preferred Bidder, except any parts thereof that have been determined by JTMT and/or the court as constituting trade or professional secrets.

10.12. **Submission Date**

10.12.1. **The Bids and the RFP Documents are to be delivered no later than January 30th 2020, 12:00 PM (Israel time), by hand delivery only, to the Tender Box at JTMT's offices at the following address:**

JTMT, First Floor, Clal Building, 97 Jaffa Road, PO Box 28034, Jerusalem 91280, Israel. (Att: Amit Blogovski)

10.12.2. A Bid that is not be in the Tender Box on the Submission Date and/or submitted after the Submission Date will be rejected.

10.12.3. JTMT may, at its sole and absolute discretion, extend the time for the submission of the Bids, should it determine to be appropriate. JTMT shall notify the Bidders thereof in writing.

10.13. **Validity of the Bid**

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- 10.13.1. The Bids shall be valid for a period of twelve (12) months from the Submission Date (the “**Validity Period**”).
- 10.13.2. JTMT may require the Bidders to extend the Validity Period for an additional time period (the “**Extended Period**”). If a Bidder refuses this demand, then such Bidder shall be considered as a Bidder that does not want to take part in the Tender Process, and its Bid will be disqualified. JTMT will be entitled to proceed with the Tender Process and to announce another Bidder that gave its consent to the extension as the Preferred Bidder even if the Bid submitted by the Bidder that refused the extension is superior.
- 10.13.3. If JTMT notifies a Bidder of its selection as a Preferred Bidder within the Validity Period or within the Extended Period, the Preferred Bidder's Bid shall remain valid until the Contract has been signed by the Preferred Bidder and JTMT.
- 10.14. The anticipated schedule for the Tender Process is as follows:
- 10.14.1. Final date for the submission of requests for clarifications: January 9th 2020, 12:00 PM (Israel time).
- 10.15. Bid Submission Date: January 30th 2020, 12:00 PM (Israel time).
- 10.16. The Tender Committee reserves the right to amend any date contained herein, at any time, at its sole discretion by issuing a written clarification in accordance with the provisions of Section 11 below.

11. GENERAL PREROGATIVES OF JTMT

- 11.1. **Engagement with Number of Preferred Bidders**
- 11.1.1. JTMT will be entitled to engage and sign the Contract with multiple Preferred Bidders, whose Bids achieve the highest FS according to the RFP provisions, and such Bidders will be declared as Preferred Bidders. For the avoidance of doubt, it is hereby clarified that JTMT shall have sole and absolute discretion to determine the number of selected Preferred Bidders as stated in this section.
- 11.1.2. It is also clarified that if JTMT exercises its right to engage with a number of such Preferred Bidders, it shall have sole and absolute discretion with respect to determining the scope of the engagement with each of the Preferred Bidders, which will be according to the needs of JTMT from time to time only, and the Preferred Bidders shall have no vested right to any minimum scope of engagement. Notwithstanding the above in this Section 11.1.2, JTMT shall purchase at a minimum 30 Software System licenses from all Preferred Bidders, although JTMT shall have no obligation to purchase a specific number of such licenses from any particular Preferred Bidder, nor shall it have an obligation to purchase annual Maintenance Services with respect to any particular license of any

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particular Preferred Bidder.

- 11.1.3. Each of the Preferred Bidders will not, and by submitting a Bid, each Preferred Bidder waives, irrevocably, and undertakes not to raise any claim and / or demand against JTMT in connection with engagement with a number of Preferred Bidders and in connection with the scope of engagement with each of the Preferred Bidders.
- 11.2. JTMT may unconditionally to reject any or all of the Bids, or to annul the Tender Process at any time without thereby incurring any liability to the affected Bidder or Bidders or to any parties related in any way to the effected Bidder or Bidders;
- 11.3. JTMT may request additional information and/or clarifications from any or all of the Bidders. Bidders shall comply with JTMT's requests under this Section 11 within the time frames determined by JTMT in its relevant request, and JTMT's request together with said Bidder's reply will form an integral part of its Bid.;
- 11.4. JTMT may waive minor irregularities or errors in any of the Bids if it appears to the Tender Committee that such irregularities or errors were made inadvertently.
- 11.5. JTMT may visit Bidders' headquarters/offices and/or to interview Bidders' representatives and main specialists;
- 11.6. JTMT may modify the terms and requirements of this RFP at any time in an addendum to the RFP, which shall form an integral part of the RFP Documents;
- 11.7. JTMT may change the schedule of the Tender Process, including the date of submission, at any time;
- 11.8. JTMT may cancel this RFP at any time;
- 11.9. JTMT may hold a 'Best and Final' stage at JTMT's sole discretion;
- 11.10. JTMT is not to be bound to accept an entire Bid, or the Bids with the lowest Financial Bids, or any Bid at all or any part thereof;
- 11.11. Notwithstanding anything to the contrary, JTMT may add to the Services as specified in the TOR, or request the performance of only part of the Services (including, without limitation, at any time following the execution of the Contract); to implement Bids in their entirety or in part or not to implement any Bid;
- 11.12. JTMT may combine or divide Bids from different Bidders.
- 11.13. Bidders shall not have the right to claim any damages, expenses or other relief in connection with the exercise by JTMT, the Tender Committee and/or the Association for Urban Planning, Development and Preservation – (R.A.) of any of the abovementioned prerogatives.

11.14. Examination and Evaluation of the Bids – General

- 11.14.1. The Bids will be evaluated by JTMT which will use external experts, professional advisers, and consultants for the evaluation of the Bids.
- 11.14.2. Without derogating from JTMT's rights to consider any other criteria deemed relevant, JTMT reserves the right, at its sole and absolute discretion, to consider in the evaluation of the Bids the ability and experience of the Bidder, in executing similar projects, the financial and organizational structure and capabilities of the Bidder, previous works executed for JTMT and/or for any other public bodies.
- 11.14.3. Furthermore, and without derogating from JTMT's rights, JTMT reserves the right, at its sole and absolute discretion, to reject any Bid, even if such Bid has achieved the highest FS, due to any negative experience between JTMT and/or any other public bodies and between the Bidder and/or any one that Controls the Bidder or the Member/s and/or any one acting on their behalf.
- 11.15. This RFP shall not limit any rights of JTMT. JTMT reserves all its rights including but not limited to its right to elect not to procure the services that are the subject of this RFP and its right to procure them from a Consultant that has not responded to this RFP and the Bidders shall have no demand and/or claim in this regard.
- 11.16. Without derogating from JTMT's rights, JTMT reserves the right, at its sole and absolute discretion, to reject any Bid that is not complete and/or clear and/or contains incorrect or misleading details and/or was not submitted in complete accordance with and pursuant to the RFP's instructions. The Tender Committee will be allowed, but not obligated, to disqualify Bids based on the missing documents that the Bidder failed to provide.
- 11.17. JTMT distinguishes between the Bidders' compliance, upon Submission Date, with the respective Pre-Qualification Requirements set forth under Section 5 above, and the documentation intended to demonstrate such compliance. Accordingly, JTMT may determine at its sole discretion that a Bidder has in fact met the Pre-Qualification Requirements also in the event that supporting documentation is furnished by the Bidder after the Submission Date, provided, however, that such documentation proves that the Bidder had met the respective Pre-Qualification Requirement by the Submission Date.
- 11.18. JTMT may make, at its sole discretion, any decision in connection with the interpretation of the Pre-Qualification Requirements, including ascribing to any Pre-Qualification Requirement a broad interpretation or an interpretation that is not the most reasonable or probable linguistically, provided that such interpretation is consistent with the purpose of the Pre-Qualification Requirement in the overall context of the RFP Documents.
- 11.19. JTMT reserves the right, at any time and at its sole and absolute

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discretion, to cancel or postpone the Tender Process.

- 11.20. JTMT reserves the right, at its sole and absolute discretion, to condone the non-compliance with a demand or conditions of the RFP if such noncompliance is not material and does not impair the equality principle between Bidders.
- 11.21. JTMT reserves the right, at its sole and absolute discretion, to engage in negotiation with some or all of the Bidders, with respect to their Bids, all in accordance with Laws and Regulations. The procedures for conducting such negotiations will be determined by JTMT.
- 11.22. Without derogating from the rights of JTMT under the RFP Documents and under the Laws and Regulations, during the course of negotiations, JTMT may, at its sole discretion, provide or request additional information and/or modify, alter or change any of the requirements of the RFP Documents.
- 11.23. At the end of the negotiation, if conducted, Bidders may be requested to modify, change or improve their Bids or any part thereof (including any technical, commercial or financial aspect).
- 11.24. JTMT will examine whether all the required approvals, documents, and details as mentioned herein have been provided by the Preferred Bidder, the compliance thereof with the RFP requirements and whether JTMT may approve them. In the event that JTMT determines, in its sole discretion, that finalizations and/or modifications are required to approve the said documents, then in such event, JTMT shall notify the Preferred Bidder of its said decision and as to the required finalizations and/or modifications. The Preferred Bidder shall execute the required finalizations and/or modifications within a period determined by JTMT and will provide for the approval of JTMT all necessary documents or details after it made all required finalizations and/or modifications.
- 11.25. If JTMT will determine, in its sole discretion, that additional finalizations and/or modifications are needed, then JTMT shall be entitled to give to the Preferred Bidder another opportunity to execute the required finalizations and/or modifications or, in JTMT's sole discretion, to decide to proceed pursuant to Section 12 hereunder.
- 11.26. Prior to the actual signing of the Contract by JTMT, there will be no valid Contract between JTMT and the Preferred Bidder.
- 12. CANCELLING THE WINNING AND/OR THE CONTRACT WITH THE PREFERRED BIDDER AND ENGAGING WITH ANOTHER BIDDER**
- 12.1. In the event that the Preferred Bidder fails to fulfill all of its obligations according to the RFP Documents and/or its Bid, including without limitation, the fulfillment of the preconditions set forth in Section 5 above, JTMT shall be entitled, in its sole discretion, to cancel the award of Preferred Bid or to give the Preferred Bidder an extension of time for the purpose of fulfilling all of its obligations.

- 12.2. The Preferred Bidder whose Bid has been canceled as aforesaid, shall not have any argument, demand and/or claim of any kind against JTMT and/or anyone on its behalf in connection with the cancellation of the award of the Preferred Bid.
- 12.3. Without derogating from the above, in the event that JTMT has decided to cancel the award of a Preferred Bid, JTMT shall be entitled, at its sole discretion, to grant the award of the Preferred Bid in the Tender Process and the Contract to the Bid submitted by the Bidder with the next highest FS. JTMT's right according to this Section 12.3 is not mandatory and JTMT shall be entitled, at its sole discretion, not to so grant the award the Preferred Bid in the Tender Process and the Contract to the Bid submitted by the Bidder that arrived in next place. In such event, the Bidder that arrived in next place will not have any argument, demand and/or claim of any kind against JTMT and/or anyone on its behalf in connection with the aforesaid or in connection with the cancellation of the Tender Process instead of awarding the Preferred Bid in the Tender Process to it or otherwise.
- 12.4. Without derogating from any of JTMT's rights, and in addition to any of JTMT's rights according to the Laws and Regulations and/or to the RFP Documents, in the event that JTMT will terminate the Contract with the Preferred Bidder, for any reason, JTMT shall be entitled, but not obligated, to notify the Bidder that arrived in next place in the Tender Process and offer to such Bidder to engage with JTMT and sign the Contract to provide the services instead of publishing a new tender. Such Bidder shall give its response to JTMT's Bid within seven (7) days. If the said Bidder will refuse, then JTMT will be entitled, but not obligated, to so notify the Bidder that arrived in the third place in the Tender Process, and so on. It is hereby clarified that JTMT's said right hereunder is not mandatory and JTMT shall be entitled, at its sole discretion, not to engage with the Bidders that arrived in places after the Preferred Bidder, and the Bidders will not have any argument, demand and/or claim of any kind against JTMT and/or anyone on its behalf in connection with the above.

13. CONFLICTS OF INTEREST

JTMT hereby brings the following provisions to the attention of all Bidders:

- 13.1. Any entity or person, which has provided, or will provide, significant services to the Tender Committee, will not be permitted to participate in the RFP as part of any Bidder or by providing service to any Bidder, without the prior written approval of the Tender Committee.
- 13.2. A Bidder or anyone acting on its behalf, who may have a conflict of interest with the goals of the Tender Process and/or may have a conflict of interest between itself and JTMT and/or the MOT – may not participate in this RFP, unless JTMT has approved such participation in writing and subject to any conditions JTMT may impose on the Bidder, at its sole discretion.
- 13.3. The Bidder, on its behalf and on behalf of all of its third parties who are

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related to the execution of the Contract, and on behalf of its and their employees, hereby undertakes to avoid, throughout the Tender Process, any conflicts of interest in connection with the Project and/or JTMT and/or the MOT, and or any conflict of interest that may prevent it from fulfilling its obligations under this RFP.

14. GENERAL CONDITIONS

- 14.1. By submitting the Bid to JTMT, Bidders shall be deemed to have accepted all of the terms and conditions contained in the RFP Documents (including any addendum thereto).
- 14.2. Bidders may include in their Technical Bids external features not referenced in the RFP Documents, which external features shall be described as part of **Annex F-3**. For the avoidance of doubt, no such external features shall be taken into account in the Bidder's Financial Bid.
- 14.3. Bidders shall be responsible for examining, with appropriate care, the complete RFP Documents, including all addenda, and shall be responsible for informing themselves with respect to all conditions, which might affect, in any way, the cost or the performance of the required Software and any related services. Failure to do so shall be at the sole risk of the Bidder and without any compensation.
- 14.4. **Cost of Bid Preparation and Submission**

Any and all costs and expenses of any nature whatsoever incurred by each Bidder arising from or in connection with participation in the Tender Process (including, without limitation, preparation and submission of their Bids, changes and requests for further clarifications exploration, investigation, testing, translation of documents, issue of licenses and permits required in terms of the RFP Documents) are under the sole responsibility of the Bidder and shall be borne entirely and exclusively to by the Bidder. JTMT will not be responsible or liable for any of these costs or expenses, regardless of the conduct or outcome of the Tender Process, in whole or in part, including in the event that the Tender Process is delayed or cancelled at any point for any reason whatsoever. Bidders acknowledge that they will not be reimbursed by JTMT or any Third party on its behalf for any costs or expenses so incurred by the Bidders (except for the compensation which the Bidder may be entitled to for execution of the Software workshop in accordance with the RFP Documents).

The Bidders shall not be entitled to demand, nor shall JTMT be liable for, any payment, compensation and/or reimbursement of any costs and expenses as aforesaid, including loss of profit, under any circumstances whatsoever, including in the event of a cancellation of the Tender and/or if JTMT decided not to sign the Contract with any of the Bidders.

It is clarified, that this Section shall not apply to the payment that JTMT

will pay for the Bidder's expenses with respect to JTMT's software workshop, according to the Software evaluation process description in Section 8.6 above.

14.5. **Confidentiality and Proprietary Rights**

14.5.1. By participating in this RFP, each Bidder is deemed to have agreed to keep in strict confidence, not to disclose and not to make use of any information or data, in any form or media, partial or complete, provided to it by JTMT or on its behalf or made known to it otherwise as a result of or in connection with this RFP. Each Bidder may use such information or data solely to prepare its Bid. It is hereby clarified that this shall not apply to documents and/or information published by JTMT on its internet website.

14.5.2. By submitting a Bid, each Bidder shall be deemed to represent and warrant to JTMT that:

14.5.2.1. It is not bound by any contractual and/or statutory obligation that may preclude the Bidder from providing the data and information contained in the Bid or any portion thereof;

14.5.2.2. It has the right to make all disclosures that are made in the Bid; and

14.5.2.3. The data and information contained in its Bid do not include confidential information, trade secrets and/or other proprietary information of the Bidder and/or of any Third Party that JTMT is prevented from using in accordance with this RFP.

14.6. **Information Supplied in the RFP Documents**

JTMT has prepared these RFP Documents in good faith, providing the most up-to-date information available. Notwithstanding this, JTMT does not represent or warrant that the information contained in these RFP Documents is either complete or accurate. Such information is for indicative purposes only. JTMT, and anyone acting on its behalf, shall bear no responsibility whatsoever for any loss, damage, or injury suffered by Bidders, their employees, officers, agents, or any other persons for whom Bidders may be contractually or legally responsible by reason of any use of information contained in the RFP Documents, or for any action or forbearance in reliance thereon.

14.7. **Language of the Tender Process**

14.7.1. The language of the Tender shall be English, including any statements, information and correspondence between the Bidders and JTMT. Notwithstanding the foregoing, JTMT shall have the right to attach, issue and/or submit, or to permit the attachment, issuance or submission of any statements, information, correspondence and/or any other documents in Hebrew and in such a case the Hebrew version of the document will be the

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obligating one and any translation made by a Bidder to such document will be on the sole responsibility of such Bidder.

14.7.2. Any documents of any nature whatsoever submitted by the Bidders that are not in English or Hebrew shall be accompanied by an English translation thereof, the completeness and accuracy of which shall be certified by a public notary.

14.7.3. In the event of contradictions, inconsistencies or discrepancies between a document and its English or Hebrew translation, the latter shall prevail.

14.8. For the avoidance of doubt, it is hereby clarified that JTMT reserves the right, at its sole and absolute discretion, to publish tender(s) in connection with the execution of works and/or services that could have been performed in the scope of this RFP, or to engage with any other party whatsoever for this purpose, all in accordance with the Laws and Regulations. By submitting a Bid, the Bidder hereby agrees to the above condition and declares and undertakes that it will not have any argument, demand and/or claim of any kind against JTMT and/or the State of Israel and/or anyone on their behalf.

14.9. **Governing Law, Jurisdiction**

14.9.1. This RFP and the Tender Process shall be governed and construed in accordance with the provisions of Israeli law.

14.9.2. The competent courts in Jerusalem, Israel shall have the sole and exclusive jurisdiction over all issues and disputes arising in connection with the RFP, the RFP Documents and/or the Tender Process to the exclusion of any other courts wherever situated in Israel or abroad.

14.10. **Conformity with All Applicable Laws**

Each Bidder is assumed to have obtained legal advice. The Bidders and Bids submitted by them shall abide by all applicable laws. Bidders shall be subject to any changes in any of the said laws in the event and to the extent that any such changes are made during the Tender Process.