

**TERMS OF REFERENCE****Technical Cooperation: Šibenik Brownfield Urban Regeneration, Project Preparation Services (Phase 2)****1. Definitions**

Item	Description
Assignment	Consultancy assignment covered by this TOR
ERBD / the Bank	European Bank for Reconstruction and Development
Consultant	Consultant entity or consortium hired to deliver assignment covered by this Terms of Reference
Project	Physical re-development of all or part of the Batižele site
Development Partner	Private sector entity that has entered into agreement with Batižele d.o.o and/or other acceptable entity(ies) to deliver physical re-development and operation of all or part of the Batižele site.
Partnership Agreement	Binding agreement between Development Partner and Batižele d.o.o or other acceptable entity for the physical re-development and management of the Batižele site. May refer to more than one agreement between the Development Partner and appropriate entities.

**2. Background****2.1 Context**

The city of Šibenik (Šibenik, the “City”) is the capital of Šibenik-Knin County (the “County”) in the Republic of Croatia. The urban area is home to approximately 40% of the population of the County. The history of Šibenik is inextricably linked with its maritime location. During the 20th century Šibenik became an important centre for metals processing, manufacturing, shipbuilding, trade and transportation. These industries have declined slowly since the latter part of the century and the administration has sought to promote diversified tourism and green industries as the main drivers of the economy in the county. From 2004 to 2014, the number of annual tourists doubled, with a strong presence of German, Austrian and Slovenian visitors. In 2015 the City received its first tertiary studies programme with the establishment of the Polytechnic University.

Šibenik hosts significant cultural heritage assets including but not limited to the Fort of St. Nikola<sup>1</sup>, the Cathedral of St James (a UNESCO World Heritage site inscribed 2000) and the Fortress of Saint Michael (refurbished in 2014 as a 1,000-seat event-space and museum).

The European Bank for Reconstruction and Development (the “EBRD” or the “Bank”) recognises that strategic and integrated re-use of under-used building and infrastructure assets in or close to urban centres, whether publicly or privately owned, can be instrumental in driving improved quality of life and other social outcomes, in parallel with delivering enhanced economic opportunities and activity. Asset renewal opportunities of this nature are present in Šibenik and it is expected that, over time, a number of assets may be commercialised in a strategic and viable manner for a wide range of beneficiaries.

<sup>1</sup> One of six components making up the UNESCO World Heritage transnational serial site, inscribed 2017, of Venetian Works of Defence between the 16th and 17th Centuries: Stato da Terra – Western Stato da Mar

## 2.2 Technical Cooperation ('TC') services

With support from the Austria CREATE Fund (the "Fund"), a programme of Strategic Support and Project Preparation Services has been established to enable cities in EBRD Countries of Operation to exploit opportunities to renew significant building assets through strategic commercialisation initiatives. The Bank recognises that lack of effective project preparation can represent a significant bottleneck for delivery of fundamentally beneficial projects. Therefore the Fund supports not only the preparation of development strategies for brownfield sites around which project stakeholders can find consensus, but also where appropriate the preparation and tender of defined investment projects.

The City of Šibenik has identified Batižele as an asset with strong potential for strategic renewal and commercialisation. In 2019 the Bank engaged a consultant to prepare a coherent and evidence-based development pathway for the asset, which, by unanimous agreement of the City Council, was adopted by City of Šibenik in October 2020<sup>2</sup>. In 2021, the City of Šibenik and the Ministry of Physical Planning, Construction and State Assets agreed to advance the development of the Batižele asset through an agreement or suite of agreements with an appropriate 'Development Partner'.

The Bank, therefore, wishes to engage a consultant (the "Consultant") to provide technical services in the preparation and delivery of this agreement (the "Assignment").

The main beneficiary of the Assignment will be Batižele d.o.o (the "Beneficiary"), a public corporation part-owned by City of Šibenik (67%) and the Republic of Croatia (33%). The ownership of the Republic is managed by three stakeholders: Centre for Reconstruction and Sale, 'CERP' (23%), Croatian Fund for Environmental Protection and Energy Efficiency (9%), and Croatian Waters (1%). Direct oversight of and participation in the project will be undertaken by the Commission for the Implementation of International Public Tender<sup>3</sup> (the "Commission"). Proposals for final decisions related to the Assignment will be jointly agreed by the Management Board of Batižele d.o.o., the Commission and the Consultant. The Management Board of Batižele d.o.o. will submit such proposals for adoption at the Batižele d.o.o. Assembly.

The Bank will select and engage the Consultant on behalf of the Beneficiary, subject to the agreement of the Commission. Activities undertaken by the Consultant are expected to lead to the selection of a preferred Development Partner and to support Batižele d.o.o, and any associated entities, in successfully negotiating a Partnership Agreement with this partner. The Consultant will cooperate closely with the Management Board of Batižele d.o.o. as the point of contact for public-decision making.

## 3. Objectives

### 3.1 Objectives of the assignment and expected outcomes

The objective of the Assignment is to provide critical support to Batižele d.o.o in preparing and then conducting a nationally or internationally competitive and transparent market offer for the first phase of development under a Partnership Agreement.

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<sup>2</sup> Key documents relating to the development pathway have been published online by City of Šibenik at the following address: <https://www.sibenik.hr/projekti/razvojni-projekt-batizele/73.html>

<sup>3</sup> Commission for the Implementation of International Public Tender is a body appointed by the Ministry of Physical Planning, Construction and State Property and the City of Šibenik pursuant to the Article 5. of the Agreement on the regulation of relations between the Republic of Croatia and the City of Šibenik in the implementation of the Development Plan "Batižele".

The Bank may consider providing further TC support for future stages of investment and/or institutional capacity-building on a case-by-case basis.

The Consultant will provide integrated strategic, technical, legal, financial and project management services in the implementation of the market offer for the first phase of development. The Consultant's expert team will have strong experience of delivering similar offers with knowledge of Croatian legal regulations and understanding of the local economic context.

When the Assignment is complete, it is expected that Batižele d.o.o and/or other appropriate related entities will have secured a legally binding agreement with an investment partner for the integrated and sustainable development of the first phase of this urban transformation project.

### 3.2 Guiding principles

The Assignment should be guided by the following principles in relation to procurement, future investments by the EBRD:

The EBRD's Procurement Policies and Rules ("PP&R") are based on the fundamental principles of non-discrimination, fairness and transparency. They are designed to promote efficiency and effectiveness and to minimise risk in the implementation of the Bank's lending and investment operations. The latest version of the EBRD's PP&R was approved in November 2017.

In May 2001, the Bank's Board of Directors approved a paper clarifying the Bank's approach to concession financing and elaborating on the issues involved when the Bank considers financing transactions involving concession or similar contracts awarded to private parties. These issues concern both the process by which the concession has been awarded as well as the fairness and reasonableness of the contract terms and conditions. The Concession Policy was revised and approved in November 2015.

The market offer for the first phase of development shall meet both Croatian legislation and the relevant provisions of the above policies. Further information on the EBRD's PP&R and Concession Policy is published on the EBRD website.

All investments made by the Bank are subject to equal levels of scrutiny with regard to the key operating principles of sound banking, additionality and 'Transition Impact'. Furthermore, the Bank has committed to ensure that all investments will be fully aligned with the Paris Agreement by the end of 2022 at the latest.

The Assignment is expected to drive development that is transformational within the city, and of regional significance.

## 4. **Scope of services, tasks and expected deliverables**

The Consultant will carry out the following tasks:

Stage 2X	<b>Assignment management</b>
Resources	Indicative level of effort – approximately [10]% of total contract value
Tasks	Including but not limited to: <ul style="list-style-type: none"> <li>Project management of all tasks included in the Assignment and engagement with stakeholders in pursuit of these activities.</li> </ul>

	<ul style="list-style-type: none"> <li>- Preparation of comprehensive work plan for the assignment, and alignment with any interdependent activities that lie outside the scope of the assignment</li> <li>- Comprehensive document schedule covering documents and meetings required for the implementation of the assignment</li> <li>- Reporting to relevant stakeholders, authorities and the EBRD.</li> <li>- Data collection and collation.</li> <li>- Quality assurance, including coordination of feedback from stakeholders</li> <li>- Administrative support to assignment stakeholders including coordination with Batižele d.o.o and its shareholders throughout the process for inputs and approvals.</li> </ul>
Note	Batižele d.o.o will provide a dedicated project manager (Batižele d.o.o. Director) to procure, instruct and supervise any specialist contractors engaged in the physical and legal preparation of the asset or assets to be included in the market offer. Services for such works or management of such services lie outside the scope of this Assignment.
Deliverables	2X-1: Meeting agendas and minutes 2X-2: Monthly reports, including timelines and schedules of completed tasks

<b>Stage 2A</b>	<b>Preparation of project dossiers</b>
Resources	Indicative level of effort – approximately [20]% of total contract value
Tasks	<p>Including but not limited to:</p> <ul style="list-style-type: none"> <li>• Technical Dossier. <ul style="list-style-type: none"> <li>- Synthesis of Stages A to C technical outputs, placing them in the context of relevant preceding studies. This synthesis shall demonstrate the feasibility of the project that will subsequently be brought forward as an offer to the market.</li> <li>- Supplementing any technical outputs from Stages A to C with secondary research as necessary.</li> <li>- Assessment of compliance with all relevant Environmental and Social policies including EBRD E&amp;S Policy. Assessment of compliance with EBRD’s Green Economy Transition Approach (GET).</li> <li>- Risk register.</li> </ul> </li> <li>• Legal Dossier. <ul style="list-style-type: none"> <li>- Detailed and definitive due diligence of all legal and contractual issues associated with the project.</li> <li>- Land and asset ownership, identifying existing encumbrances, if any. Recommending actions to be taken in the event of material issues.</li> <li>- Enabling environment for market offer process.</li> <li>- Identification of any material financial or other commitments binding on the Batižele d.o.o or its shareholders.</li> <li>- Project related approvals and permitting processes.</li> <li>- Fiscal justification and feasibility reports as necessary. This shall include (but not be limited to) a quantitative analysis of options available to government shareholders in Batižele d.o.o prior to launch of market offer (hold / exit / partial or incremental exit).</li> </ul> </li> <li>• Financial &amp; Economic Dossier.</li> </ul>

	<ul style="list-style-type: none"> <li>- Recommended structuring of project taking into account preferred risk allocations, and including schedule of design / performance parameters for the development.</li> <li>- Recommended payment mechanism that aligns with risk analysis and parameters for the project while ensuring it is bankable to lenders and viable for potential development partners.</li> <li>- Preparation of detailed and flexible financial model for use in eliciting, and then assessing and analysing submissions from investor-developer consortia. Model shall include commercial and financial inputs such as financing costs, taxation implications etc... to ensure completeness and validity.</li> </ul>
Note	<p>Preparation of Phase 2, Stage A deliverables (Stage 2A) will draw heavily upon materials produced in Stages 1A to 1C of the Phase 1 consultancy assignment (completed in Q4 2020). In particular, the Technical Dossier will draw most heavily upon Stage 1A and 1B deliverables, whilst the Legal Dossier and Financial &amp; Economic Dossier will draw most heavily on Stage 1B and 1C deliverables. The Tender Strategy shall be in line with the Action Plan and Investment files prepared in Stage 1C.</p> <p>Batižele d.o.o will furnish the Consultant with all relevant documentation in a timely manner and in native (editable) file formats wherever possible. Batižele d.o.o will also facilitate access to legal advice and opinion provided by in-house legal counsel at City and State level.</p>
Deliverables	<p>2A-1: Technical dossier                  2A-2: Legal dossier                  2A-3: Financial and economic dossier</p>

<b>Stage 2B</b>	<b>Tender strategy and documents</b>
Resources	Indicative level of effort – approximately [35]% of total contract value
Tasks	<p>Including but not limited to:</p> <ul style="list-style-type: none"> <li>• Tender strategy                             <ul style="list-style-type: none"> <li>- Analyse and recommend the procurement structure and timeline that best meets the needs of Batižele d.o.o.</li> <li>- Define qualification conditions and criteria for bidders.</li> </ul> </li> <li>• Tender documents                             <ul style="list-style-type: none"> <li>- Establish and manage data-room and procurement platform(s).</li> <li>- Prepare document suite and all necessary documentation as defined by legal context.</li> </ul> </li> </ul>
Note	Batižele d.o.o and its shareholders will intensively cooperate and collaborate with the Consultant, providing necessary inputs and agreeing strategy in a timely manner to permit progress to launch of the market offer.
Deliverables	<p>2B-1: Tender Strategy report                  2B-2: Full set of tender documents</p>

<b>Stage 2C</b>	<b>Market offer and negotiation support</b>
Resources	Indicative level of effort – approximately [35]% of total contract value
Tasks	Including but not limited to:

	<ul style="list-style-type: none"> <li>• Market offer support. <ul style="list-style-type: none"> <li>- Preparation of all materials for publication on national or supranational portals as appropriate.</li> <li>- Assistance in organising pre-bid conferences including arrangement of venues, logistics and necessary printed / digital materials.</li> <li>- Responding to questions and clarifications from interested bidders.</li> <li>- Receipt and management of all submitted documents in accordance with the legally required tender process.</li> <li>- Provision of assistance to the Commission for implementation of the international tender in bid screening and evaluation in compliance with the tender procedure.</li> <li>- Communication with bidders as appropriate.</li> <li>- Support in case of legal challenge.</li> </ul> </li> <li>• Negotiation and Partner Agreement support. <ul style="list-style-type: none"> <li>- Assist Batižele d.o.o. in opening and evaluating qualified submissions. Provide legal, technical, financial and commercial inputs during bid-evaluation.</li> <li>- Assist Batižele d.o.o in seeking clarifications from bidders as necessary.</li> <li>- Preparation of draft bid evaluation report. The draft of the final report should be validated and prepared by Batižele d.o.o, the Commission and the Consultant. The Management Board of Batižele d.o.o. will submit the proposal of the draft final report for adoption at the Batižele d.o.o. Assembly.</li> <li>- Assist Batižele d.o.o. in negotiation with selected bidder(s).</li> <li>- Prepare Partner Agreement(s) in line with conditions agreed during negotiations. The general conditions of the Agreement will be published with the tender.</li> <li>- Consultant will support Batižele d.o.o until Partnership Agreement is signed ('Commercial Close').</li> </ul> </li> <li>• Agreement Management and Monitoring strategy <ul style="list-style-type: none"> <li>- Consultant will assess likely capabilities of Batižele d.o.o and its stakeholders in respect of the ongoing management and monitoring of the Partnership Agreement from signing. Under the Agreement, Batižele d.o.o. will be required to meet certain obligations and to address any enforcement issues or disputes with the Development Partner in a timely and effective manner.</li> <li>- Consultant will recommend nature, size, resourcing, and funding of management team necessary to manage the Agreement during the period covering, at a minimum, the contract start-up and the first phase of construction and delivery of yielding assets.</li> <li>- Human resource requirements shall be defined in outline person specifications that may be used to select and appoint the necessary resources prior to or upon signing of the Partnership Agreement. Specialist equipment and any training needs will also be identified.</li> </ul> </li> </ul>
<p>Note</p>	<p>Batižele d.o.o and its shareholders will cooperate intensively with the Consultant, providing necessary inputs and agreeing final response to tender submissions in a timely manner to enable successful negotiation and, ultimately, agreement with the selected Development Partner. Batižele d.o.o will also facilitate access to legal advice and opinion provided by in-house legal counsel at City and Republic level.</p>

Deliverables	2C-1: Successful launch of market offer 2C-2: Bid evaluation report and selection of preferred bidder 2C-3: Final Partner Agreement(s) negotiated and signed 2C-4: Agreement Management and Monitoring Strategy report
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## 5. Implementation Arrangements

### 5.1 Reporting lines

The Consultant shall report on all aspects of the Assignment to the EBRD's Operation Leader (the "OL").

In addition to services provided to the Commission for Implementation of International Public Tender, the Consultant is expected to work closely with the EBRD's Zagreb Resident Office, City of Šibenik, Ministry of Physical Planning, Construction and State Assets and other stakeholders as identified by Batižele d.o.o. management and the EBRD.

### 5.2 Assignment Duration

The Assignment will start in Q2 2022, and have a duration of 36 weeks (including weekends and public holidays) as follows:

- Project structure and indicative time-frame
  - Stage 2X: Continuous throughout - Assignment management
  - Stage 2A: Weeks 01-10 inclusive – Preparation of project dossiers
  - Stage 2B: Weeks 07-14 inclusive – Tender strategy and documents
  - Stage 2C: Weeks 15-36 inclusive – Market offer and negotiation support

Work stages may be prepared concurrently, having regard for relevant interdependencies.

### 5.3 Consultant's Responsibilities

The Consultant's team will operate in both English and Croatian. Protocols for communication and review of deliverables will be agreed at commencement.

The Consultant shall organise and coordinate all stakeholder meetings in cooperation with the Management of Batižele d.o.o. Specific communications protocols will be agreed at the Kick-off Meeting. The Consultant will prepare agenda documents for meetings and circulate 3 days prior. The Consultant will record minutes from meetings and workshops and circulate within 5 working days of the meeting. The Consultant will ensure all actions agreed at meetings are tracked and followed up as appropriate.

In addition, the Consultant will participate in monthly conference/video calls convened by the EBRD to discuss any pertinent issues and expedite decision-making. The Consultant will also participate in ad hoc meetings as may be necessary with the Project stakeholders, where reasonable notice is given.

### 5.4 Travel restrictions

If government-imposed travel restrictions are in place for any reason, the Consultant may be required to conduct some or all of the Assignment as a desk study, holding meetings with the EBRD

and key stakeholders by secure conference or video call as necessary. During any period of travel restrictions in Croatia, the Consultant’s experts will conduct site visits and hold face-to-face meetings with key stakeholders only on receipt of written approval from the Bank’s OL to do so, after agreement in this regard has been reached between the EBRD, the Consultant, and key stakeholders. If inability to conduct face-to-face meetings impedes the Consultant’s ability to carry out the Assignment effectively, the Consultant must inform the Bank’s OL without delay.

**6. Reporting requirements and time schedule for deliverables**

**6.1 Reporting requirements**

The Consultant will provide a written summary of activities and progress within 5 working days of the end of each calendar month. This report will include indicative percentage completion levels against the scheduled deliverables, expected activities in the forthcoming month, record of any reimbursable expenses, up-to-date work programme, invoicing and payments, risk items and proposed mitigation efforts. Monthly reports shall not exceed 4 sides of A4 paper and may be delivered in pdf format.

All reports and documents shall be submitted in Final Draft and Final versions in English and Croatian. Comments on the Final Draft may be expected from the within two week period. The Final version shall incorporate all changes and additions requested by the review group. Delivery of the Final version of a given deliverable will constitute the invoice-able milestone.

**6.2 Time schedule for deliverables**

The table below describes the required submission/completion times for the assignment deliverables. EBRD will provide an on-line facility for delivery of documents in order to record submission times and expedite distribution to stakeholders.

<b>ID</b>	<b>Deliverables</b>	<b>Deadline</b>
Stage 2A	2A-1: Technical dossier 2A-2: Legal dossier 2A-3: Financial and economic dossier	Within 10 weeks of the Assignment Start Date
Stage 2B	2B-1: Tender Strategy report 2B-2: Full set of tender documents	Within 14 weeks of the Assignment Start Date
Stage 2C	2C-1: Market offer launched 2C-2: Selection of preferred candidate 2C-3: Partner agreement(s) negotiated and signed 2C-4: Agreement Management and Monitoring Strategy report delivered	Within 36 weeks of the Assignment Start Date

**6.3 Final documentation**

At the end of the project, the Consultant shall provide to the Bank and project stakeholders all computer files of reports, data and models (technical, financial etc) developed in preparation of the services, including passwords as necessary to ensure full access for future manipulation and editing.

Financial models will be structured and developed in line with FAST standards and methodology (<http://www.fast-standard.org/>). Models will be prepared in Microsoft Excel format and in English and Croatian language. Models will not include any protection that limit their use and changes by the beneficiaries of the assignment. Models will be provided open and without password protected macros or other content.

## 7. Consultant Profile

### 7.1 General

The Consultant will have an experienced multi-disciplinary team led by a specialist capable of integrating multiple strands of work. The work may be undertaken by a single consultant/firm able to provide all requisite disciplines in-house or by a consortium of consultants/firms. In the case of a consortium, the bid must clearly identify the Lead Consultant, explain the relationship, roles and responsibilities of the team members, and whether it will be operating as a joint venture or as a prime contractor with sub-consultants. For joint ventures, it is essential that the Joint Venture Agreement is submitted as part of the bid submission.

The Consultant will be:

- a global leader in advisory services, offering support on topics related to the public and private sector financing of investments in the real-estate and infrastructure sectors.
- experienced in carrying out consulting services for the design, support, financing and implementation of concessions or similarly structured projects in the real-estate and infrastructure sectors.
- experienced in built assets project preparation and experience of working with multiple stakeholders and asset-owners from public and private sector organisations.

### 7.2 Key Experts

The following Key Experts are required:

Role	Qualification requirements	Required experience
Key Expert 1: Team Leader, and Commercial and Financial Advisor	<p>Leader in advisory services, able to develop and integrate commercial and financial support on all topics related to the public and private sector financing of investments.</p> <p>Expert shall hold internationally recognised qualification(s) in transaction advisory and/or business administration.</p>	<p>8-12 years of experience in consulting services covering the design, support, financing and implementation of concessions or similarly structured projects.</p> <p>The above experience shall preferably include four (4) projects working for either public or private bidder in Europe that have achieved financial close in the last 10 years.</p> <p>The above experience shall preferably include successful completion of four (4) recent projects focused on advisory services related to infrastructure or real-estate project preparation activities.</p>

<p>Key Expert 2: Technical Advisor (multiple disciplines)</p>	<p>Qualified engineer/surveyor/architect employed by world-class multidisciplinary consultancy services provider with capacity to lead and integrate technical support at every stage of the project, from inception to completion.</p> <p>The services provider will employ engineers, surveyors, architects and other built-environment consultants and will hold demonstrable experience with operations in regions with significant PPP portfolio of projects.</p>	<p>8-12 years experience in real-estate, urban development, construction and environmental sectors.</p> <p>The above experience shall include advising public sector or private sectors during procurement, which must exceed due-diligence advisory to Lenders.</p> <p>The above experience shall preferably include four (4) projects with a scope focused on preparation of Feasibility Studies completed in the Bank’s countries of operation.</p>
<p>Key Expert 3: Legal Advisor</p>	<p>Qualified lawyer employed by international law firm with experience in the real-estate and infrastructure sectors in regions with reputable and comparable project structures such as UK, Canada, EU, Australia.</p>	<p>5-8 years project experience advising both public sector and private sectors during procurement.</p> <p>The above experience shall preferably include two (2) projects working for private bidder in a mature market that have achieved financial close in the last 10 years in this sector.</p> <p>The above experience shall preferably include two (2) projects advising the public side in supporting preparation of tender documentation and drafting the contract and support during negotiations.</p>
<p>Key Expert 4: Local Counsel</p>	<p>Croatian-registered lawyer employed by a firm with offices in-country and experience in the real-estate and infrastructure sectors.</p>	<p>5-8 years project experience advising both public sector and private sector clients in the fields of procurement, real-estate, planning and construction.</p>
<p>Key Expert 5: Real Estate Advisor</p>	<p>Real estate advisor/analyst With demonstrated expertise in project preparation for real-estate projects and experience of working with multiple stakeholders and asset-owners from public and private sector organisations.</p>	<p>5-8 years experience, preferably including four (4) projects focused on valuation and preparation of large-scale real-estate transaction projects.</p>

	Expert shall hold recognised qualification(s) in real estate analysis or transaction advisory.	
Key Expert 6: Environmental and Social Advisor	Qualified environmental scientist with experience in undertaking SEA and EIA in connection with urban development, land remediation, master-planning and real-estate projects, and in accordance with /international financial institution requirements.	5-8 years experience, preferably including four (4) projects focused on preparation of real-estate and infrastructure transaction projects.  The expert will also hold demonstrable experience in relation to former industrial land and remediation standards applicable in EU countries.

Core members of the team should demonstrate suitable levels of experience and participation in preferably 5 assignments of relevant scope. The team/consortium may make the case to split or combine the roles set out above where this is supported by appropriately qualified team members. The team should be augmented by junior staff as appropriate.

**END**