

December 14, 2020

[All Bidders]

**Re: Invitation for Pre-Qualification in relation to the Participation in a Tender
For the Blue Line of the Jerusalem Light Rail Transit Network (the
"Invitation")**

Addendum No. 5

1. Pursuant to the Invitation issued on April 7, 2020, and in accordance with the provisions thereof:
 - 1.1. The Participants are advised that the Pre-Qualification Submission Date has been postponed until February 2, 2021.
 - 1.2. The attention of all Participants is drawn to the following answers to Request for Clarifications submitted regarding the Invitation.
2. In addition, the following documents have been published on the Website:
 - a) The updated Invitation, as detailed below;
 - b) The updated Appendix B (Expected Requirements of the Tender Process) to the Invitation, as detailed below; and
 - c) The updated Appendix E (Pre-Qualification Forms) to the Invitation, as detailed below.
3. All capitalized terms used and not defined herein shall have the meaning ascribed to them in the Invitation.

Respectfully Yours,


Yuval Raz
Deputy Accountant General

Chairman of the Tender Committee

CC: Members of the Tender Committee

1.	<p>Q: The Tender Committee was requested to clarify the meaning of the words “70% of the surface dedicated to the passengers of the vehicle” in the definition of the term “70% Low Floor”.</p> <p>A: The Tender Committee clarifies that the phrase refers to the passenger cabin, i.e. at least 70% of the floor of the passenger cabin is without any steps and is flat.</p>	Section 1.1 (Definitions; “70% Low Floor”)
2.	<p>Q: The Tender Committee was requested to confirm that the words “transportation services to members of the public” has the same meaning as “transportation services to the public” in the definition of the term “Commercially Operating”.</p> <p>A: The Tender Committee so confirms.</p>	Section 1.1 (Definitions; “Commercially Operating”)
3.	<p>Q: The Tender Committee received a Request for Clarification (“RFC”) from an entity regarding one of the projects that such entity is considering to present as a referenced project as part of its Pre-Qualification Submission, in connection with the project's compliance with the term “Completed” as it is defined in the Invitation.</p> <p>The entity that submitted the RFC declared that the project complies with the requirements of the defined term “Completed” (i.e. that the referenced project has been delivered to the client and also has commenced its operation in accordance with its intended use). The entity has submitted the RFC to the Tender Committee as the project has not received a final permit to operate from the client, as there are a number of open technical issues between the client and the entity that submitted the RFC, which do not relate to the delivery of the project to the client or the commencement of its operation in accordance with its intended use.</p> <p>The entity has requested the Tender Committee to clarify whether the fact that a final permit to operate has not been issued for the project, precludes the project from being deemed “Completed” as it is defined in the Invitation.</p> <p>A: The Tender Committee clarifies that in principle, a project which has been delivered to the client or has commenced operation in accordance with its intended use will be deemed as “Completed”. It is clarified that the foregoing shall not derogate from the Tender Committee's right to make any decision in connection with any referenced project in circumstances in which it is clear that the threshold requirements set forth in the Invitation have not been met or under other relevant circumstances, at its discretion, subject to the provisions of the Invitation and the Law.</p>	Section 1.1 (Definitions; “Completed”)
4.	<p>Q: The Tender Committee was requested to advise what precautions may be taken by two Entities, both interested in participating in the Pre-Qualification Process, given that one such Entity is in the process of acquiring the second such Entity.</p>	Section 26 (Participation in a Pre-Qualification Submission)

	<p>A: The Tender Committee clarifies that if such acquisition is completed prior to the Pre-Qualification Submission Date, the Entity that includes both companies may participate in the Pre-Qualification Process only within one group and further clarifies that the provisions of Section 26.1 and 26.2 shall apply.</p> <p>However, and notwithstanding the provisions of Section 26.1 and 26.2, if such acquisition is completed after the Pre-Qualification Submission Date (but before the announcement of the Eligible Participants), and both Entities have participated in separate Pre-Qualification Submissions, the Tender Committee will not disqualify the two separate Pre-Qualification Submissions just by virtue of the completion of the acquisition, but rather:</p> <ul style="list-style-type: none"> • the Tender Committee is to be notified as soon as is practicable of such change in circumstances. • The notification shall include indication of which of the two Entities (which shall thereafter be deemed to comprise one Entity) is withdrawing from the Tender Process, and which alternative Entity is to be considered in its place within the applicable submission. • Upon such notification the Tender Committee will exercise its prerogatives to issue further instructions as may be necessary. 	
5.	<p>Q: The Tender Committee was requested to amend the Pre-Qualification Requirement in Section 27 so that only two of the three (or more) Rail Projects need to have included overhead catenary systems.</p> <p>A: The attention of the Bidders is drawn to the amended definition of the word "Systems" and the relevant amendments to Pre-Qualification Form "3" (Experience in the Design and Installation of Systems).</p>	Section 27 (Experience in the Design and Installation of Systems); Section 1.1 (Definitions; "Systems"); Pre-Qualification Form "3" (Experience in the Design and Installation of Systems)
6.	<p>Q: The Tender Committee was requested to amend the Pre-Qualification Requirement in Section 29.1(iii) by reducing the length of the required cumulative km of Routes from at least 30 (thirty) km to at least 25 (twenty-five) km.</p> <p>A: The Tender Committee rejects the request.</p>	Section 29 (Experience in the Design and Construction of Track-Way)

7.	<p>Q: The Tender Committee was requested to amend the Pre-Qualification Requirement in Section 32.3 by reducing the required annual ridership from twenty million (20,000,000) passengers to not less than ten million (10,000,000) passengers from all LRT Lines and/or Metro Lines.</p> <p>A: The Tender Committee rejects the request.</p>	Section 32 (Operating Experience)
8.	<p>Q: The Tender Committee was requested to specify the exact required composition of "all buildings and related facilities" in connection with the Maintenance of the Depot.</p> <p>A: The Tender Committee clarifies that there is no exact required composition of the Depot buildings and related facilities and draws the attention of the Bidders to the definition of the term "Depot" which: "Shall mean a facility for light and heavy maintenance, washing plant and stabling facilities for LRT or Metro vehicles (in one location or in several separate locations)."</p>	Section 33.1.3 (Maintenance Experience)
9.	<p>Q: The Tender Committee was requested to provide a definition for the term "Member's Operating Cash Flow".</p> <p>A: The Tender Committee rejects the request and draws the attention of the Bidders to the amendments to Sections 35.2 and 35.3 of the Invitation.</p>	Section 35.2 (Members' Weighted Average Operating Cash Flow)
10.	<p>Q: The Tender Committee was requested to deem a large-scale yielding real-estate project, such as an office building, public building, and mixed-use project, as an Infrastructure Project for the purpose of demonstrating compliance with the Pre-Qualification Requirement in Section 37 (Securing Finance for an Infrastructure Project).</p> <p>A: The Tender Committee clarifies that it does not discount the possibility that such a project shall be deemed an "Infrastructure Project" for the purpose of demonstrating compliance with Section 37, if it meets the relevant provisions of the Invitation, inter alia, the referenced Infrastructure Project must be "a project for the Design and Construction of a large-scale infrastructure" for which one of its Members "obtained (borrowed) External Financing... provided, that funds have been drawn (utilized) pursuant to such External Financing."</p>	Section 37 (Securing Finance for an Infrastructure Project)
11.	<p>Q: The Tender Committee was requested to clarify how to calculate the Means of Control, for the purposes of Section 43.1.1, in the event that the SPV that executed the referenced project was an unincorporated joint venture.</p> <p>A: The attention of the Bidders is drawn to new Section 43.1.1A of the Invitation.</p>	Section 43 (Relying on a Referenced Project which was executed by an Entity Held by the Experience Provider)

12.	<p>Q: The Tender Committee was requested to allow the Participants to submit an electronic copy of the Pre-Qualification Submission on the Pre-Qualification Submission Date, followed by submission of the required hardcopies following the Pre-Qualification Submission Date, inter alia, because of the inability of the foreign Participating Entities to travel to Israel, due to the Covid-19 pandemic.</p> <p>A: The Tender Committee does not accept the implications of Covid-19 pandemic with respect to the submission as presented herein. Notwithstanding the foregoing, the attention of the Bidders is drawn to the amendments to Sections 54 and 57 of the Invitation.</p>	Section 54 (Signing of the Pre-Qualification Submission); Section 57 (Number of Pre-Qualification Submission Copies)
13.	<p>Q: The Tender Committee was requested to confirm that the authorized signatory of an Experience Provider only needs to sign the Pre-qualification forms that are applicable to such Experience Provider (e.g. the Experience Provider demonstrating Operating Experience will only sign Pre-Qualification Form "2", Attachment A to Pre-Qualification Form "2" and Pre-Qualification Form "8"), and not each page of the Pre-Qualification Submission including all Pre-Qualification Forms and appendices.</p> <p>A: The Tender Committee so confirms.</p>	Section 54.1 (Signing of the Pre-Qualification Submission)
14.	<p>Q: The Tender Committee was requested to amend Section 65.5.5 so that the Tender Committee may <u>not</u> disqualify, impose conditions or issue instructions with respect to a Participant's participation in the Pre-Qualification Process and/or the Tender Process:</p> <ul style="list-style-type: none"> (i) in the event of criminal investigations; or (ii) in the event of an indictment or a conviction related to a criminal charge that is not an Offence. <p>A: The Tender Committee rejects the request.</p>	Section 65.5.5 (Rejection of the Pre-Qualification Submissions)
15.	<p>Q: The Tender Committee was requested to amend the provisions of Sections 3.2.2 and 3.3.2 of Appendix B (Expected Requirements of the Tender Process) of the Invitation in order to allow for the remaining 50% (fifty percent) of the O&M Contractor to be held by a Subsidiary of, or an Entity fully held by a Participating Entity pre-qualified during the Tender Process.</p> <p>A: The Tender Committee accepts the request and draws the attention of the Bidders to the amendments made to Sections 3.2.2 and 3.3.2 of Appendix B (Expected Requirements of the Tender Process) of the Invitation.</p>	Sections 3.2.2 and 3.3.2 of Appendix B (Expected Requirements of the Tender Process)

16.	<p>Q: The Tender Committee was requested to confirm that an LRT or Metro operator, operating a single LRT or Metro Line, will meet the requirements determined by the Tender Committee for a Qualified Local Public Transportation Operator, that will be detailed in the Tender Process Documents.</p> <p>A: The Tender Committee clarifies that as detailed in Section 3.3.1 (i) of Appendix B (Expected Requirements of the Tender Process), all provisions with respect to "a local public transportation operator that meets the requirements determined by the Tender Committee...", defined as the Qualified Local Public Transportation Operator, will be included in the Tender Process Documents.</p> <p>Nonetheless, the Tender Committee clarifies that the definition of a Qualified Local Public Transportation Operator is not expected to apply only to buses and therefore it is expected that as long as there is a local LRT operator, operating a public transportation system in Israel, it will not be barred from participating as a Qualified Local Public Transportation Operator, provided that it meets the additional conditions and requirements to be determined by the Tender Committee at a later stage of the Tender Process.</p> <p>Furthermore and for the avoidance of doubt, the attention of the Participants is drawn to, inter alia, Section 71 (Prerogatives of the Tender Committee) of the Invitation, which stipulates, inter alia, that the Tender Committee reserves the right to add, determine or amend the requirements of the Pre-Qualification Process and the Tender Process, at any stage, including expanding the type of operators relevant under Section 3.3 (Alternative B) of Appendix B (Expected Requirements of the Tender Process) to the Invitation, including to non-local public transportation operators, at its sole discretion.</p>	Sections 3.3 of Appendix B (Expected Requirements of the Tender Process)
17.	<p>Q: The Tender Committee was requested to amend clause 2.1 of Attachment A (Experience Provider Undertakings) to Pre-Qualification Form "2" (Participating Entity).</p> <p>A: The Tender Committee accepts the request and draws the attention of the Participants to the amended clause 2.1 of Attachment A to Pre-Qualification Form "2".</p>	Attachment A (Experience Provider Undertakings) to Pre-Qualification "2" (Participating Entity)
18.	<p>Q: The Tender Committee was requested to amend typographical errors in Pre-Qualification "5" (Experience in the Design and Construction of Track-way).</p> <p>A: The Tender Committee accepts the request and draws the attention of the Participants to the amendments in Pre-Qualification Form "5" (Experience in the Design and Construction of Track-way).</p>	Pre-Qualification Form "5" (Experience in the Design and Construction of Track-way)

19.	<p>Q: The Tender Committee was requested to provide additional information with regard to the industrial cooperation requirements to be determined by the Tender Committee with the Industrial Cooperation Authority of the Ministry of Economy and Industry in the next stage of the Tender Process.</p> <p>A: The Tender Committee clarifies that all provisions with respect to the foregoing, will be included in the Tender Process Documents.</p>	General
20.	<p>Q: The Tender Committee was requested to delay any performance obligations (e.g. design works, permits, documents) until after the Financial Closing and to move the financial due diligence to the Tender phase.</p> <p>A: The Tender Committee clarifies that all provisions with respect to the foregoing, will be included in the Tender Process Documents.</p>	General
21.	<p>Q: The Tender Committee was requested to confirm that the Project Agreement does not foresee any "ridership risk" being allocated to the project company or, if ridership risk is allocated to the project company, to specify to what extent and in what form this is foreseen.</p> <p>A: The Tender Committee clarifies that all provisions with respect to the foregoing, will be included in the Tender Process Documents.</p>	General
22.	<p>Q: The Tender Committee was requested to clarify the expected amount of construction grant (if any).</p> <p>A: The Tender Committee clarifies that all provisions with respect to the foregoing, will be included in the Tender Process Documents.</p>	General
23.	<p>Q: The Tender Committee was requested to ensure measures will be taken to ensure a level playing field in the Tender Process.</p> <p>A: The Tender Committee places great importance on the upholding of fair and genuine competition between all the Participants in the Tender Process and accordingly will take all necessary measures to ensure such level playing field.</p>	General