



Request for Proposals to design, build, operate and maintain a multi-storey underground car park and other facilities in Mosta

Projects Malta Limited (C 64764)
The Clock Tower, Level 1
Tigné Point
Sliema, TP01
Malta

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Disclaimer

Any and all information provided as a part of this Request for Proposals (RFP) document to the prospective applicants by Projects Malta Limited (PML), is subject to the terms and conditions set out in this RFP and any addendum to the same (as and when issued in writing).

The objective of this RFP document is to provide prospective applicants information to facilitate their bid. This RFP document does not purport to contain all the information each Prospective Proponent may require. Each Proponent is advised to conduct its own due diligence and check the accuracy, reliability and completeness of the information in this RFP document and obtain independent advice from appropriate sources as deemed necessary. PML makes no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this RFP document.

PML may, in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP document.

1. List of abbreviations

Bank	A credit institution duly licensed in terms of the Banking Act (Chapter 371 of the Laws of Malta).
Central Malta Local Plan (CMLP)	The Central Malta Local Plan is one of seven (7) for the Maltese Islands. Local Plans set a framework to base decisions on land use and development over a period of several years.
Competitive process through this RFP	The competitive process commenced by the Government of Malta following the conclusion of the RFP process, involving the issuance by PML of this RFP setting out the final terms and expected parameters of Proposals to be submitted by Proponents during this competitive process, the identification by Projects Malta Limited of the Preferred Proposal, further discussions and negotiations with the Preferred Proponents and ultimately leading to the award of the Concession to the Successful Proponent, including the execution of the Concession agreement and/or any other agreement or document as may be material or otherwise ancillary thereto.
Complainant	Any Proponent who has participated in the tender process and who feels aggrieved by a decision taken in his regard by the Review Board.
Concession	The awarding of a Concession by the Government of Malta, through this competitive process, for the rights which will entitle the Successful Proponent to design, build, operate and maintain a multi-storey underground car park and other facilities in Mosta and to exploit such Concession at the sole risk of the Successful Proponent.
Concession Agreement	The agreement to be entered into between the Government of Malta and the Successful Proponent, including any other agreement or document material or ancillary thereto, in respect of the Concession.
Concessionaire	The Successful Proponent or the limited liability company which is incorporated or is to be incorporated in Malta by the Successful Proponent (as the case may be) for the purpose of entering into the Concession Agreement.
Consortium	One or more natural or legal persons getting together in terms of a joint venture agreement, Consortium agreement or similar agreement in writing with the intention of submitting a joint Proposal in response to this RFP.
EU	The European Union.
Evaluation Committee	An ad hoc Evaluation Committee appointed by PML and set up for the purpose of evaluating the Proposals, identifying the Preferred Proponent and if so directed by PML, to enter and conclude negotiations with the Preferred Proponent.

Evaluation Criteria	The evaluation criteria as identified in Section 6.3 of this RFP.
Financial Institution	A financial institution duly licensed in terms of the Financial Institutions Act (Chapter 376 of the Laws of Malta).
Government or Government of Malta (GoM)	The Government of Malta.
Key Performance Indicator (KPI)	A set of quantifiable measures used by an entity to compare its performance in terms of meeting pre-established goals.
Projects Malta Limited (PML)	The entity issuing this RFP, on behalf of the Government of Malta.
Preferred Proponent	A Proponent which has been positively identified by the Evaluation Committee following an evaluation process in terms of Section 6.3 of this RFP and with whom PML, on behalf of the Government of Malta, has entered into advanced discussions, to the extent that these can be entertained, with a view of finalising and awarding the Concession.
Proponent	Any person who submits (whether individually or jointly with other persons in the form of a Consortium) a Proposal in response to and in terms of this RFP.
Proposal	A Proposal made by a Proponent in the prescribed form in response to this RFP in compliance with the terms and conditions set out in this RFP.
Prospective Proponent	Any party which intends to submit a Proposal in response to, and in terms of this RFP.
Review Board	An ad-hoc committee set up to evaluate requests for appeal in terms of Section 6.4.
RFP	Request for Proposals.
Successful Proponent	The Preferred Proponent upon the award of the Concession.
WWII	World War II.

1.1. General Terms

1. The singular includes the plural and vice-versa;
2. Words importing a gender include all genders;
3. Headings and sub-headings shall not be taken into consideration in the interpretation or construction of this Agreement; and
4. Any reference to the words “include” or “including” or to any derivative thereof or to any cognate expression shall be construed in all cases and at all times to mean “including without limitation” or words of a like meaning and import.

2. Introduction

In accordance with the Development Planning Act, which was drafted in 1992 and amended most recently in 2009, the Planning Authority (PA) previously known as the Malta Environment and Planning Authority, is required to prepare Local Plans for the whole of the Maltese Islands. The locality of Mosta is included in the Central Malta Local Plan (CMLP), one of seven (7) plans, covering thirty-three (33) square kilometres.

The principle functions of the CMLP are:

- To apply the strategy, principles, policies and standards of the Structure Plan on a local scale;
- To provide area and site specific, detailed guidance for development control by proposing allocations for particular land uses, defining areas in which particular development control policies will apply, and establishing standards and other criteria to which development must conform;
- To designate any specific areas within the Local Plan boundaries that need to be planned further through the preparation of more detailed policies or subsidiary plans;
- To provide a basis for promoting and coordinating public and private development within specified areas; and
- To designate areas/sites that require protection from development for social, cultural, historical and environmental reasons.

The CMLP has identified a number of objectives for any future developments. In relation to this project, the most relevant objectives are listed hereunder:

- Ensure the promotion of the town centre's vitality and viability;
- Ensure the safeguarding of spaces for recreational use;
- Contribute to the revised traffic management arrangements required in and around the centre of Mosta; and
- Contribute to the control and management of on-street parking.

In line with this plan and with the aim of achieving these objectives the GoM, through PML, is issuing this RFP document with the intention of eventually awarding a Concession to a private sector operator for a period of sixty (60) years. The emphyteutical deed will be restricted to below ground level, while above ground space will remain the Government's property. The Concessionaire will only be entitled to right of use for above ground space.

Following the evaluation of the received Proposals, PML aims to identify one (1) Proponent to engage in negotiations with the scope of, and at its sole discretion, award a Concession to design, build, operate and maintain a multi-storey underground car park and other facilities under such terms and conditions as shall be deemed beneficial to the Maltese economy.

3. Project background and objectives of the RFP

In line with the GoM's strategy for the development of Mosta in accordance with the objectives identified in the CMLP, the PML is issuing this RFP to design, develop, operate and maintain a multi-storey underground car park and other facilities in Mosta. Following this competitive process, it is the intention of the GoM to award a sixty (60) year emphyteutical Concession for the sites located in Mosta.

Malta is the smallest state in the EU with a land area of 316 km² and a population of just over 425,000¹. Amongst the EU Member States with the highest number of passenger cars per 1,000 inhabitants, Malta is one of the highest, ranking at 4th place with 608 cars per 1,000 inhabitants, following Luxembourg (672 cars) Italy (619 cars) and Lithuania (609 cars)². Since Malta is the most densely populated state of the EU, it means that it also has the highest number of cars per square kilometre.

The town of Mosta lies at the heart of Malta. In fact, its name derives from Arabic 'musta' meaning centre. It is a busy market town and is the second largest locality in Malta in terms of population with 19,806 residents³. The Mosta Rotunda, built in 1860 and said to be the third largest unsupported church dome in Europe dominates the town's commercial centre. The Mosta Rotunda attracts a considerably large number of tourists to the town of Mosta. In 2015, 700,000 tourists visited the locality, which is equivalent to 39% of the total tourists that visited the Maltese islands during that year⁴.

Data held by Jobsplus, previously known as the Employment and Training Corporation, shows that within the town of Mosta, 6,887 people are employed by a total of 2,178 employers, out of which 298 employers are located within the main streets of the central area close to the Mosta Rotunda (Eucharistic Congress Road, Main Street and Constitution Street) and these employ a total of 1,006 people. The area adjacent to the Most Rotunda also hosts the Health Centre, which, according to data held by the Ministry for Health, attended to around 314,000 patient contacts during 2015. The Health Centre also employs 103 health care personnel.

The centre of Mosta receives a high volume of passenger cars and commercial vehicles which visit and pass through the area on a daily basis. Table 1 below provides some key figures made available by the Ministry for Transport and Infrastructure, in relation to the flow of vehicles in the area. In addition, the area close to the Mosta Rotunda does not cater for the large amount of coaches carrying tourists to visit one of the main landmarks in the Maltese islands

Traffic Flow	Time-band	Passenger cars	Heavy vehicles
Eucharistic Congress Street - one way from Piazza Rotunda towards Valletta	07.00-10.00	1247	238
Main Street - one way from Tumas Chetcuti street towards Rotunda Square	07.00-10.00	713	273
Constitution Street - traffic flow from Rotunda Square towards Targa Gap	07.00-10.00	587	137
Constitution Street - traffic flow from Targa Gap towards Rotunda Square	07.00-10.00	493	108

Table 1: Traffic count during July 2016 passing through the area being considered in this RFP

The lack of parking in the area creates an inconvenience to residents, commercial outlets and commuters in the centre of Mosta. Through this RFP, the GoM's intention is to increase public spaces for the enjoyment of the wider community, increase the availability of parking space in the centre of Mosta, provide better accessibility to tourists and facilitate economic activity and traffic flow in Mosta.

¹ Malta in Figures 2014, National Statistics Office

² Passenger cars in the EU, Eurostat 2013

³ Demographic review 2014, Nation Statistics Office

⁴ Market Profile Surveys, Malta Tourism Authority

The land being offered under the Concession to the private sector consists of four Zones. The site plans detailing the exact location of each Zone, marked 'A' to 'D' for ease of reference, are set out in Annex V of this document. Annex VI of this document sets out the area that needs to be considered for the purpose of improving the flow of traffic in relation to this RFP. These Annexes are to be considered as indicative site plans. Precise plans will be produced on the basis of a survey and following discussions with the preferred bidder.

Zones A and B are located adjacent to the Mosta Rotunda. Zone A is adjacent to the Rotunda and is currently occupied by an above ground carpark, which contains a total of 58 car spaces out of which 18 car spaces are reserved for ambulance services, police services, taxis, and the Local Council; and two motorcycle spaces. Zone B is currently occupied by landscaped areas, a playground and the 'bocci' club and 'bocci' pitch.

Additionally, a WWII shelter is located in the vicinity of the Rotunda. It is the Proponent's responsibility to carry out any and all necessary studies of the site in order to map out the exact location of the shelter. Although GoM shall provide plans mapping out underground services, it is the Proponent's responsibility to map out all underground services including but not limited to water services mains, sewer mains, electricity cables, telecommunication cables, highway communication cables and any other type of underground infrastructure of the entire site.

Zone C is located in Pjazza s-16 ta' Settembru, which is also referred to as il-Pjazza tal-Monti. This area is occupied by above ground parking spaces and is used by 'monti' hawkers every Monday.

Zone D is a parcel of land located between Triq il-Wied and Triq il-Lunzjata.

All Proposals submitted in response to this RFP should meet, at a minimum, the following key objectives:

- Design, develop, operate and maintain an underground car park and other facilities;
- As a minimum the Proposal needs to make use of both Zones A and B for above ground embellishment;
- As a minimum the Proposal needs to make use of Zone B for underground parking facilities;
- Increase the number of parking spaces available and improve access and flow of traffic through the town;
- Provide a minimum of 350 underground car parking spaces to increase the availability of parking in the area, of which 10 spaces shall be reserved to the Local Council and other locally-based GoM service providers;
- Create new spaces for recreational use;
- Create circulation spaces within the development which conform to international design standards to ensure safety, functionality, practicality and convenience for the general public;
- Cooperate with the local community for above ground space use for the duration Concession, for the organisation of local festivities and activities such as, but not limited to, ground fireworks during the Santa Maria feast;
- Cooperate with the local community at all stages including planning and development to allow the use or find an alternative solution to current installations over Zones A and B such as, but not limited to, access holes used for poles and ground based fireworks during the Santa Maria feast ("Toqob għall-arbli tal-festa");
- Ensure that the project is designed, built, operated and maintained in full accordance with environmentally friendly and green energy principles;
- Ensure that the proposed facilities abide by acceptable local regulatory and international standards;

- Apply for all the necessary permits including all reports that may be requested by the PA and its consulted bodies for the design and development, finishing and maintenance of all underground facilities;
- Ensure that the project is fully operational within a maximum of 30 months from issue of PA permits;
- Ensure that the Work Method Statement conforms with all the minimum requirements established in this RFP;
- Submit a proposed, practical and effective Traffic Management Plan for the area set out in Annex VI, taking into consideration all other design aspects being submitted in response to this RFP. The Traffic Management Plan will be subject to approval from the competent authorities;
- Contribute towards the pedestrianisation of the area;
- Ensure that proposed car parking fees are reasonable and take into consideration the social aspects of the community;
- Ensure that the project provides a long-term solution for visiting coaches in the vicinity of the Mosta Rotunda;
- Ensure that any existing third party rights within the sites are retained;
- Include in the above ground design for Zone A:
 - Above ground reserved parking spaces as set out below. Proponents may also submit alternative solutions for some or all of these required reserved parking spaces at Site B as long as they will still serve the intended purpose:
 - two (2) for ambulance services;
 - two (2) for police services;
 - two (2) for taxis;
 - three (3) for motorcycles; and
 - two (2) for private vehicles making use of the health centre, in cases of emergency.
 - The reinstatement, embellishment and landscaping of the area.
- Include in the above ground design for Zone B:
 - The reinstatement and upgrading of the 'bocci' club and 'bocci pitch';
 - The embellishment and reinstatement of the landscaped areas and playing field;
 - A minimum of 65% of the total landscaping area shall be dedicated to a playing field and open spaces for public enjoyment; and
 - A maximum of 40 square metres of the total landscaping area in Zone B can be dedicated to a roofed over commercial outlet together with an area of 100 square metres ancillary area, subject to approval by the competent authorities. The title for such commercial outlet and ancillary area shall be a 15-year lease, renewable for periods of 15-years, but not extending beyond the Concession Period. The Successful Proponent shall be responsible for the maintenance of the commercial outlet and ancillary area for the duration of the Concession.
- If the Proponent decides to also include Zone C as part of its Proposal, the above ground design for Zone C shall include:
 - The reinstatement of the square and road network including any currently available on-street car parking spaces; and
 - The above ground space currently designated for 'monti' hawkers on Mondays shall remain allocated for this purpose.
- If the Proponent decides to also include Zone D as part of its Proposal, the above ground design for Zone D shall include:
 - The reinstatement of the area, road network and any currently available on-street car parking spaces.
- All materials used in the construction of the public landscaped areas are to be of a high standard and to fit the purpose of their use. All materials need to be approved by the GoM; and
- All spaces need to allow for Access for All criteria.

Proposals submitted in response to this RFP may also optionally provide commercial space at underground level.

4. Scope of the project

Following the completion of the RFP process and the award of the Concession, the Successful Proponent shall be responsible for:

- the architectural and engineering design of the underground car park and other proposed facilities including any commercial space, with special care to the world heritage Mosta Dome and the Health Centre;
- the construction and finishing of the underground car park and other proposed facilities, including any commercial spaces, with special care to the world heritage Mosta Dome and the Health Centre;
- the embellishment and landscaping of above ground space and surrounding areas to enhance the urban improvement for the benefit of the community and tourism in Mosta;
- the construction and finishing of the above ground reserved car spaces;
- the supply, installation and commissioning of the underground car park and other proposed facilities, including any commercial space;
- the general upkeep and maintenance of the underground car park and any commercial space for the duration of the Concession;
- the operation of the car park and other proposed facilities for the duration of the Concession; and
- A detailed Construction Management Plan (CMP) that will be based on the terms of reference issued by the PA. Besides these terms, the CMP has to take into consideration the very sensitive location of the sites both historically (Mosta Dome) and socially (Mosta Health Centre).

5. Submission procedures

5.1. Outline of the RFP procedure

Submissions must comply with all the requirements of this RFP and must be formulated in accordance with the guidelines provided in this document, providing also any additional information that may be of relevance. Prospective Proponents are to ensure that, whilst fulfilling all RFP requirements, all the information provided, including that of a supplementary nature, is complete and accurate.

Proponents are required to submit their Proposals in response to this RFP by the date and time as defined in section 5.6.

5.2. Guidelines

The closing date for the submission of this RFP is the 14th November 2016 at 10:00 (Central European Time). A non-refundable participation fee of Euro 5,000 must be made prior to the submission of the RFP. The proof of payment must be included with the RFP submission.

The participation fee may be settled either by:

- bank draft payable to PML or
- Internet Banking or SWIFT transfer, with reference number “PML/07/2016” and “Proponent’s name”, receivable in the account bearing the following details:

Bank	Bank of Valletta
BIC	VALLMTMT
Sort code	22677
Account	40022613370
Name	Projects Malta Limited
IBAN	MT84VALL22013000000040022613370

It should be noted that any bank charges related to the above transaction shall be borne by the Proponents. No cash is to be included with the RFP submission. This would automatically disqualify Proponents.

RFP submissions are to be delivered by hand to PML on weekdays between 09:00 and 16:00 (Central European Time) at the address below:

Projects Malta Limited (C64764)
The Clock Tower, Level 1
Tigné Point
Sliema, TP01
Malta.

The Proposal shall be submitted in a sealed envelope marked with the following information:

- a. Private and confidential – Request for Proposals to design, build, maintain and operate a multi-storey underground car park and other facilities in Mosta;
- b. Not to be opened before the 14th November 2016 at 10:00; and

c. The below address.

Projects Malta Limited
The Clock Tower, Level 1
Tigné Point
Sliema, TP01
Malta

Submissions delivered are to have all the necessary documentation required for this RFP, including the completed RFP Form as per Annex I and must consist of one (1) original hard copy, two (2) hard copies and one (1) soft copy in CD-ROM/DVD/USB format of the response document. The financial projections shall be submitted in soft copy, in an Excel compatible format, unprotected and allowing formulas to be seen.

Interested parties are advised that under no circumstance may they assign their interest arising from this RFP to any other third party/Proponents.

5.3. Bid bond

All submissions in response to this RFP must include an unconditional bid bond (bank guarantee) issued by a Maltese bank or a financial institution licensed to operate in a Member State of the European Union for the amount of Euro €50,000 which shall have a validity period of one (1) year from the closing date for submissions, and which shall be forfeited in favour of PML in the event that the Proponent withdraws its submission during the validity period, or fails to enter into the Concession agreement if and when called upon to do so by the PML. This bid bond will be returned to the Proponents upon the adjudication and finalisation of the Concession agreement. A template of the bid bond required is included in Annex II.

5.4. Requests for clarifications

Enquiries or requests for clarifications relative to this RFP shall be submitted by e-mail to PML on admin.projectsmalta@gov.mt under the subject title "Request for Proposals to design, build, operate and maintain a multi-storey underground car park and other facilities in Mosta". Verbal questions will NOT be accepted. Such queries or request for clarifications shall be received by not later than the 10th October at 12:00 (Central European Time).

The PML will respond to these clarifications by e-mail by no later than 24th October 2016 and these clarifications shall be deemed as an integral part of this RFP. Prior to issuing written replies to clarifications, the PML may at its discretion and subject to notification to Prospective Proponents, hold a clarification meeting to address general clarifications requested. The date, time and venue will be communicated to all those Prospective Proponents in possession of the RFP document.

5.5. Data Room

Other documentation that may be relevant to the Project will be made available by PML and may be inspected by Prospective Proponents at the address that will be provided by PML (hereinafter referred to as the 'Data Room') before the date as instructed in Section 5.6 of this document. The Prospective Proponents shall provide the name of the designated individuals who will require access to the Data Room.

Only applications from parties who have paid the participation fee will be considered, following the submission of the Data Room Declaration to be found in Annex X. Visits will be conducted by appointment only, to be scheduled by the Proponents by sending an E-Mail to admin.projectsmalta@gov.mt before the date indicated in Section 5.6 of this document.

Proponents are to note that the documentation available in the Data Room may not be removed and may only be reproduced with the written consent of PML. Any damage, destruction or unauthorised removal of documentation from the Data Room by a representative of a Proponent shall result in the disqualification of the Proponent from this RFP.

5.6. Timeframes

20 th September 2016	Issue date of RFP
3 rd October 2016	Deadline for requests to access the Data Room
10 th October 2016 12:00 (Central European Time)	Closing date for submission of queries or requests for clarifications
24 th October 2016	Closing date for PML to publish answers to questions
14 th November 2016 10:00 (Central European Time)	Closing date for the submission of the RFP

5.7. Proposals from Consortia

Proponents are allowed to form Consortia to submit Proposals, provided that each Consortium member may participate, either directly or indirectly, in only one (1) bidding Consortium. Consortia submitting a Proposal in terms of this RFP are required to nominate the lead partner. The lead partner will be expected to:

- a) have a substantial shareholding participation in the Consortium; and
- b) have control over key management, operational and strategic decisions.

The lead partner will represent the Consortium in communications with PML and with the Evaluation Committee throughout the competitive award process and, unless provided for in a Consortium agreement, is to be in possession of a valid Power of Attorney from all the other members of the Consortium to act on their behalf in representation of the Consortium which, Power of Attorney shall be submitted in original together with the bid documentation as an integral part thereof.

Where two (2) or more Proponents choose to submit a Proposal as a Consortium, all requested information concerning the bidder must be provided in respect of each of the bidding parties forming part of the Consortium. At the stage of the submission of the Proposal, bidders submitting Proposals as a Consortium will be required to furnish to PML an original of the Consortium agreement or other form of shareholders' agreement, if any, as evidence of the Consortium.

5.8. Multiple bids

Multiple bids from the same Proponent will be rejected. Bids shall not contain alternative responses to the requirements of the RFP. Two (2) or more Proposals may also be deemed to constitute multiple bids if there is a close relationship between the persons or entities owning or controlling them.

Natural and/or legal persons forming part of a bidding Consortium shall not participate in this same competitive award process in any other competing Proposal whether on their own or as part of another Consortium, or through a subsidiary, parent, group or other affiliated or related company, partnership

or other entity, and such participation shall automatically disqualify both Proposals in which the persons or entities in question is or are involved.

5.9. Collusive tendering

Any Proponents and Preferred Proponents and their respective officers, directors, employees, agents and advisors must not engage in any collusive tendering, anti-competitive or similar conduct with any other of the aforementioned or any other person in relation to the preparation or submission of a Proposal in terms of this RFP.

5.10. Acknowledgement of receipt

PML will issue an acknowledgement of receipt in respect of each submission or Proposal received by the specified deadline. This will be issued upon submission of the response document by the Proponent.

Any material submitted in terms of this RFP shall become the property of PML and is not returnable.

5.11. Validity period

Proposals and information contained therein are irrevocable by the respective Prospective Proponents, Proponents or Preferred Proponents and are deemed to remain in force and valid for one (1) year from the final closing date for the submission of Proposals.

5.12. Requests for further information by the Evaluation Committee

Proponents or Preferred Proponents may be required to submit additional information to clarify particular aspects of any submissions or Proposals.

To this end, the Evaluation Committee and/or PML reserve the right to request in writing further particulars from the Prospective Proponents, Proponents or Preferred Proponents. Any such clarification or additional details requested are to be provided in writing within such time as the Evaluation Committee and/or PML may reasonably require in terms of its request.

With a view to facilitating any such communication, each Prospective Proponents, Proponents or Preferred Proponents is to designate an individual as its authorised contact person throughout the evaluation process.

5.13. False or misleading information

PML, acting on the advice of the Evaluation Committee, reserves the right to reject any submission or Proposal of a Prospective Proponent, Proponents or Preferred Proponents in the event that it contains false or misleading information. In the event that it transpires that false information has been provided by a Prospective Proponent, Proponents or Preferred Proponents that has been selected as the Successful Proponent, the Receiving Parties, being PML acting on behalf of GoM, may regard this as sufficient grounds for rescission of the Concession Agreement.

5.14. Disclosure of information

Prospective Proponents, Proponents or Preferred Proponents should be aware that PML may be asked to present or disclose any information and documents, including the Evaluation Committee's Adjudication Report, in connection with this RFP process, to the Parliament of Malta, and/or to the Government of Malta, and/or to a court/tribunal in the course of legal proceeding, and/or to any Body which is statutorily privileged or authorised to have access to such information and documents.

6. Submission requirements

Participation is open to all persons, natural and legal as well as to Consortia and joint ventures. Prospective Proponents are invited to put forward their Proposals and in particular to submit, as a minimum, the following information:

6.1. General requirements

- Full details of the incorporated body of each member of the Consortium. This information shall include the registered office address, telephone number, facsimile number, contact name and e-mail address;
- A certified copy of the latest copy of the memorandum and articles of association, certificate of incorporation and a certificate of good standing for each company whether participating in a Consortium or not;
- A certified copy of the identification card or passport of each director and ultimate beneficiary of each company whether participating in a Consortium or not;
- Police conducts, issued no earlier than six (6) months from the date of submission of the Proposal, for each director and ultimate beneficiary of each company whether participating in a Consortium or not;
- Curriculum vitae of each director and ultimate beneficiary of each company whether participating in a Consortium or not;
- A certified copy of the Board resolution approving the contents of the Proposal and additionally in the case of a Consortium, a declaration by all Consortium members approving the contents of the Proposal;
- A certified copy of a detailed group structure of each company or Consortium member;
- A copy of the latest three (3) years audited financial statements;
- In the case of a Consortium, the Consortium agreement is to be submitted. This agreement must clearly identify all of its members, their relative roles, the proportion held by each member within the Consortium and the lead partner. The agreement shall also include a declaration confirming that all members assume joint and several liability for the eventual execution of the project. The agreement must identify a person, being the lead partner, who shall be vested with the right to represent, receive instructions and enter into agreements for and on behalf of all the Consortium members individually and collectively. A valid Power of Attorney identifying the lead partner must be submitted in original;
- Proof that each company or Consortium member has no outstanding dues with regard to the payment of social security contributions, company tax and VAT;
- Irrespective of the legal form of the candidates, the Successful Proponent must establish a limited liability company structure registered in Malta for the purpose of fulfilling the scope of this RFP. In the case of a Consortium, the allotment of shares must reflect the level of interest of each Consortium member, as outlined in the Consortium agreement;
- Details of all service providers who have been engaged by the Proponent during the compilation of the Proposal;
- Proof of payment of the non-refundable participation fee paid in terms of Section 5.2; and
- Signed Statement on Conditions of Employment form to be found in Annex IV.

6.2. Financial and technical capacity requirements

Proponents must provide PML with sufficient comfort that they possess the necessary financial and technical capacity to undertake the scope of this RFP for a period of sixty (60) years. Each Proponent, part of a Consortium or not, is to submit as a minimum, the information requested in the following sections. These in turn must be accompanied by an executive summary which sets out the salient

features of the Proposal put forward by the Proponent whilst also outlining the attainment of the objectives set out in Section 3 of this RFP.

6.2.1 Business plan

Proponents must submit a comprehensive business plan covering the initial five (5) operational years, whilst also covering the remaining term of the Concession at a high level. The business plan must, as a minimum include the following information:

- A detailed description of how the objectives listed in Section 3 of this RFP will be achieved and the added value that any other proposed facilities shall offer to the general public;
- Outline how the Proposal put forward meets the objectives of the CMLP;
- Evidence that the Proponent has a minimum of five (5) consecutive years' experience in construction projects of a similar nature over the past eight (8) years. In the event that third parties are to be engaged by the Proponent during any phase of the project (excluding employees) shall likewise present evidence of having a minimum of five (5) consecutive years' experience in projects of a similar nature over the past eight (8) years;
- An outline of the marketing strategy to be undertaken during the first five (5) operational years;
- A detailed breakdown of the capital expenditure relating to the Proposal put forward in the Proponent's response to this RFP;
- Financial projections for the whole proposed Concession term. The financial projections are to include a profit and loss account, a balance sheet, a cash flow statement, a discounted cash flow statement, using the discount rate of five point five (5.5%) percent and a detailed breakdown and analysis of all revenues and costs attributable to the project. These should be accompanied with the key underlying assumptions used;
- A signed letter of intent drawn out by a bank or other credit institution licensed as such in a Member State of the European Union attesting the Proponent's ability to obtain the financing necessary to successfully carry out the scope of this RFP based on the amount of capital expenditure being proposed in the Business Plan;
- A confirmation drawn up by a person holding a warrant of public auditor or accountant attesting to the Proponent's capacity to invest the amount of capital expenditure being proposed in the Business Plan as well as to sustain the operation throughout the whole of the Concession period;
- A detailed breakdown of the upfront payment and the annual Concession fee, for the whole duration of the Concession term, discounted at the rate of five point five (5.5%) percent; and
- The filled in and signed Financial Bid Form as per Annex VII of this RFP document.

6.2.2 Operational plan

The operational plan submitted by the Proponent is to include as a minimum the following information:

- Detailed description of how the operations will be undertaken making specific reference to:
 - i. The timetables for the proposed operation which are intended to meet the objectives set out in Section 3 of this RFP; and
 - ii. The proposed technology which is to be used to monitor and control the operation;
- A detailed description of the internal compliance and quality assurance mechanisms to be adopted in order to ensure that the Key Performance Indicators (KPIs) set out in Section 7.2 are being met;
- A human resources (HR) plan including an organigram of the proposed operations, clearly outlining the lines of authority and accountability, the reporting structures and the different layers of management and control;
- A full technical description of all the equipment required to fulfil the scope of this RFP;
- An implementation plan including a Gantt chart accompanied by a detailed narrative outlining the period of time required by the Proponent for the project to become fully operational. The implementation plan and Gantt chart must also outline in detail any phases of the project which may

be operational before full completion. The implementation plan shall also provide concrete evidence how works will avoid and/or mitigate interruptions to the various activities within the area including but not limited to the health centre, police station, bocci club and bocci pitch and the general activity in the area; and

- A traffic management plan incorporating a long-term solution for visiting coaches within the area of the Mosta Dome.

6.2.3 Technical information

As part of the Proposals being submitted in response to this RFP, all Proponents are to submit the following minimum technical information:

- The conceptual design of the site for the proposed development of the underground car park and above ground embellishment, landscaping areas and reserved parking. This design may include general layout plans, sections and elevations, preliminary structural design, and artistic views to better illustrate the proposed Project. Site plans of the current sites are included in Annex V. These plans are only being supplied for information purposes and in their current state hence, are not expected to meet the requirements of this RFP. Proponents are therefore expected to come up with their own plans in order to meet all the requirements of this RFP. It is expected that at least a six (6) meter buffer is retained from the Mosta Rotunda unless the design allows for a lower amount;
- Show how the proposed development shall cater for people with accessibility issues;
- Show how the proposed facilities shall cater for additional public convenience facilities to those currently available;
- Show how the proposed development shall use the latest design concepts for achieving the highest possible energy efficiency;
- A Work Method Statement for the excavation and construction of the site which shall include but not limited to the excavation management plan, construction management plan and traffic management plan and must conform to all the minimum requirements set out in this RFP. The Work Method Statement shall also include the design of the shoring system to support the side walls during excavation. This design must be certified by the expert geotechnical engineer who will assume the legal responsibility according to the Maltese Law. The Work Method Statement must also include a submission for a vibration, noise and dust monitoring system which has to be placed on site a few months before works actually start on site;
- Proposed finishes supported by general technical specifications for all areas within the development; all finishes are to fit the particular use, must be hardwearing and low in maintenance.
- A Waste Management plan, including the identification of the various waste streams and the mitigation measures to be put in place;
- Provide the CV of an expert geotechnical engineer with a minimum of 10 years' experience in performing excavation and construction works in sensitive areas and provide examples of previous work carried out by such expert; and
- A Health and Safety plan.

Furthermore, all Proponents agree that they will accept the following conditions forming part of this RFP:

- A detailed finite element analysis of the retaining structure to the underground car park walls is to be provided at different sections taking into consideration the existing historical buildings;
- A geological survey is to be carried out BEFORE any works may be initiated. This geological survey is to confirm the conclusions of the previous geological report (being provided as Annex VIII) and to provide additional information to the expert geotechnical engineer who will design the structure;

- A detailed automatic vibration monitoring system is to be set up by the Successful Proponent Contractor on the main buildings immediately surrounding the sites, namely the Mosta Rotunda and the Health Centre. This vibration monitoring system is to be installed at least six (6) months before works are intended to start on site. Measurements shall start to be taken before works are initiated on site. The vibration monitoring system shall be composed of two systems:
 - Topographic surveys of fixed monitoring points located on the various buildings around the sites; and
 - Triaxial automatic accelerometer reading for vibrational analysis;
- A non-destructive study using ultrasound waves or ground radar system to search for any cavities underneath and adjacent to the Mosta Rotunda, especially in the vicinity of the works;
- The expert engineer is to prepare a detailed design analysis based on:
 - Providing a short term stability (during excavation);
 - Providing a long term stability (as per Civil Code);
 - Seismic stability using the recommendations of MSA EN 1998 (Eurocode 8);
 - Minimize displacements of the Mosta Parish Church and the Health Centre and any other third party structures in the vicinity;
 - Finite element analysis to satisfy the requirements of MSA EN 1997 (Eurocode 7); and
 - Design the roof of Zone A to take the load of a fire truck or a crane (loading shall be in the region of 30 metric tonnes). If the Proponent decides to also include Zone C and/or Zone D as part of its Proposal, this requirement shall also apply to these Zones.
- The excavation and shoring methodology may involve the following; (expert engineer may adopt and amend these conditions):
 - Use of sheet piling in close vicinity of the Mosta Rotunda and the Health centre prior to any excavation to be carried out;
 - Use of a saw cutting machine in order to mitigate and minimize vibration being transmitted to these two important buildings during the works;
 - Use of a rotary blade cutter as much as possible rather than a pneumatic hammer action, especially in close proximity to these buildings;
 - Excavation being carried out in layers after the rock is cut by the saw cutting machine;
 - Use of rock bolting micro piles drilled at an angle to the horizontal and embedded in the rock which are in turn held back by rows of strand anchors and post-tensioned bolts prior to achieving the full excavated depth. A detailed study of any existing basement structures has to be prepared; and
 - Shotcreting with concrete the side walls of the excavated vertical walls, which preferably are very slightly sloped; weep holes and steel reinforcement will be needed in the shotcreted walls.
- Accept all conditions which may be imposed by the PA and its consulted bodies including any Bank Guarantee being imposed by the PA and bear all related costs;
- Abide by all international codes related to fire safety standards as shall be dictated by the Civil Protection Department;
- Work with Service Providers in identifying and displacing any existing underground services within the sites. The cost of shifting these services shall be borne by the GoM; and
- All constructions are to follow internally approved standards and that they will seek the approval of the Consulting Authority before works start on site.

Proponents are to note that the proposed project must be designed, built, operated and maintained in line with all the relevant industry standards. PML shall have the right to disqualify any Proposals that do not address all minimum submission requirements of this RFP.

Successful Proponents shall be required to submit final plans, visuals and specifications which shall clearly and specifically show and identify the built heritage that shall be impacted by the Proposal, particularly any such built heritage that are within or immediately adjacent or around the areas of

intervention or sites comprised within the Proposal. Plans shall also show any underground features such as reservoirs, shelters, tunnels, or other underground spaces that similarly will be impacted by the Proposals, particularly plans of any underground cultural heritage features where interventions are intended are to be provided.

6.3. Evaluation and award

PML, on behalf of the GoM, will ultimately aim to select a Proponent which meets the overall objectives set out in this RFP document. A specific evaluation committee will be established to assess all Proposals and identify one or more Preferred Proponents, on five (5) transparent, fair and objective criteria as shown below.

No.		Parameters	Breakdown of points	Maximum points per sub-criteria	Maximum total points for each criteria
A.		Experience of Proponent			15
A1		Number of construction projects of similar size successfully carried out by the Proponent in the last eight (8) years		10	
	A1.1	<i>Fifteen (15) or more projects successfully carried out</i>	10		
	A1.2	<i>Ten (10) to fourteen (14) projects successfully carried out</i>	7		
	A1.3	<i>Five (5) to nine (9) projects successfully carried out</i>	3		
	A1.4	<i>One (1) to four (4) projects successfully carried out</i>	1		
A2		Construction and operation of car parks of a similar nature and size in the last five (5) years		5	
	A2.1	<i>Constructed and operated a car park of a similar nature and size in the last five (5) years</i>	5		
	A2.2	<i>Constructed a car park of a similar nature and size in the last five (5) years</i>	3		
	A2.3	<i>Operated a car park of a similar nature and size in the last five (5) years</i>	2		
B.		Design considerations			30
B1		Additional underground car spaces over and above the minimum requested in this RFP (see notes below)		10	
B2		Above ground space in square metres embellished/landscaped and dedicated to urban improvement for the benefit of the community and tourism in Mosta (see notes below)		10	
B3		Aesthetics and functionality of the overall design of the project, most importantly the above ground space dedicated to urban improvement for the benefit of the community and tourism in Mosta		10	
C.		Technical specifications and feasibility			20
C1		Application of the best work method for excavation and construction of the site which is to take into account the proximity of the site to the Mosta Dome and the existence of the WWII shelter underneath. Environmental friendly and sustainability measures		10	

		such as the re-use of excavated material within the project will also be awarded positively.			
C2		Implementation period		5	
	C2.1	Partly operational 18 months before the maximum number of months requested in this RFP	5		
	C2.2	Partly operational 12 months before the maximum number of months requested in this RFP	3		
C3		Feasibility of the traffic management plan, incorporating a long-term solution for visiting coaches to the Mosta Dome		5	
D.		Financial feasibility and sustainability of the business plan and operational plan			10
D1		The overall credibility, effectiveness, robustness and quality of the Proposal presented		5	
D2		The level of the financial feasibility and sustainability of the Proposal presented in line with the achievement of the objectives of this RFP		5	
E.		Financial considerations (see notes below)			25
E1		Proposed upfront payment payable to the GoM		5	
E2		Proposed yearly Concession fee payable to the GoM		10	
E3		Level of capital investment		10	
		Total maximum points			100

The following formulas shall be used to score the two (2) design evaluation criteria set out in part B of the evaluation criteria table:

$$B1: DS_{NC1} = 10 \times DP_{NC1} \div DP_{MaxC1}$$

$$B2: DS_{NC2} = 10 \times DP_{NC2} \div DP_{MaxC2}$$

DS_{NC1} and DS_{NC2} = Design score of Proposal under consideration for B1 and B2 respectively

DP_{MaxC1} = Highest number of additional underground car spaces over and above the minimum required by this RFP (the total number of underground car spaces needs to be clearly stated in the Proposal)

DP_{MaxC2} = Highest number of above ground space in square metres dedicated to urban improvement for the benefit of the community and tourism in Mosta (the square metres dedicated for the purpose needs to be clearly stated in the Proposal).

DP_{NC1} = Number of additional underground car spaces over and above the minimum required by this RFP for the Proposal under consideration

DP_{NC2} = Number of above ground space in square metres dedicated to urban improvement for the benefit of the community and tourism in Mosta for the Proposal under consideration

The following formulas shall be used to score the three (3) financial evaluation criteria set out in part E of the evaluation criteria table:

$$E1: FS_{NC1} = 5 \times FP_{NC1} \div FP_{MaxC1}$$

$$E2: FS_{nC2} = 10 \times FP_{NC2} \div FP_{MaxC2}$$

$$E3: FS_{nC3} = 10 \times FP_{NC3} \div FP_{MaxC3}$$

FS_{nC1} , FS_{nC2} and FS_{nC3} = Financial Score of Proposal under consideration for E1, E2 and E3 respectively

FP_{MaxC1} , FP_{MaxC2} and FP_{MaxC3} = Price of highest financial offer for E1, E2 and E3 respectively

FP_{NC1} , FP_{NC2} , FP_{NC3} = Price of Proposal under consideration for E1, E2 and E3 respectively

6.3.1 Evaluation process

The Evaluation Committee shall be responsible for the technical and financial assessment of the Proposals during this competitive process. However, during its evaluation, the evaluation committee may be assisted by any other person, officer, authority, entity, advisors, or consultants which or whom the evaluation committee may wish to engage for this purpose.

Following the evaluation process, the evaluation committee shall submit its recommendations to PML to justify the identification of the Preferred Proponent and eventually that of the Successful Proponent for the awarding of the Concession. PML has absolute discretion in deciding whether to accept the recommendations of the evaluation committee.

During the evaluation process, the Proponents may be invited or permitted by the evaluation committee to make one or more presentations concerning Proposals submitted by them, provided that such presentation/s will be restricted to clarification and/or elaboration of the information already provided in their submitted Proposals, unless additional information is specifically requested by PML at its sole and absolute discretion. In particular, the purpose of any such presentations would be for Proponents to:

- Elaborate and expand on their Proposals and to answer questions;
- Respond to any issue which may arise from their Proposals; and
- Submit supplementary material, if required.

Following the evaluation process and the identification of the Preferred Proponent, PML reserves the right to enter into discussions and/or negotiations with such Preferred Proponent which discussions and/or negotiations shall lead to an agreement, in light of any commitments that the preferred Proponent/s may have offered in its Proposals, on a draft of the Concession agreement and any other legal documents that may be necessary for the execution of the Concession. In this process PML may also be assisted by the evaluation committee, any representative or representatives of the government and/or any other persons, officers, authority, entity, advisors or consultants which or whom PML or the evaluation committee may wish to engage for this purpose.

The full co-operation of the Preferred Proponent is expected during such discussion period so as to conclude the process as expeditiously as possible. If discussions with the Preferred Proponent fail to lead to a final Agreement or otherwise remain inconclusive two (2) months following the identification of the Preferred Proponent, PML reserves the right to terminate further discussions with the Preferred Proponent and enter into negotiations with the Proponent that obtained the highest mark following the Preferred Proponent in terms of the Evaluation Criteria as outlined above.

Any attempt on the part of Proponent/s or any of their directors and other officers, employees, representatives, contractors or agents to exercise undue influence on any of the following persons during this competitive process may lead to disqualifications:

- Any official or employee of the PML;
- Any member of the evaluation committee;
- Any expert or other advisor assisting the evaluation committee;
- Any person, officer, or employees of any authority or entity assisting the evaluation committee;
and
- Any government official involved in the transaction.

6.4. Appeals

This RFP and the competitive award process shall be regulated by the review of the Concession Review Board established by virtue of the Concessions Review Board Regulations of 2015 (Legal Notice 214 of 2015). For ease of reference, a copy of Part III of the Legal Notice is included in Annex III.

7. The Concession

PML may, at its sole discretion, select a Proposal to be implemented on the basis of a Concession for a period of sixty (60) years. The terms and conditions of the Concession agreement will be negotiated and finalised with the Successful Proponent. The Concession agreement and any other agreement to be entered into by the Successful Proponent shall all be governed, construed and enforced in accordance with the Laws of Malta. Any dispute which may so arise in connection therewith shall be construed as being governed by such Laws and as falling under the exclusive jurisdiction of the Courts of the Republic of Malta and shall be finally settled by the Courts accordingly.

The Concession agreement and any other agreement to be entered into by the Successful Proponent shall as a minimum reflect any commitments made by the preferred Proponent in his Proposal and/or during discussions and/or negotiations with the Government.

7.1. Monitoring during the excavation and construction phases of the project

It is the intention of the GoM to establish a Technical Committee that would include experts nominated by the Archdiocese and the GoM to closely monitor the project development to make sure that the requirements set out in this RFP and those submitted in the Proposal by the Successful Proponents are strictly adhered to. The Government reserves the right to terminate the Concession at any point in time, should the Technical Committee establish that the Concessionaire's implementation of the project does not meet the contracted standards and/or obligations.

7.2. Expected guidelines for provision of services and corresponding penalties

For the purpose of monitoring the Successful Proponent's performance throughout the Concession, the GoM will incorporate a number of Key Performance Indicators as part of the Concession Agreement. A number of example KPIs may be found hereunder. These KPIs and the corresponding fines, should in no way be considered comprehensive or final. They will be under review at negotiation stage with the Preferred Proponent/s and may be amended, increased, decreased and/or rescinded during this stage. Furthermore, the GoM shall reserve the right to increase the value of fines imposed during the Concession period, by the inflation rate.

Although it is the Successful Proponent's responsibility to properly collate and prepare the necessary reports to verify the achievement of these KPI's, the GoM reserves the right to carry out audits at its own cost at any time in order to certify the Successful Proponents' adherence to these performance indicators.

These KPIs will be monitored by the GoM or any other appointed entity. The means of this monitoring and auditing is entirely up to the GoM but, apart from reports and spot checks, questionnaires may be used. The Successful Proponent shall make sure that the necessary data is collected and reports to measure these KPI's are made available to GoM, and this at the Successful Proponent's own expense.

Examples of operational KPIs:

- Each time the Concessionaire's resource levels are below what was agreed a penalty of €250 (two hundred and fifty) per incident is applied;
- Failure to immediately effect replacement of personnel – €250 (two hundred and fifty) per incident;
- Failing to attend, investigate and effectively remedy any complaint made against the Concessionaire's personnel within a maximum of one working day (eight hours) from issue of such complaint – €250 (two hundred and fifty) per incident;
- Failure to comply with agreed upon policies and directives including but not restricted to those relating to parking, security, cleaning, safety, fire prevention and control, and environmental protection – €250 (two hundred and fifty) per incident;

- Failure to provide Road Signs and/or Road Markings within 31 days from the day that such signage or road markings were requested in writing by Transport Malta or other relevant authorities – €250 (two hundred and fifty) per incident;
- Failing to tow a car within 45 minutes from the moment a violation of traffic policies has been observed – €250 (two hundred and fifty) per incident; and
- If the number of unresolved incidents of damages to and thefts from cars in parking areas managed by the Concessionaire is greater than one unresolved incident per quarter (three months) – €250 for each incident above this number.

Examples of maintenance KPIs:

- For each time any barrier is out of order for more than eight (8) hours a penalty of €200 (two hundred euro) is applied;
- For each time any Pay on Foot machine is out of order for more than eight (8) hours a penalty of €200 (two hundred euro) is applied;
- For each time any CCTV camera is out of order for more than eight (8) hours a penalty of €200 (two hundred euro) is applied;
- For each time any Pay on Foot machine is not programmed to accept new money (cash or coins) within 30 days of the issue in circulation of the new money, penalty of €100 (one hundred euro) is applied;
- For each time cleanliness in any area of the facilities is not up to an acceptable standard, penalty of €200 (two hundred euro) is applied;
- For each time a passenger lift is out of order for more than eight (8) hours, a penalty of €200 (two hundred euro) is applied;
- For each time burn-out light bulbs or equivalent are not replaced within (4) hours a penalty of €200 (two hundred euro) is applied; and
- Failure to properly maintain the facilities up to an acceptable standard – €200 (two hundred euro) per week until the situation is rectified.

7.3. Termination of the Concession

The Concession will naturally conclude upon the expiration of the Concession period. Upon termination for whatever reason, the Concessionaire shall transfer operations, and any constructions, improvements and any other ancillary property, whether moveable or immovable, comprised within the project to the GoM. Upon the termination of the Concession period, the Concessionaire will endeavour to make the transition as smooth and as simple as possible.

Furthermore, the GoM reserves the right to terminate the Concession at any point in time, should the Concessionaire's implementation of the project not meet the contracted standards and/or obligations.

The above shall be without prejudice to any further grounds for termination which may be identified in the Concession agreement awarded in favour of the Concessionaire.

7.4. Performance guarantee

Upon the completion of the evaluation process and the signing of the Concession agreement, the Successful Proponent will be required to submit a performance guarantee of 10% issued according to Maltese Law. The bid bond mentioned in Section 5.3 will be automatically forfeited should the Successful Proponent fail to submit this performance guarantee.

In the event that the GoM shall make a withdrawal of any amount under the performance guarantee, the GoM shall forthwith communicate such fact to the Concessionaire, which shall in turn procure that, by not later than fifteen (15) days from the aforesaid communication, the performance guarantee shall

be amended by the bank that issued the said guarantee, so that the amount thereof is increased by the amount so withdrawn as if no such withdrawal has been made.

7.5. Transferability of the Concession

The Concessionaire shall not, for the duration of the Concession, transfer or assign the Concession to a third party without obtaining the written approval of the GoM. The GoM will not approve any such requests received within the first five (5) years of the Concession. The GoM reserves the right at its sole and absolute discretion to refuse any such requests without having to give reason for its refusal.

7.6. Insurance

Throughout the duration of the Concession, the Concessionaire is to insure the property, building, equipment and machinery at their full current replacement value against loss or damage. It is the responsibility of the Proponent to procure full insurance policies covering all buildings; equipment and machinery; employers' liability; 3rd party liability and professional indemnity insurance which is to cover any claims made by any other third party against the Proponent.

The GoM is to be indemnified and held harmless from and against all losses, damages, injuries, loss of life, costs, expenses and liabilities arising out of and in relation to any liability arising out of any accidental, negligent acts or omissions or wilful misconduct of the Proponents in relation to all aspects pertaining to the site and services covered by the Concession.

7.7. Administrative expenses

It is being stated that twenty thousand Euro (€20,000) representing administrative costs related to this RFP shall be payable to PML by the Successful Proponent upon entering into the Concession Agreement.

7.8. Permits and licences

The responsibility for obtaining the necessary licenses and/or permits shall be the full responsibility of the Concessionaire. The Successful Proponent shall be required to apply for such licences and/or permits within a specific period of time from the signing of the final agreement. This requirement shall be one of the conditions forming part of the final agreement.

The GoM will in no instance enter into any act which alleviates the Concessionaire from this responsibility however the GoM undertakes to use its good offices to ensure the expeditious processing of applications for permits, licences or other authorisations that may be necessary.

For the benefit of the Proponents, a geological study of the site is being attached as Annex VIII. This does not absolve Proponents from their responsibilities to commission their own studies in this respect or any other required studies for the purpose of fulfilling their obligations at law.

7.9. Draft contract

A draft contract is being attached as Annex IX. The draft contract is for guidance purposes only and the clauses are in no way to be construed as final or exclusive of others.

8. Cancellation and modification

PML reserves the right to reject, at its sole and absolute discretion, any or all RFPs submitted and will not be bound to give reasons for rejecting such RFPs. In this regard, PML shall not be liable to make good for any damages and expenses incurred by Proponents. Moreover, PML is entitled to reject any RFP not accompanied by the required documentation, or which is incomplete.

PML also reserves the right, at its sole and absolute discretion, to alter this call for RFP, to issue a fresh call and to seek the services of other service providers/ individuals, companies/Consortia or to stop the process completely, and will not be bound to give reasons thereof. In this regard, PML shall not be liable to make good for any damages suffered and expenses incurred by applicants.

9. Personal data of Prospective Proponents

All personal data of the Prospective Proponents presented together with the RFP document shall be utilised by the GoM for the scope of processing the RFP and for all other ancillary purposes relating to the RFP.

By presenting an RFP, the Proponent acknowledges and consents that all members, shareholders and partners in respect of whom information is being presented, as part of the RFP document, have given their consent to the submission and disclosure of said information.

Any personal data submitted in the framework of this procedure shall be processed pursuant to the Data Protection Act (2001).

10. Intellectual property rights

All RFPs shall be the original works of the applicants and shall not include any materials that may infringe intellectual property rights pertaining to third parties.

11. Additional general terms and conditions

Prospective Proponents, Proponents or Preferred Proponents should be aware that the following additional terms and conditions also apply to this RFP:

- This RFP contains an invitation by PML to Prospective Proponents to submit their Proposals in response to this Request for Proposals;
- PML does not bind itself to accept any Proposal and may proceed as, in its sole discretion, it determines following receipt of Proposals. PML reserves the right, in its absolute discretion to refuse/reject any or all Proposals, even the most advantageous, without incurring any liability therefore, and the submission of a Proposal by a Proponent or Preferred Proponent shall in no way commit or otherwise bind PML in any many whatsoever. For the purpose of clarity PML is not bound to accept the highest scoring or any Proposal and shall not give reasons for the acceptance or rejection of a particular Proposal;
- PML may subsequently at its sole discretion and without incurring any liability therefore, re-issue revised RFPs which may have a material impact on the value of the transaction, after Proponents have submitted Proposals and bids;
- Any costs and expenses incurred by Prospective Proponents, Proponents or Preferred Proponents relating to their Proposals will be borne by them. PML is not liable to pay such costs and expenses or to reimburse or to compensate Proponents under any circumstances, including the rejection of any or all of the Proposals or the cancellation of this RFP;
- PML will not accept responsibility for any delays or costs associated with any reviews or approval processes or with the implementation of any mitigating measures;
- PML makes and provides no warranty as to the accuracy or completeness of any information provided in this RFP and accompanying documents. Moreover, the information given in this RFP and accompanying documents are not to be considered as an exhaustive and authoritative account of the applicable statutory requirements. Prospective Proponents, Proponents or Preferred Proponents are thus responsible for obtaining their own independent advice on the information provided in terms of this RFP;
- Prospective Proponents, Proponents or Preferred Proponents shall not rely on any verbal statements made by PML or its Advisors, employees, consultants or members of the Evaluation Committee;
- PML reserves the right to request new or additional information regarding the Prospective Proponents, Proponents or Preferred Proponents and any individuals or other persons associated with its Proposal;
- Prospective Proponents, Proponents or Preferred Proponents must commit to negotiate in good faith;
- PML may, at any time, make public the names of all registered Prospective Proponents, Proponents or Preferred Proponents;
- Confirmation of the decision to award the Concession Agreement will, inter alia, be subject to the fulfilment by the Successful Proponent of conditions to be set by PML and on the Successful Proponent securing the clearances, permissions, approvals or other consents that it may require from third parties;
- This RFP process shall be governed, construed and enforced in accordance with the Laws of Malta and any dispute which may arise in connection therewith and shall be construed as being governed by such Laws and, save and without prejudice to the limitations established in Section 6.4, as falling under the exclusive jurisdiction of the Courts of the Republic of Malta and shall

be finally settled by such Courts accordingly. By lodging submissions and Proposals in terms of this RFP, a Prospective Proponents, Proponents or Preferred Proponents submits to the exclusive jurisdiction of the Maltese Courts, and in terms of Section 6.4 to the Review Board with regards to Complaints, in connection with any dispute as aforesaid and accepts to be bound by all the terms and conditions contained or referred to in this RFP;

- PML has the right to negotiate with the Preferred Proponent/s and, as part of that negotiation, to negotiate changes, amendments or modifications to the Proposals as submitted without offering other Proponents the opportunity to amend their Proposals. Provided that any such changes, amendments or modifications to Proposals shall be in favour of and to the benefit of the Government of Malta;
- This issue and dispatch of this RFP is not and shall not be in any manner construed as committing or binding upon PML or as creating any obligation on the part of PML towards any Prospective Proponents, Proponents or Preferred Proponents;
- PML reserve the right of accepting any Proposal wholly or in part;
- By submitting a Proposal, the Prospective Proponents, Proponents or Preferred Proponents irrevocably confirm to have understood and agreed to these general terms and conditions, as well as all other terms and conditions within this RFP document, in their entirety, and accept to assume all the obligations set out herein, without reservations;
- Any Proposal shall be submitted at the sole risk and expense of the Prospective Proponents, Proponents or Preferred Proponents submitting it and PML shall under no circumstance be liable for any cost, expense or damages incurred or sustained by any Prospective Proponents, Proponents or Preferred Proponents in compiling, completing and submitting a Proposal, whether such Proponent is successful or otherwise;
- Any Proposal submitted after the closing date set out in this RFP shall not be considered;
- PML may, in their own and absolute discretion, extend the deadline for submission of bids by issuing a modification in accordance with Section 8. In such cases, all rights and obligations of PML and Proponent regarding the original date specified in this RFP will be subject to the new date.

12. Annexes

Annex I – Request for Proposals Form

Annex II – Bid Bond template

Annex III – Part III of L.N. 214 of 2015

Annex IV – Statement on Conditions of Employment

Annex V – Site Plans

Annex VI – Block Plans

Annex VII – Financial bid form

Annex VIII – Geological Study

Annex IX – Draft contract

Annex X – Data room declaration