

Application Format

**Proforma for submission of the proposal for Viability Gap Funding under  
RSSVGF**

<b>S.No.</b>	<b>Item</b>	<b>Response</b>
<b>1.</b>	<b>General</b>	
1.1	Name of the Project	
1.2	Location (District/Town)	
1.3	Administrative Department	
1.4	Name of Sponsoring Authority	
<b>2.</b>	<b>Project Description</b>	
2.1	Brief description of the project	
2.2	Justification for the project	
2.3(a)	Estimated capital costs with head-wise break-up	
2.3 (b)	Indicate the basis of cost estimation	
2.4(a)	Estimated recurring expenditure with head-wise break-up (per annum)	
2.4 (b)	Indicate the basis of cost estimation	
2.5 (a)	Estimated non-recurring expenditure with head-wise break-up	
2.5 (b)	Indicate the basis of cost estimation	
2.6	Project Implementation Schedule (PIS)	
<b>3.</b>	<b>Requirement as per Standard Norm</b>	
3.1	Land (in sq. yards)	
3.2	Capital Expenditure -Constructed area -Accommodation	
3.3	Non-recurring expenditure	
3.4	Recurring expenditure per annum	
<b>4.</b>	<b>Revenue Streams</b>	
4.1	Annual flows during concession period	
4.2	Indicate the underlying assumptions	
4.3	Who will fix the tariff / user charges?	

Please specify in detail

**5. Investment by 'Private Organisation' / 'Not for Profit Organisation'**

- 5.1 Indicate availability of land
  - if yes, area
- 5.2 Indicate availability of building
  - constructed area
  - accommodation
- 5.3 Likely Capital Investment
  - Item-wise break-up
- 5.4 Likely revenue expenditure
  - Item-wise break up
- 5.5 Likely non-recurring expenditure
  - Item-wise break up

**6. Viability Gap Funding required from Government**

- 6.1 Capital Grant
  - up-front, proportional or back-ended
- 6.2 Loan
  - interest free
  - at concession rate
- 6.3 Land (in sq. yards)
  - free of cost
  - at concessional price (on lease)
- 6.4 Building
  - free of cost
  - at concessional price (on lease)
- 6.5 Recurring Grant
  - amount
  - period

**7. Clearances**

- 7.1 Indicate clearances required from other Committee
- 7.2 Other support required from the State Government

**8. Criteria for short-listing**

- 8.1 Indicate the criteria for short-listing

**9. Others**

- 9.1 Remarks, if any

## Annex-2

This Agreement is entered into this the \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_\_.

### BETWEEN

1. The Governor of Rajasthan represented by the \_\_\_\_\_,  
\_\_\_\_\_ Department and having its principal office at \_\_\_\_\_  
(hereinafter referred to as the "Government" which expression shall, under repugnant  
to the context or meaning thereof, include its administrators, successors and assigns)  
of the First Part.

### AND

2. \_\_\_\_\_, a Company/ Society/ Trust incorporated/ formed under the  
provisions of the \_\_\_\_\_ and having its registered office/  
administrative office at \_\_\_\_\_ of the Second Part.

### WHERE AS

1. The Government has decided to establish (Project Facilities) in \_\_\_\_\_,  
District \_\_\_\_\_ of the State in accordance with the terms and conditions set  
forth in this Agreement.
2. The Empowered Committee constituted under the Rajasthan Social Sector Viability  
Gap Funding Scheme has passed a resolution in its meeting held on  
\_\_\_\_\_ for establishing the above referred (Project Facilities) in  
\_\_\_\_\_ mode of Public-Private Partnership and for viability gap  
funding/ support.
3. The Government had accordingly invited open proposals by its Expression of Interest/  
Tender Notice No. \_\_\_\_\_ dated \_\_\_\_\_.

### OR

The Government had received a proposal suo moto from \_\_\_\_\_  
and invited competing counter proposals from others by its Notice No. \_\_\_\_\_  
dated \_\_\_\_\_.  
(in the spirit of "Swiss Challenge" approach)

4. The Government had prescribed a two-envelop process - technical and financial.  
Both the bids were received together from all the bidders and financial bids were  
opened only for technically-qualified bidders.

### OR

Technical bids were received first for the process of pre-qualification. Financial bids  
were received from the technically-qualified bidders.

5. After evaluation of the bids received, the Government has accepted the bid of  
\_\_\_\_\_ and issued its Letter of Acceptance No. \_\_\_\_\_ dated  
\_\_\_\_\_.

**NOW, THEREFORE, THIS AGREEMENT/MOU WITNESSETH AND PARTIES**

**AGREE AS FOLLOWS:**

**SCOPE OF THE PROJECT**

The scope of the project shall mean and include.

1. Creation of Project Facilities as set forth in Schedule A and in conformity with specifications and standards set forth in Schedule B.
2. Operation and maintenance of the Project Facilities as set forth in Schedule C.
3. Performance and fulfillment of all the obligations as set forth in Schedule D and matters incidental thereof or necessary for performance of any or all the obligations of this Agreement. (including specifying fee to be charged, reservations to be made, etc.)

**PERMISSION AND VIABILITY GAP SUPPORT**

1. The Government hereby grants to \_\_\_\_\_ permission to create, operate and maintain the Project Facilities and \_\_\_\_\_ hereby agrees to create, operate and maintain the Project Facilities.
2. The Government also hereby grants to \_\_\_\_\_ Viability Gap Support under the Rajasthan Social Sector Viability Gap Funding Scheme in the form of \_\_\_\_\_ - as set forth in Schedule E. (Specifying the disbursement process, periodicity of release, repayment and conditions subject to which the Viability Gap Support will be delivered).

**OBLIGATIONS OF THE SECOND PARTY**

1. The second party shall create the Project Facilities.
  2. Manage, operate and maintain the Project Facilities and regulate the use thereof by third parties.
  3. Demand, collect and appropriate fee from persons liable for payment of fee for using the Project Facilities or any part thereof.
  4. Perform and fulfill all the obligations under and in accordance with this Agreement.
  5. Bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations under this Agreement.
  6. not assign, transfer or sublet or create any lien or encumbrances on this Agreement or on the whole or any part of the Project Facilities nor transfer, lease or part possession thereof, save or except as expressly permitted by this Agreement or mutually agreed, in written.
2. The Second Party shall also
- (a) at its cost and expenses procure finance for and undertake the design, procurement, creation, operation and maintenance of the Project Facilities and observe, fulfil, comply with and perform all its obligations set out in this Agreement.
  - (b) comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of this Agreement.

- (c) discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.
- (d) make necessary applications to the relevant Government Instrumentalities as may be required for obtaining applicable permits and obtain and keep in force and effect such applicable permits in conformity with the Applicable Laws.
- (e) procure, as required the appropriate proprietary rights, licences, agreements and permissions for materials, methods, processes and systems used or incorporated into the Project Facilities.
- (f) perform and fulfil its obligations under the Financing Agreements.
- (g) repay the Viability Gap Support granted by the Government as set forth in Schedule E.
- (h) not make any replacement or amendments to any of the Financing Agreements without the prior written consent of the Government.
- (i) not undertake or permit any change in ownership except with the prior written approval of the Government.

#### **OBLIGATIONS OF THE GOVERNMENT**

The Government shall

1. upon written request from the Second Party, and subject to the Second Party complying with Applicable Laws, provide all reasonable support and assistance to the Second Party in processing to the Second Party in procuring Applicable Permits required from any Government Instrumentality for implementation and operation of the Project Facilities.
2. upon written request from the Second Party, assist Second Party in obtaining to all necessary infrastructure facilities and utilities, including water and electricity at rates and or terms those generally available to commercial customers receiving substantially equivalent services.
3. procure that no barriers are erected or placed on the Project Facilities by any Government Instrumentality or persons claiming through or under it, except for reasons of emergency, national security or law and order.
4. not do or omit to do any act, need or thing which may in any manner be violative of any of the provisions of this Agreement.
5. support, cooperate with and facilitate the Second Party in the implementation and operation of the Project Facilities in accordance with the provisions of this Agreement.

#### **GENERAL AND FINANCIAL**

1. The Second Party hereby agrees and undertakes that it shall achieve Financial Close within \_\_\_\_\_ days from the date of this Agreement and notify the Government forthwith of the Financial Package and the Financial Model which is acceptable to the Lead Lender.

2. The Government agrees to provide to the Second Party Viability Gap Support as set forth in Schedule E. The Viability Gap Support shall be disbursed in accordance with the provisions set forth in Schedule E.
3. The Second Party agrees to pay to the Government a sum of Rs. \_\_\_\_\_ per year for \_\_\_\_\_ year commencing from \_\_\_\_\_ in lieu of
4. The Second Party acknowledges and agrees that upon payment of Fee, any user shall be entitled to use the Project Facilities and the Second Party shall not place or cause to be placed, any restriction on such use, except specified in any Applicable Law, Applicable Permit or the provisions of this Agreement. The Second Party acknowledges and agrees that any user who is not liable for payment of the Fee shall be entitled to use the Project Facilities and the Second Party shall not place or cause to be placed, any restriction on such use, except specified in any Applicable Law, Applicable Permit or the provisions of this Agreement.
5. The parties hereby agree that the Fee shall be revised annually on April 1, if considered appropriate, provided however, that such revision shall not be effected until a period of six months has elapsed from the date of the immediately preceding determination of Fee.
6. The Second Party shall open and establish an Escrow Account with a Bank and shall deposit the following inflows and receipts in to the Escrow Account.
  - All Funds constituting the Financial Package
  - All Fee and any other revenues from or in respect of the Project Facilities, including the proceeds of insurance claims, if any.
  - all payments by the Government, including Viability Gap Support. Provide that the Lead Lender may make direct disbursement to a third party in accordance with the express provision contained in the Financing Agreements.
7. The Second Party shall, for the performance of its obligations hereunder, provide to the Government no later than \_\_\_\_ days from the date of this Agreement, an irrevocable and unconditional guarantee from a Bank for a sum equivalent Rs. \_\_\_\_\_. Until such time this guarantee is provided by the Second Party, the Bid Security shall remain in force and effect. The Government shall upon request made by the Second Party, release the said guarantee from the bank upon the second party expending on the Project Facilities an aggregate sum that is not less than \_\_\_\_\_ per cent of the Total Project Cost and provided the Second Party is not in breach of this Agreement.
8. The Second Party shall give irrevocable instructions to the Escrow Bank that deposits in the Escrow Account shall be appropriated as set forth in Schedule F.
9. The Second Party shall effect and maintain at its own cost such insurances for such maximum sum as may be required under the Financing Agreements, and the Applicable Laws.

10. The Second Party shall maintain books of accounts recording all receipts, income expenditure, payments, assets and liabilities in accordance with this Agreement, Applicable Laws and Applicable Permits. The Second Party shall provide two copies of its Balance Sheet, Cash Flow Statement and Profit & Loss Account along with a report thereon by its Statutory Auditors, which 90 days of the close of the Accounting year to which they pertain.
11. The Government shall have the right to inspect the records of the Second Party and require copies of relevant extract from books of accounts, duly certified by the Auditors.
12. The Second Party shall appoint, and have during the subsistence of this Agreement as its Statutory Auditors, a firm chosen by it from the mutually agreed list of five reputed firms of chartered accountants. All fee and expenses of the Statutory Auditors shall be borne by the Second Party.
13. The Government shall not be liable in any manner whatsoever to the Second Party in respect of any loss, damage, lost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event.
14. This Agreement shall be valid initially for a period of \_\_\_\_ years. Thereafter, it may be further extended, by mutual consent, between the parties hereto. Such extension(s) shall be for a period of \_\_\_\_ years.
15. This Agreement supercede all previous communications representations or understandings, either oral or written, between the parties relating to the subject matter hereof.
16. This Agreement cannot be amended except in writing and under signature of parties, such document making specific mention that it purports to amend this Agreement.
17. This Agreement is one integrated document and shall be construed as a whole. In case any term or provision of this Agreement is held unenforceable, invalid or illegal in any respect, it is the intention of the parties that the validity of the remaining terms and provisions shall not be affected and this Agreement shall be construed as if the unenforceable, invalid or illegal terms or provision had never been contained herein and this Agreement shall be accordingly construed.
18. This Agreement may be executed in two counterparts, each counterpart being equally valid. Both such counterparts shall be deemed original.
19. This Agreement shall be construed, governed and implemented in accordance with the laws applicable in India.
20. The parties agree to use their best efforts to negotiate in good faith and settle amicably and dispute that may arise or relate to this Agreement or a breach thereof. If such dispute, doubt or question, arising out of or in respect of this Agreement or the subject matter thereof, cannot be settled amicably through ordinary verifications by the parties, the same will be decided by arbitration in terms of the Arbitration and Conciliation Act, 1996.

IN WITNESS WHEREOF the parties hereto have put their hands at Jaipur on the date herein above mentioned.

For and on behalf of the Governor of Rajasthan.

( )

\_\_\_\_\_, Department

For and on behalf of \_\_\_\_\_

( )

Witnessed By