

Berhampur Municipal Corporation, Berhampur

Letter No. 7025

Date.07.06.2019

Sealed Tenders are invited in two bid systems (Technical and Financial Bid) from the intending registered firms NGOs / Organization and contractors desirous of executing the cleaning work for ward no. 3, 5, 8, 10, 11, 13, 14, 16, 18, 19, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 39 & 40 of Berhampur Municipal Corporation which includes Road Sweeping Cleaning. Drain Cleaning. Garbage lifting . Bush Cutting. Spraying disinfectants, Door to Door Collection , lifting of garbage to identified collection points of Municipal Corporation. The estimated cost for cleaning work of ward no 3,5,8,10,11,13, 14, 16, 18, 19, 23, 24,25, 26,27, 28, 30,31,32,33, 34, 35, 36, 37,39 & 40 has been worked out on the basis of current enhanced rates of minimum wages by the Municipal Corporation as indicated and the terms and conditions as noted in DTCN. The contracts shall be for a period of 3 years.

Sl No	Ward No.	Estimated Cost	EMD Amount	Total Nos of Laborers required
1	5,8,10,11,13, 14, 16, 18, 19, 23, 24,25, 26,27, 28, 30,31,32,33, 34, 35, 36, 37,39 & 40	Rs. 8,37,56,988/-	2% of the estimated annual cost including EPF, ESI	696

The Tenders shall be prepared and submitted separately in sealed envelopes in two parts. Part I & Part 2 clearly indicating on the covers Part-1 (Technical Bid) and Part-2 (Financial Bid). The Tenderer should super scribe on the top of the third Envelope "Quotation for Sanitation work". The Envelope containing Technical Bid and Financial Bid should superscribe accordingly. The financial Bid of those will be opened only who will qualify in technical bid. The date will be intimated by letter / Telephone to the party who qualify in Technical Bid.

The Tenderer shall submit their quotation for the respective ward(s) which should reach the undersigned on or before Dt 29.06.2019 By 5.00 P.M through Speed Post/ Regd. Post only. The Technical Bid of the tender will be opened on Dt 30.06.2019 at 11.30 A.M in presence of the tenderer or their authorized agents. The quotation must be accompanied by Bid cost of Rs. 11200/- in shape of DD in favour of Commissioner, Berhampur Municipal Corporation and EMD 2% of the total estimated cost in shape of DD in favour of Commissioner, Berhampur Municipal Corporation payable at Berhampur.

Regarding terms & conditions and eligibility criteria of the tender, related papers will be available with Municipal commissioner Berhampur Municipal Corporation from Dt 08.06.2019 to Dt 29.06.2019 in all working days or can be downloaded from Berhampur Municipal Corporation website-www.berhampur.gov.in.

Memo No 7026

Date07.06.2019

Copy to the Director, I&PR with a request to publish the Notice in One English and Two Odia daily news paper for one day and to submit the bill in duplicate for payment.

Sd/07.06.19
Commissioner
Berhampur Municipal Corporation.

Memo No. 7027

Date 07.06.2019

Copy submitted to the Director, Municipal Administration-cum-Ex-Officio Additional Secretary to Govt. H & U.D. Department. Odisha. Berhampur for favour of kind information.

Sd/07.06.19
Commissioner,
Berhampur Municipal Corporation.

Memo No. 7027

Date 07.06.2019

Copy submitted to the Collector, Ganjam, Chatrapur/Sub-Collector, Berhampur/ Tahasildar, Berhampur for favour of information with a request to display a copy of this notice with the annexure in their office notice board for wide circulation.

Sd/07.06.19
Commissioner,
Berhampur Municipal Corporation.

Memo No. 7027

Date 07.06.2019

Copy to Office Notice Board for wide publication and for information and necessary action of all concerned.

Sd/07.06.19
Commissioner,
Berhampur Municipal Corporation

Berhampur Municipal Corporation, Berhampur

Tender Call Notice No. 7025

Dt. 07.06.2019

General Term and Conditions:

- ✓ The cleaning of road including lanes and by lanes will be done twice a day from 4.00 am. To 9.00 am. & 3.00 pm. To 6.00 pm. as per the direction of Commissioner or any officer authorized in his behalf.
- ✓ Minimum 40% of the sweepers strength should be male.
- ✓ The Drains should be cleaned & desilted regularly.
- ✓ Disinfection such as bleaching powder / Mosquito oil should be sprayed, supplied by BeMC.
- ✓ The Tenderer should arrange Nos. of Labourers as indicated and would pay wage Rs 280/- per day to each Labour.
- ✓ The Tenderers should quote their rate per month along with statutory dues such as EPF & ESI etc as applicable (which will be reimbursed on production of original deposit challans) otherwise it will be presumed that the rate quoted inclusive of all statutory dues. The format of Financial Bid area s follows:

Sl No.	Job Description	Total labour rate	ESI	EPF	Supervision charges including cost for providing jackets, boots and cost towards manpower engaged to supervise the work etc	Total for one year	
						In Words	In Figures
1	Providing cleaning and Sanitation work such as sweeping, cleaning of roads, Cleaning of Drains, Bush cutting, Collection and Transportation of garbage at designated point within Berhampur Municipal Corporation						

- ✓ The tender should reach the undersigned by RP/Speed post only. The undersign will not be responsible for delayed receipt.
- ✓ The tenderer should provide two nos of uniform floursent jackets to each labourer of Navy Blue colour with BeMC inscribed on it, along with gloves and boots.
- ✓ The Corporation will provide vehicles, wheel barrow and Tricycles.
- ✓ Cleaning equipments such as Jhadu, Sura, Belcha, Spade, Angle Canta, Crow Bar. Knife etc will be supplied by the tenderer as per requirement
- ✓ Whenever the Govt. of Odisha will enhance the minimum wages the Authority shall pay the differential amount of enhance wages to the Firm/ Agency / Organization with respect to the numbers of labours engage ward wise.

- ✓ The lowest tenderer is to execute the agreement on receipt of the work order including the terms & conditions as laid down by the authority.
- ✓ The tenderer should submit the quotation along with the required Bid cost and EMD.
- ✓ The authority reserves the right to reject any or all the quotations without assigning any reasons thereof.
- ✓ Any dispute is to be sorted out by addressing it at the forum as decided by the Corporation

Eligibility Criteria:

The Technical Bid shall be accompanied with self attested photo copy of following requisite documents failing which the Bid shall be rejected outrightly.

- Credibility and Experience Certificate issued from concerned Authority / Employer from a Govt./ULB/PSU of repute at least for 3 years under whom the work is done for performing the similar nature of work i.e. sweeping of the streets, Cleaning of Drains.
- Average annual financial turnover for similar nature of work to the tune of Rs.1.00 (one crore) for last each three Financial year individually or combined.
- Organization / Agency / Firm must have registration number under any law GST/EPF/ local registration.
- He should submit EPF Registration certificate and Month wise EPF deposit challan for minimum 100 nos of workers for the last one year.
- He should submit labour contract certificate for 100 nos of workers.
- He should submit PAN card.
- Solvency Certificate to the tune of Rs. 30 lakhs issued by the Revenue Department
- Nov conviction certificate from the police authority
- IT return for the last 3 years
- Audit Report for last 3 financial years
- Any report of poor performance / unsatisfactory performance such as abandoning of work not properly completing / performing the work may be a cause of rejection of Bid.

Sd/07.06.2019

Municipal Commissioner,
Berhampur Municipal Corporation.

Berhampur Municipal Corporation, Berhampur

Ref. Tender Call Notice No.

Dt.

General Term and Conditions:

- The cleaning of road including lanes and by lanes will be done thrice a day from 4.00 A.M to 9.00 A.M. & 3.00 P.M. to 6.00 P.M & in case of night sweeping of Main Road and Bazar area Roads from 10.00 P.M to 12.00 Midnight as per the direction of Commissioner or any other officer authorized by Commissioner. The work should be done by combinedly using specified labourers, vehicle, machinery, equipments etc.
- The agency should provide GPS tagged photo of employees wardwise 6 times i.e. 4 AM, 9 AM, 3 PM, 6PM, 10PM and 12 AM through email, which will be monitored centrally by Commissioner, basing upon which payment will be made
- There should be minimum 40% of the Male sweepers strength during morning & afternoon sweeping and 100% male strength at night sweeping. (10% of total manforce to be engaged in night sweeping)
- The Drains should be cleaned & de-silted regularly.
- Disinfectants, such as bleaching powder / Mosquito oil should be sprayed supplied by BeMC.
- The Tenderer should arrange requisite nos. of Labourers as indicated and would pay wage Rs. 280/- per day to each Labour.
- The Tenderer should quote their rate per month along with statutory dues such as EPF & ESI etc. as applicable (which will be reimbursed on production of original deposit challans) otherwise it will be presumed that the rate quoted inclusive of all statutory dues.
- An email ID for compliant forwarding will be mentained by successful party. All complaints forwarded to email will need to be solved in 24 hours, and reply with GPS tagged photos be given in 24 hours. Otherwise penalty of Rs. 2000/- will be charged for each failure of compliance.
- The tender should reach the undersigned by RP/Sped post only. The undersign will not be responsible for delayed receipt.
- The tenderer should provide two nos. of uniform floursent to each labourer of Navy Blue colour jackets along with Gloves and boots.
- The Corporation will provide wheel barrow and Tricycles.
- Cleaning equipments such as Jhadu, Sura, Belcha, Spade, Angle Canta, Crow Bar, Knife etc. will be supplied by the tenderer as per requirement.
- Whenever the Govt. of Odisha will enhance the minimum wages the Authority shall pay the differential amount of enhance wages to the Firm / Agency / Organization with respect to the number of labours engage ward wise.
- The lowest tenderer is to execute the agreement on receipt of the work order as per the terms & conditions as laid down by the authority.
- The tenderer should submit the quotation along with the required Bid Cost, EMD (2% of the Estimated value) in shape of Demand Draft payable to Commissioner, Berhampur Municipal Corporation.
- Any dispute is to be sorted out by addressing to the forum as decided by the Corporation.

- Since the separate tender are called for as per assessment of requirement for each ward, no interchange or adjustment of labour could be allowed. If any ward (s) found non-responsive, fresh tender will be made.
- The authority reserves the right to reject any or all the quotations without assigning any reason thereof.
- Successful bidder to deposit 2 months salary(including EPF and ESI) as PSD within 14 days of receiving Work order in shape of DD payable to Commissioner, Berhampur Municipal Corporation.

SCOPE OF THE WORK

The objective of this contract is to ensure an efficient and effective Solid Waste Management within the service area to achieve the service outputs and standards as specified in the ToR and in compliance with recommendation of Municipal Solid Waste Management & Handling Rule – 2016.

The scope shall comprise of but not limited to the following broad components within the service area for existing customers as well as future customers as a result of new development & growth

1. Deployment of resources (hardware, Software and Human ware) as per field requirements and complying to the design standards
2. Collection, cleaning and transportation of waste in the manner as prescribed.
3. Complaint registration and redresses
4. Implementation of tracking & monitoring mechanism
5. Ancillary activities and reporting
6. All such deployment and activities for completeness of the service delivery and achieving the service standards

The total work is divided into five Parts.

1. PART A – Resource Deployment
2. PART B – MSW collection & transportation
3. PART C – Cleaning activities, collection and transportation
4. PART D – Express Cleaning Service
5. PART E – Ancillary activities

2.1.1 Part A – Resource Deployment

The scope of work under this item shall include

- The operator shall deploy adequate number of equipments, vehicles, bins, Tools & Tackles, workshops, manpower (workers, drivers, helpers, supervisors and managers), and monitoring mechanism for enabling effective, efficient and successful operation and maintenance.
- The hardware deployed should be maintained properly including stocking adequate inventory & spares and should be replaced immediately based on requirement for continuance of hassle free service in the most efficient manner.
- All deployment has to be justified through proper calculations based on the field requirement, and shall be consulted with the employer. Consultation or approval by the employer does not exempt the service provider from his responsibility to achieve the required service performance standards and desired outputs. The deployment can subsequently be increased during operation achieve the desired output.
- The bins are to be designed and place, so that they are accessible to the users, easy to operate, easy to transport, not exposed to atmosphere, aesthetically acceptable and user friendly.
- Provision of required number of road side bin/community bins/litter bins of different sizes, in the listed wards, for the purpose of temporary sanitary storage of MSW & arrangement for mechanical transportation to Chandania. The number & size of such bins shall be on the basis of quantities of waste generated and the population density. Similarly market places, eateries, vending zones and other public places should have adequate litter bins.
- Express customers and customers with point collection proposal shall have to be provided with individual bins of required capacity.

- The damaged hardware shall have to be repaired/replaced immediately

2.1.2 Part B – MSW collection and Transportation

The scope of work under this item shall include

- All road side dumping of solid waste shall have to be collected irrespective of door to door service or provision of bins.
- The service provider will make efforts to develop such mechanism of collection and transportation of MSW, which minimizes the need of containers.
- **The service provider shall put an effective mechanism for segregation of plastic waste which can be used for road construction and other activities as per the instruction of the officer in charge of BeMC.**
- The services of house to house collection and transportation of waste shall be provided on all days of the week, irrespective of any National Holidays, Festivals or local holiday.

2.1.3 Part C – Cleaning Activities, collection and transportation

The scope of work under this item shall include

- Sweeping of main roads, narrow roads, lanes and bi-lanes shall be taken up manually
- Street sweeping and collection from all type of roads on daily basis.
- In case of road is totally closed for renovation/ reconstruction or lying utilities etc the work shall be carried out by parking the vehicles (auto rickshaw/tricycle/truck) at the nearest accessible place and carrying MSW by handcarts upto the point and back. The service provider shall immediately convey the situation to the nodal officer, Berhampur Municipal Corporation in writing.
- Cleaning of all the drains (including de-silting), conservancy, bush cutting, weeds & other activities pertaining to sanitation, within the service area, once every fortnight.
- Solid Wastes generated by sweeping, drain cleaning (excluding silts), conservancy cleaning, bush cutting, de-weeding, and other sanitation activities are to be transferred and stored in the nearest community bins/ road side bins to be provided by the operator. These shall be transported to Secondary dumping point in a safe and covered container on daily basis.
- Waste generated from drain de-silting (mud & sand) should not be mixed with MSW and shall have to be transported separately. In instruction from the employer, these wastes have to be transferred to land fill site identified by to employer within the service area, in which case the weighment shall be done at the nearest weigh bridge.
- All litter bins provided along the roads/streets/public places shall be emptied in the collection bins or handcarts and shall be transported to the transfer station in a safe and covered container on daily basis.

2.1.5 Part E – Ancillary Activities

The scope of work under this item shall include

- Setting up of state of art control room and instruments to facilitate real time tracking and monitoring
- Tracking and monitoring of Solid Waste Management system
- To provide required resource support for 24x7 registration, monitoring and compliance reporting of customer complaints in respect of SWM within the service area.
- Undertake community interaction and consultations at regular intervals along with BeMC officials.

2.1.7 Service delivery compliance

- The colour code of the bins shall be strictly as per the recommendation of the Municipal solid waste (management and handling) rule 2016.

- The bins are to be placed and designed, so that they are accessible to the users, easy to operate, easy to transport, not exposed to atmosphere, shall be aesthetically acceptable and user friendly.
- The clearing schedule of the bins should ensure that MSW is cleared at least once in 24 hours.
- There should be no overflow of MSW from the bins due to inadequate capacity or not lifting at scheduled times.
- The operator will ensure that the area around the bins is kept clean at all the times.
- The bins are to be maintained so that there are no breakages, no toppling of bins and no dislocation of covers.
- Dumping of the MSW on floor or ground is prohibited.
- Open dumping points/spots within the service area and littering of MSW on open place/places shall not be allowed.
- The MSW shall not be disposed off/dumped/unloaded at any place other than that specified. **Disposal of waste in any area other than specified will be termed as deficiency of service and such repeated acts may lead to termination of contract.**
- Ensure safe transportation of the collected Municipal Solid Waste in covered container to the designated Secondary points.
- Dry Municipal Solid Wastes like leaves, paper etc. shall not be burnt
- There should be no overflow of garbage/refuse/MSW from the community bins and containers. If the garbage is littered outside the bins/containers for any reason, service provider should appoint workers to lift the waste and keep it inside the bin as soon as possible.
- Surrounding of containers and litter bins in the service area, shall be kept clean and tidy by sweeping around thoroughly and putting the garbage/refuse/MSW into the containers and bins.
- The ground at the place where the vehicles stop for loading shall be cleaned and disinfected with an approved disinfectant.
- The operator should ensure adequate safety for all manpower deployed including required insurance facility.
- The man power deployed by the service provider shall have to wear uniform/apron during working hours bearing the logo of BeMC which have to be approved by the employer.

Exclusions

- Lifting and disposal of carcasses of animals
- Waste handling of slaughter house and fish market
- Collection and disposal of construction waste
- Collection and disposal of bio medical waste
- Transportation of solid waste from transfer station to processing unit/land fill site.
- Segregation of MSW

2.1.8 Service Delivery Schedule

The service provider in close consultation with the employer should work out a detail time schedule and should adhere to the same timing. A tentative time schedule/work schedule is indicated below.

Sl.No	Activities	Time Schedule
1	Road Sweeping & Drain Cleaning	4.0 AM to 9.00 AM 3.00 PM to 6 PM & 10 PM to 12 Midnight
2	Collection of MSW from various Collection Point & transportation to designated Secondary Point.	8.00 AM to 12.00 noon & 11.00 PM to 1.00 AM

- The Operator shall ensure the presence of his personnel every day at specified time.

- The Operator should ensure same timing as far as possible. However the timing can be modify with prior approval of BeMC Authorities and adequate communication to the affected customers.
- The operator shall ensure operations on all seven days of the week.

2.1.9 Service delivery performance Criteria:

The performance monitoring and evaluation of service delivery has been institutionalized through Service Level Benchmarking and the purpose and objective of the assignment should be to improve and achieve the National Level Benchmark. With this target as well as the underlying constraints in mind the operator has to achieve the following performance levels.

Parameter Description	Minimum Achievement Target	Actual monthly Achievement	Non Compliance penalty
Street Sweeping	95% coverage	LS/(TL*D) TL- Total road length in the service area LS- Road sweeping covered during the month D- Days in the month	0.5% of monthly bill for every 5% short fall or part thereof
Drain Cleaning	95% coverage	DC/(DL*2) DL- Total drain length in the service area DC-Drain cleaning covered during the month	0.5% of monthly bill for every 5% short fall or part thereof
Conservancy cleaning, bush cutting, de weeding	95% coverage	CC/(CL*2) CL- Total conservancy length in the service area CC- Conservancy cleaning covered during the month	0.5% of monthly bill for every 5% short fall or part thereof
Compliant Redresses	80% within 24 hrs	CR/TC CR – During the month Total no. of Complaint redressed with 24 hrs. TC – Total complaint received during the month	0.5% of monthly bill for every 5% short fall or part thereof

- The service provider in close coordination with employer shall undertake sample survey to assess the extent of waste generated. Secondary data from employers past experience can be referred to conclude the assessment. The sample should comprise of all income groups equally spread over the service area and stretched over a period of time, to give a fair average.
- A detail performance monitoring, reporting and evaluation system shall have to be developed in consultation with to employer. The broad outline of the computation procedure is provided in the table above.
- Employer can conduct service delivery assessment and customer satisfaction sample survey within the service area at regular interval to assess the performance.
- Adequate number of road side bins within accessible distance shall have to be provided in the area where door to door is practically not possible. Similarly adequate number & size of bins shall have to be provided where point collection is proposed.
- All road side dumping of solid waste shall have to be collected irrespective of DTD service or provision of bins.

CONDITIONS OF CONTRACT

3.1 Law Governing the Contract and the Jurisdiction of the Contract:

The contract, its meaning and interpretation and the relation between the parties shall be governed by the applicable law and it shall be subjected to the jurisdiction of the courts of Berhampur

3.2. Headings :

The headings shall not limit, alter or affect the meaning of this contract.

3.3. Effectiveness of Contract:

This contract shall come into force and effect on the date of execution of Contract i.e., signing of agreement and the date of commencement of operation shall be referred as **Effective Date**.

3.4. Commencement of Services:

The operator shall begin carrying out the services, within 60 days of signing of contract. The employer shall hand over the service area (zone under reference) or part of it, as and when the operator demonstrates its preparedness to deliver the service, but no later than the stipulated 60 days for the entire zone.

3.5. Service responsiveness

Subsequent to signing of the contract the operator in consultation with the employer shall prepare and agree upon the following documents

1. Service delivery time schedule in detail (area wise and component wise)
2. Resource deployment schedule
3. Complaint redresses procedure, response time, escalations and compliance reporting (category wise)
4. Monitoring mechanism including contact points, communication, instructions, response time and reporting
5. Performance evaluation mechanism and reporting template.

3.6. Service Period

The operator shall be appointed for integrated MSW Management project, for period of 2 **(two) years** from the effective date. The service shall be provided for all the seven days of a week.

3.7. Service Area

The service area under the ward boundary. The geographical boundary of the service area shall not change even if the ward boundary changes in future for whatsoever reason. Reorientation or redefine of the service area can only be done by mutual agreement of both parties of this contract.

Any new development or growth within the service area are also eligible to get the service and shall be within the scope of the contract.

3.8. Service Standard

The services shall be provided by the operator, as per the recommendation of MSW Rules-2016 and provisions of the agreement.

3.9. Modification :

Modification of the terms and conditions of this contract including any modification of the scope of the services may only be made by written agreement between the parties.

3.10. Accessibility to Employer

The employer shall have access to all the records, instruments, control system, monitoring & tracking system set up by the operator in respect of the service under reference in this contract

3.11. Client Coordination

The employer shall appoint a nodal officer to oversee the assignment, certify bills and coordinate with the operator and to address issues associated with the service assignment.

3.12. Contract Management Meeting

Contact management meetings and/or review meeting shall be held during 1st week of every month to review the service status and address any issues/bottlenecks relating to the contract.

3.13 Mobilization Advance

The operator is entitled on request in writing to get mobilization advance on signing the agreement, up to Rs1.00(One) Crore per package on submission of equivalent amount of Bank Guarantee. The BG shall be valid for a period of 15 months. The advance shall be recovered from the monthly bills in 12 equal installments.

3.14. Sufficiency of Deployment

- a. The operator shall ensure adequate deployment of equipment, vehicle, bins, accessories, tools & tackles, manpower, monitoring system and grievance redresses mechanism for proper, timely and efficient delivery of service. The operator should ensure quality and timely deployment of resource.
- b. The entire deployment plan shall have to be presented, discussed and agreed upon by the employer. This process in no case freezes the deployment, quantitatively or qualitatively. Additional reinforcement in deployment should be taken up if required for successful delivery of service.
- c. Modification to the deployment plan can be taken up in consultation with and approval of employer, as per field requirement to enhance the service efficiency.

3.15. Equipment deemed to be leased to employer

- a. As part of contract price, all the equipments, vehicles, bins, accessories, tools & tackles and other infrastructure deployed for delivery of the service shall be deemed to be leased to employer during continuance of the contract. However the operator shall not have any claim whatsoever for underutilization or idling of the hardware/infrastructure referred above.
- b. SWM being a everyday affair and having direct link with citizen health can be treated as a essential service and the relevant provisions of the applicable law can be invoked by the employer at any point of time during currency or termination of the contract, in the greater public interest. No items mentioned above can be shifted out of the municipal limits without prior written permission of the employer.
- c. Upon termination of the contract, the equipments, accessories and other infrastructure can only be shifted after taking due permission from the employer.

3.16. Employer's Support

BeMC shall extend all its possible support specified hereunder for ensuring successful service delivery.

1. Provide all information available with employer pertaining to the assignment
2. Official support for coordination/communication with other line departments and service providers.
3. Install a computerized weigh bridge.

3.17 Subletting

Subletting of work in part or full is not permitted without prior written approval of the employer.

3.18. Deficiency in Service

Since SWM service is essential in nature and needs immediate attention, the employer can intervene at any point of time in the greater public interest. In case the employer observes deficiency in service as listed in ToR and/or non compliance to employer instructions, the employer reserves the right to

1. Intervene in the matter to remedy the deficiency at the cost of the operator to be recovered from his monthly bill or other dues.
2. Take up required services departmentally or through third party at the cost of the operator to be recovered from his running bill or other dues.
3. Supplement equipment and manpower at the cost of the operator to be recovered from his running bill or other dues.
4. Redress any complaint consequent to failure of redress by the operator, at the at the cost of the operator to be recovered from his running bill or other dues.
5. Terminate the contract as per provision of the contract.

Failure of the operator to act upon the instruction within an agreed/justified time frame shall also result in deficiency of service. In no case the instructions shall be beyond the scope of the contract or applicable rules.

Communication in form of e-mail, instruction note or telephonic/mobile (in case of emergency) shall be deemed to be adequate, just and sufficient in such cases. In the event of intervention by the employer, the same shall be properly communicated to the operator.

3.19. Penalty

Upon occurrence of a material breach of O&M requirements, employer shall, without prejudice to and notwithstanding any other consequences, be entitled to levy a penalty and shall have the powers to terminate the contract.

In case the operator under achieves the targets specified in the performance criteria detailed at chapter 3, the employer shall impose penalty as specified in the performance criteria table, to be recovered from each monthly bill.

The employer or his authorized representative shall record service shortfalls on a daily basis and communicate the same to the operator. The consolidated monthly achievement computed and reported by the nodal officer shall be taken into consideration for evaluating the performance.

Penalty can be waived in part or full under situation of adverse conditions causing hindrance for service delivery, to be properly justified by the service provider to the best satisfaction of the employer. In such an event the nodal officer shall place his report to the Commissioner for his decision. The quantum of waiver shall be at the sole discretion of the Commissioner.

In case of disagreement by the operator on the penalty quantum, he will be provided an opportunity to place his representation with the Commissioner, BeMC, whose decision shall be final and binding on the operator.

3.20. Termination of Contract

3.20.1 by the employer :

The employer may give not less than thirty (30) days written notice of termination to the operator [except in the events listed in point (f) below, for which there shall be a prior written notice of not less than sixty (60) days). Such notice can be given after the occurrence of any of the events specified in paragraph (a) to (e) below to terminate this contract.

- a. If the operator under achieves any item of performance criteria specified at chapter 4 by less than 50% of the target, for a consecutive period of 2 months.
- b. If the operator fails to achieve any item of performance criteria target specified at chapter 4 for a continuous period of 6 months.
- c. If the operator fails to remedy a failure in the performance of their obligations within the time specified by the client or within such further period as the client may have subsequently approved in

writing, for a t least three times during a year, and a show cause notice has been issued to him to this effect.

- d. If the operator becomes insolvent or bankrupt or enters into any agreements with their creditors for relief of debt. Or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- e. If the operator submits to the employer a false statement which has a material affect on the rights, obligations or interests of the employer and which the operator knowingly raised.
- f. If, as a result of Force Majeure, the operator is unable to perform a material portion of the services for a period of not less than sixty (60) days or;
- g. If the employer, in its sole discretion and for any reason what so ever, decided to terminate this contract.

3.20.2 by the Operator:

The operator may, by giving not less than thirty (30) days written notice to the employer, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) hereunder, terminate this contract.

- a) If the employer fails to make any payment for consecutive three certified bills.
- b) If, as a result of Force Majeure, the operator are unable to perform a material portion of the services for a period of not less than sixty (60) days.

3.21 Forfeiture of Performance Security

- a. The performance security may be forfeited, if the bidder does not start operations as per provisions of ToR within stipulated 60 days from the effective date or any such date allowed by the employer.
- b. If during the term of this contract, the operator is in default of the due and faithful performance of his obligations under this contract, the employer shall, without prejudice to its other right sand remedies herein or as per the applicable Law, are entitled to call in, retain and appropriate the performance Security.

3.22 Refund of Performance Security

The performance security will be returned to the operator within three months of completion of the contract period. The performance security shall not bear any interest.

3.23 Site Clearance

The operator shall clear all the hardware & installations from the service area within 15 days of completion of contract period after which the employer has the option of disposing off the hardware or levy rental and/or impose penalty for unauthorized occupation of space by the operator or his installations.

3.24 Contract Price

The Contract Price shall cover all expenditure incurred for infrastructure set up, operation and maintenance for successful delivery of service as per provisions of the contract. This inter alia includes procurement and deployment of equipments, machines, vehicles, staffs establishment, maintenance and repairs, spares and consumables, fuel & lubricants, setting up of office, control room, monitoring & tracking instruments, compliant redress, labour insurance, EPF, ESI and any other expenses required for efficient, effective and successful delivery of service. The contract price shall also include all duties, taxes (excluding service tax), cess, and royalties that may be levied in accordance to the laws and regulation in force. Nothing in the contract shall relieve the contractor from his responsibility to pay any tax that may be levied on it separations or on profits made by him in respect of the contract.

3.25 Payment

All measurements for the purpose of payment shall be done in metric ton.

The operator shall submit monthly bill as per the accepted rate vide Annexure-C, by 7th succeeding month, to the employer after which the employer shall scrutinize and certify the same for payment. The payment process shall include the following

- 1. All bills generated by the operator has to be signed by the PoA holder**

2. The details statement of transportation quantity along with copy of weighment slip and performance evaluation sheet as per agreed format shall be submitted by the operator.
3. The operator shall produce original weighment slip as and when requested by the employer.
4. The weighment details shall be verified, tallied and recorded by the employer
5. All corrections in the bill consequent to scrutiny have to be initialed by the operator through its authorized person only.
6. The nodal officer shall certify regarding correctness and authenticity of the quantity certified in the bill
7. The nodal officer shall enclose a list of deficiency in service and compute the penalty to be imposed including the cost of 3rd party/BeMC service if any
8. Recovery of penalty imposed by the nodal officer based on the performance criteria
9. Any other recovery or withheld recommended by the nodal officer
10. TDS as applicable by statute

The net payment after all recovery, deduction and withheld amount, shall be transferred to the operator, through ECS to the bank account details provided by the operator, within 21 days of receipt of bill in proper format along with required documents.

c. In case there is delay in processing the bill due to unavoidable circumstances, then the employer shall release adhoc payment up to 70% of the bill amount.

3.26. Escalation of Rate

The escalation rate applicable for computation of annual contract price shall be as follows.

1. On account of labour component (50%) : $[(Lc-Lp)*100/Lp]$ % PA
2. On account of Fuel & lubricant component (25%): $[(Dc-Dp)*100/Dp]$ % PA
3. On account of repair, maintenance & replacements (25%) : 2 % PA

Lc – Min. wages (unskilled) as notified by Govt. of Odisha on the applicable date of escalation.

Lp – Min. wages (unskilled) as notified by Govt. of Odisha on the same date previous year

Dp- Diesel price in Berhampur on the applicable date of escalation

Dc- Diesel price in Berhampur on the same date previous year

The effective date (date of commencement of operation) shall be considered as the start of first year.

3.27 Deductions

a. Taxes, duties & cess

All taxes, duties and cess required to be deducted at source as per applicable law at the time of payment shall be done by the employer. Further The BeMC shall deduct TDS as applicable.

3.28 Proof of Tax payment

The operator shall provide documentary evidence of payment of all statutory taxes applicable, filled with competent authority as and when required by the employer failing which the authority reserves the right to withheld reasonable amount from the monthly bill till submission of these documents.

3.29. Operation of the Contract:

- a. The parties undertake to act in good faith with respect to each others rights under this contract and to adopt all reasonable measures to ensure the realization of the objectives of this contract.
- b. The parties recognize that it is impossible in this contract to provide for every contingency which may raise during the life of the contract, and the parties hereby agree that it is their intention that this contract shall operate fairly as between them and without detriment to the interest of either party.
- c. In absence of clarity in provisions of the contract, the applicable law and/or rules shall govern.

3.30. Settlement of Disputes :

a. Amicable settlement:

The parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this contract or the interpretation thereof. The dispute shall be referred to a committee for redress consisting of

Operator's Chief Executive, Municipal Commissioner, BeMC and a representative of H&UD Department, Govt. of Odisha. The decision of the committee should be honoured by all parties in good faith.

b. Dispute Settlement :

Disputes which cannot be settled amicably may be taken up by either party for settlement in accordance with the applicable law within jurisdiction of court of Berhampur.

c. Continuance of service during dispute settlement.

Occurrence or Reference of a dispute shall not annul the contract. The operator shall continue to provide service and the employer shall continue to make payments as per their contractual obligation during the dispute settlement process.

3.31 Force Majeure Event

For the purpose of this contract, "Force Majeure" means an event which is beyond the reasonable control of a party, and which makes a party's performance of its obligations impossible or as impractical as reasonable to be considered impossible in the circumstances

3.31.1 Any of the following events which are beyond the control of the party claiming to be overcome or prevent despite exercise of due care and diligence, and result in material adverse effect shall constitute Force Majeure event.

- (a) Earthquake, flood, inundation and landslide;
- (b) Storm, tempest, hurricane, cyclone, lighting, thunder or other extreme atmospheric disturbances;
- (c) Fire caused by reasons not attributable to the operator or any of the employees, or agents of the operator.
- (d) Acts of terrorism
- (e) Any judgment or order of a court of competent jurisdiction or statutory authority in India made against the employer/operator in respect of the contract in any proceeding, which is non-collusive and duly prosecuted.
- (f) Early termination of this agreement for reason of national emergency or national security.
- (g) War, hostilities (whether declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionizing radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions.

3.31.2 Force Majeure shall not include :

- a. any event which is caused by the negligence or intentional action of a party or such party's agents or employees, nor
- b. any event which a diligent party could reasonably have been expected to both (a) take into account at the time of the conclusion of this contract and (b) avoid or overcome in the carrying out of its obligations hereunder.
- c. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder

Sd/07.06.19
Commissioner,
Berhampur Municipal Corporation