

# REPUBLIC OF SERBIA

## CITY OF KRAGUJEVAC



On the basis of Article 35, in relation to Article 10, paragraph 1 and Article 20 paragraph 3 and Article 22 of the Public-Private Partnership and Concessions Act of Republic of Serbia ("Official Gazette of RS nos. 88/2011, 15/2016 and 104/2016") ("**Concessions' Act**"), the City of Kragujevac (the "**City**"), Trg slobode 3, 34000 Kragujevac, corporate ID number: 07184069, TIN: 101982436, in capacity of the grantor, hereby announces this:

### PUBLIC INVITATION

for participation in the procedure for granting of

#### **A CONCESSION FOR FINANCING, DESIGNING, CONSTRUCTION, MANAGEMENT AND MAINTENANCE OF A PUBLIC GARAGE LOCATED ON THE TERRITORY OF THE CITY OF KRAGUJEVAC**

The City invites all interested domestic and foreign legal entities and individuals that fulfil the requirements prescribed under this public invitation ("**Public Invitation**") to participate in the procedure for granting of the concession right for financing, designing, constructing, managing and maintaining the public garage located on the territory of the City of Kragujevac ("**Concession**").

## 1. Contact details of the City

### City of Kragujevac

Trg slobode 3

34000 Kragujevac

Republic of Serbia

Saša Marković, Secretary of the Administration of Public Procurement

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## 2. Information on the Concession

### 2.1 Legal basis

Article 10, paragraph 1 of the Concessions' Act defines that concession, in term of this Act, is a contractual or institutional public-private partnership with elements of concession in which the public agreement regulates the commercial use of natural resources, goods in general use that are in public ownership, i.e. goods owned by a public body or the performance of activities of general interest, which the public partner assigns to the private partner for a specified period of time, under specially prescribed conditions, with the payment of the concession fee by the private, i.e. public partner whereby the private partner bears the risk related to the commercial use of the subject matter of the concession.

Article 11, paragraph 1 of the Concessions' Act foresees that a concession can be given for (a) the commercial use of funds in possession of the public body or (b) for performing activities of general interest, and especially for a specific list of activities referred to in this Article, among which it also stands in the field of utility services.

Article 20, paragraph 3 of the Concessions' Act defines that, if the realisation of the public-private partnership project implies the provision of the concession referred to in Article 10 paragraph 1 of this Act, the procedure for choosing a private partner shall be implemented in accordance with the provisions of the Concessions' Act.

Article 3, paragraph 1 item 7) of the Utility Services Act ("Official Gazette of RS", No. 88/11, 104/16 and 95/18) defines that utility services, in terms of this Act, among others, include:

- management of public parking lots ((point 7) management of public parking lots is a service of maintenance of public parking lots and parking spaces in marked places (closed and open spaces), organisation and control of parking and parking charges, collection of improperly parked, discarded or abandoned vehicles, relocation of parked vehicles under the conditions prescribed by this and other special acts, installation of devices by an order of the competent

authority that prevents the removal of vehicles, as well as removal, relocation of vehicles and installation of devices that prevent removal of vehicles in cases provided by a special decision of the local government assembly, in which the manner of performing utility services of managing public parking lots is determined, as well as the manner of charging for these services).

Article 9, paragraph 7 of the Utility Services Act provides that for the procedure of controlling the performance of the utility services, the funding of which is secured from the budget of the local self-government unit, i.e. the funding of which is secured fully or partially by collecting the compensation from the users of the utility services, the applicable provisions are the ones governing public-private partnerships and concessions.

## 2.2 Subject matter of the Concession/nature and scope of the concession activity

The subject matter of the Concession is financing, designing, construction, management and maintenance of one public garage on the territory of the City of Kragujevac ("**Garage**") (hereinafter such project referred to as the "**Project**").

**JKP "Šumadija" Kragujevac** is the current competent authority for the management of public parking lots on the territory of the City of Kragujevac, in accordance with the Decision on public parking lots on the territory of the City of Kragujevac ("Official Gazette of the City of Kragujevac", no. 18/14, 21/15, 29/15, 14/17, 11/18, 27/19, 14/20, 16/21 and 40/21). The founder of JKP is the City of Kragujevac. JKP "Šumadija" Kragujevac is the only operator located on the territory of the City of Kragujevac that has been entrusted with the payment for parking in public parking lots. In addition to the above, the construction, maintenance, organisation and use of public parking lots, as well as protection, organisation and maintenance of public green areas falls within the scope of the activity of JKP "Šumadija" Kragujevac. The City, as a public body, is a competent authority for the management of public parking lots, which involves the service of maintaining public parking lots and parking spaces in marked places (closed and open spaces), control of parking and parking charges, collection of improperly parked, discarded or abandoned vehicles, relocation of parked vehicles under the conditions prescribed by the act, installation of devices by an order of the competent authority that prevents the removal of vehicles, as well as removal, relocation of vehicles and installation of devices that prevent removal of vehicles in cases provided by a special decision of the Assembly of the local self-government unit, in which the manner of performing utility services of managing public parking lots, as well as charging for these services, initiates this concession procedure ("**Concession Procedure**"). The Concession shall be granted to a private partner by concession agreement upon completion of this Concession Procedure and selection of the most favourable bid.

## 2.3 Relations with JKP "Šumadija" Kragujevac

### 2.3.1 Revocation of entrusted activities

Through the implementation of the Concession Procedure, activities entrusted to JKP "Šumadija" shall be partially and temporarily revoked, so that the right to manage public parking lots in the constructed public garage, which is the subject matter of the

Concession, will be exempted from the general management regime by JKP "Šumadija" Kragujevac and be given to the selected concessionaire. The revocation of entrusted activities and its giving to the concessionaire shall be carried out in accordance with the applicable regulations.

## 2.4 Place of performing the Concession

The place for performing the activities envisaged by the Concession is on the territory of the City, as follows:

### 2.4.1 Parking garage "Prodor 2"

The Garage should be located in the zone between the City Assembly Building and Dr. Zoran Đinđić street. Access to this garage is planned to be from Dr. Zoran Đinđić street and the block street behind the "Dom Samoupravljača" building and the City Assembly building. The realisation of the project is conducted in accordance with the General Regulation Plan "Prodor". The garage that includes two underground floors would have the total capacity of up to 320 parking spaces.

## 2.5 Type of the Concession and the Concession Procedure

The Concession Procedure is implemented on the basis of Article 20, paragraph 3, in conjunction with Article 10, paragraph 1 and in accordance with Articles 35 to 41 of the Concessions' Act, as a concession for the development of underground garage and for performance of delegated activity- management of public parking, the subject of which is financing, designing, constructing, operating and maintaining a public garage located on the territory of the City.

The Concession Procedure shall be conducted on the basis of the Opinion of the Commission for Public-Private Partnership, of the Government of the Republic of Serbia, no. 06/2022 from 22.03.2022.

The Concession will not be granted in phases.

The Concession Procedure will be implemented without prequalification.

## 2.6 Concession Fee

The concession fee is to be payable by the concessionaire to the City in line with dynamics determined under the concession agreement.

The amount of the concession fee shall not be lower than 5% of the realised profit of the subject matter of the concession, provided that the period of non-payment of the concession shall not be longer than 10 years.

## 2.7 Concession length

The Concession shall last for 35 years, after the receipt of the use permit, i.e. 38 years in total, including the design and construction period ("**Concession Term**").

### **3. Participation in Concession Procedure**

#### **3.1 Participation requirements**

##### **3.1.1 Mandatory participation requirements**

Each bidder must prove that:

- 1) it is an active legal entity, registered in the competent commercial registry of the country of residence;
- 2) itself and its legal representative(s) have not been convicted for any criminal act as a member to the organised criminal group, have not been convicted for white collar crimes (*krivično delo protiv privrede*), criminal acts against environmental protection, criminal act of receiving or giving bribes or the criminal act of fraud;
- 3) it has paid due taxes, contributions and other public fees in accordance with the regulations of the Republic of Serbia or such other country of residence of the bidder, as the case may be; and
- 4) it complies with all obligations stemming from the legal acts governing safety at work, employment and labour conditions, and environmental protection and there is no prohibition of performance of business activity against the bidder in force at the time of submission of the bid.

The proofs required for fulfilment of mandatory participation requirements are envisaged under Appendix 2 attached hereto.

##### **3.1.2 Additional participation / qualification requirements**

- **Business capacity**

The Bidder concluded, in the period of 5 years before the Public Invitation, including from the day of the publication of the Public Invitation, a minimum 5 of public-private partnership agreements or concession agreements regarding project of public garages (underground and / or overground), which are in force or were in force at any time during the period of 5 years before submission of the bid, regardless of the date of their conclusion.

- **Financial capacity**

At least EUR 20 million of annual revenue in each of 3 business years preceding the year of publishing of the Public Invitation. The annual revenue for the purposes of this requirement shall be considered as the revenue expressed in financial statements of a Bidder.

The proofs required for fulfilment of additional participation/ qualification requirements are envisaged under Appendix 2 attached hereto.

#### **3.2 Obtaining of Tender Documentation**

Any interested party that fulfils requirements prescribed under this Section 3.1 and Section 3.2 may participate in the Concession Procedure and receive the tender documentation for this Concession Procedure ("**Tender Documentation**"). Consortiums

may also participate in the Concession Procedure, in line with the terms prescribed under Tender Documentation and the Concessions' Act.

The request for obtaining of the Tender Documentation ("**Request for the Tender Documentation**") must be sent to the City, **no later than the day 40<sup>th</sup> since the date of publishing at "The Official Gazette of the Republic of Serbia" no. 144/22 dated 30 December 2022, i.e. no later than 8 February 2023 at 12.00 hours a.m.**, at the address specified under Section 1, via certified mail with receipt confirmation or via e-mail to the address specified under Section 1.

Along with the Request for the Tender Documentation, each interested party must submit:

- (i) duly signed copy of the confidentiality agreement ("**Confidentiality Agreement**") (Appendix 1 of the Public Invitation); and
- (ii) official excerpt issued by the competent commercial registry, not older than 30 days as of the day before submission of the Request for Tender Documentation, which proves that a signatory of the Confidentiality Agreement is authorised for such representation or original of duly signed and certified power of attorney, in case that confidentiality agreement is signed by the person other than the statutory representative of the interested party. In case that either of the document is issued in a language other than Serbian, a certified translation of a court sworn interpreter in Serbia for the relevant language should also be provided along with the original of relevant document.

The Request for Tender Documentation should indicate the address and e-mail address of the interested party to which the Tender Documentation shall be delivered.

Only the Request for Tender Documentation delivered in line with this Section 3.1 will be considered as due and complete and will entitle interested party to receive the Tender Documentation.

There is no fee for obtaining the Concession documentation.

#### **4. Criteria for selection of most favourable bid**

The criterion for selection of the most favourable bid in this Concession Procedure will be the highest Concession Fee offered.

In their bids, the bidders shall express the Concession Fee in the amount of at least 5% of realised income from the subject of the concession. Grace period will be no longer than 10 years.

Each bidder should take into account that the offered Concession Fee will become a contractual payment obligation and will be envisaged by the Concession Agreement.

#### **5. Submission of the bids**

The Bids must be submitted by no later than the day 60<sup>th</sup> since the date of publishing at "The Official Gazette of the Republic of Serbia" no 144/22, i.e. no later than 28 February 2023 at 12.00 hours a.m, ("**Bids' Submission Deadline**") at the premises of the City, as indicated in Section 1 herein.

The Bids should be submitted in person or via certified mail with receipt confirmation, in closed envelopes as further defined under Tender Documentation. The Bids shall be considered as submitted upon their physical receipt by the City by the receipt office of the City, office no. 306A.

The Bids must be submitted in Serbian language.

**6. Validity period**

The offer must be valid for at least 90 days from the day of the bid opening.

**7. Language of the offer**

Bids shall be delivered in Serbian language.

All documentation within the offer issued in a language other than Serbian must be submitted along with the Serbian translation authenticated by a court interpreter.

Bidders will be responsible for the accuracy of translation of the documentation issued in another language into Serbian.

In case of discrepancies between several language versions of a particular document, the Serbian language version shall prevail.

**8. Notification on results of the Concession Procedure**

Results of the Concession Procedure will be disclosed by the 120<sup>th</sup> day since the date of publishing of the Public Invitation at the City's official website page and at the Public Procurement Portal. The City will deliver relevant decision, along with the Minutes of opening and evaluation of the Bids, to each bidder via e-mail and will publish such decision at its official website and the Public Procurement Portal.

**9. Protection of rights of the bidders**

9.1 Any party interested in participation or which participates in the Concession Procedure is entitled to submit a request for protection of rights in relation to this Concession Procedure to the Republic Commission for Protection of Rights of the Bidders in Public Procurement Procedure ("**Commission**").

9.2 The request for protection of rights shall be delivered to the City at the address indicated in Section 1 herein, via certified mail with receipt confirmation.

Simultaneously, a copy of a request for protection of rights shall be delivered to the Commission at the following address:

**Administration for joint affairs of Republic authorities**

Nemanjina 22-26, 11000 Belgrade

9.3 A request for protection of rights may be submitted against any decision of the City that may be challenged separately and that was rendered against the law, in the opinion of the submitting party.

9.4 The deadlines for submission of request for protection of rights are as follows:

Precise information on the deadline(s) for the protection of rights

The request for the protection of rights may be submitted during the entire public procurement procedure, unless otherwise provided by the Public Procurement Act, and no later than ten days as of the date of publication of the Decision of the procuring entity regarding the termination of the public procurement procedure in accordance with the Public Procurement Act on the Public Procurement Portal.

The request for the protection of rights challenging the actions of the procuring entity regarding the type of procedure, content of the Public Invitation and Tender Documents shall be considered timely if received by the procuring entity later than three days before the Bids' Submission Deadline, i.e. applications, regardless of the manner of delivery.

The request for the protection of rights which disputes the actions of the procured entity taken after the Bids' Submission Deadline shall be submitted within ten days as of the day of the publication of the Decision of the procured entity on the Public Procurement Portal, i.e. from the day of the receipt of the Decision in cases when the publication on the Public Procurement Portal is not provided by the Public Procurement Act.

After the expiration of deadline for the submission of the request for the protection of rights, the applicant may not supplement the request by stating the reasons related to the actions that are the subject of the dispute in the submitted request or by disputing other actions of the procuring entity with which he was or could have been acquainted before the deadline for the protection of rights, and which he did not point out in the submitted request.

The request for the protection of rights shall not challenge the actions of the procuring entity undertaken in the public procurement procedure if the applicant was or could have been acquainted with the reasons for its submission before the deadline for the submission of the request, and the applicant did not submit it before the deadline. If, in the same public procurement procedure, the request for the protection of rights was re-submitted by the same applicant, that request shall not challenge the actions of the procuring entity that the applicant knew or could have known when submitting the prior request.

The subject matter of the dispute in the procedure of protection of rights shall not be potential deficiencies or irregularities of the procurement documentation that are not indicated in accordance with Article 97 of the Public Procurement Act.

The procuring entity shall publish a notice on the submitted request for the protection of rights on the Public Procurement Portal no later than the day following the day of receipt of the request for the protection of rights. Submission of the request for the protection of rights delays the continuation of the public procurement procedure by the procuring entity until the end of the procedure for the protection of rights. The request for the protection of rights shall contain the information from Article 217 of the Public Procurement Act.



If the applicant undertakes actions in the procedure through a proxy, the authorisation for representation in the procedure of protection of rights shall be submitted with the request for the protection of rights.

The applicant who has a permanent or temporary residence, i.e. a seat abroad, shall be obliged to appoint a proxy in the request for the protection of rights for the receipt of letters in the Republic of Serbia, stating all the information necessary for communication with the designated person.

During the submission of the request for the protection of rights to the procuring entity, the applicant shall be obliged to submit proof of payment of the fee. Evidence shall be any document from which it can be determined that the transaction was performed for the appropriate amount from Article 225 of the Public Procurement Act and that such transaction refers to the request for the protection of rights in question.

A valid proof of payment of the fee, in accordance with Republic Commission Instructions on payment of the fee for submitting a request for the protection of the rights, is published on the website of the Republic Commission.

#### **10. Bid Bond**

Each bidder must submit along with its bid a bid bond. The means of financial security for the seriousness of the bid bond is a bank guarantee in the amount of 3% of the estimated value of the concession ("**Bid Bond**") issued in favour of the City.

Form and content of the Bid Bond, as well as the eligibility criteria for the issuing bank will be provided within the Tender Documentation.

Validity period of the Bid Bond must not be shorter than 3 (three) months as of the date of the Bids' Submission Deadline.

#### **Schedules:**

- 1) Appendix 1 – Confidentiality Agreement
- 2) Appendix 2 – Participation requirements and proofs on their fulfilment