



**MALIR EXPRESSWAY PROJECT**  
**ADDENDUM NO. 1**



**ADDENDUM NO. 1 TO THE REQUEST FOR PROPOSALS**  
**MALIR EXPRESSWAY PROJECT**



**Local Government Department**  
**Government of Sindh**



**Public Private Partnership Unit**  
**Finance Department**  
**Government of Sindh**

**OCTOBER 2019**



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**IMPORTANT NOTICE / DISCLAIMER**

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This Addendum No. 1 (the **Addendum No. 1**) to the 'REQUEST FOR PROPOSAL' (consisting of the Volume I – Request For Proposal (the **RFP**) and Volume II - Draft Concession Agreement (the **DCA**) issued in July 2019 (the RFP, the DCA and together with the Addendum No. 1, the **Revised RFP Documents**) is provided to the recipient solely for use in preparing and submitting its Bid / response for participation in the competitive bidding process to design, build, finance, operate and transfer the Malir Expressway Project (the **Project**). This Addendum No. 1 is being issued by the Local Government Department, Government of Sindh in association with PPP Unit, Finance Department, Government of Sindh, solely for use by prospective Bidders in considering the Project.

In case of any ambiguity, discrepancy, inconsistency and/or contradiction between this Addendum No.1 and the Response To Bidders' Queries Document dated September 17, 2019 (**Response Document 1**) or the Response To Bidders' Queries Document 2 dated October 16, 2019 (**Response Document 2**) this Addendum No.1 shall prevail.

*Unless expressly specified otherwise, all capitalized terms used herein shall bear the meaning ascribed thereto in the Revised RFP Documents.*

The GoS (including, *inter alia*, the Local Government Department, Government of Sindh, the PPP Unit, Finance Department, Government of Sindh and the TFEC) nor, in each case, their employees, personnel, agents, consultants, advisors and contractors etc., make any representation (express or implied) as to the accuracy or completeness of the information contained herein, or in any other document made available to any person in connection with the tender process for the Project and the same shall have no liability for the Revised RFP Documents or for any other written or oral communication transmitted to the recipient in the course of the recipient's evaluation of the Project. Neither these entities nor their employees, personnel, agents, consultants, advisors and contractors etc., will be liable in any manner whatsoever to reimburse or compensate the recipient for any costs, fees, damages or expenses incurred by the recipient in evaluating or acting upon the Revised RFP Documents or otherwise in connection with the Project.

Any Bid / response submitted in response to the Revised RFP Documents by any of the Bidders shall be upon the full understanding and agreement of any and all terms of the Revised RFP Documents and such submission shall be deemed as an acceptance to all the terms and conditions stated in the Revised RFP Documents.

Any Bid / response to the Revised RFP Documents submitted by a Bidder shall be construed based on the understanding that the Bidder has done a complete and careful examination of the Revised RFP Documents and has independently verified all the information received from the GoS (including from its employees, personnel, agents, consultants, advisors and contractors etc.).

Any Bid / response to the Revised RFP Documents submitted by a Bidder shall be construed based on the understanding that the Bidder acknowledges that prior to the submission of the



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Bid / response in response to the Revised RFP Documents, the Bidder has, after a complete and careful examination, made an independent evaluation of the Revised RFP Documents, scope of the Project, the Project Requirements, the Applicable Standards, the Project site and all information provided by the GoS or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations under the Concession Agreement. The GoS (including its employees, personnel, agents, consultants, advisors and contractors etc.) makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Bidders shall have no claim whatsoever against the GoS in this regard.

The Revised RFP Documents do not constitute a solicitation to invest, or otherwise participate, in the Project, neither shall it constitute a guarantee on the part of the GoS that a Concession will be awarded.



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**1. ADDENDUM NO. 1**

The GoS hereby issues this Addendum No. 1 to set out the changes and amendments to the RFP and DCA previously circulated in respect of the Project, which amendments and changes shall stand incorporated in the RFP and DCA respectively. Notwithstanding anything to the contrary, all relevant provisions of the RFP and DCA shall stand amended to the extent required to give effect to the matters set out in this Addendum No. 1. Except as otherwise expressly set out in this Addendum No. 1, all other provisions of the RFP and DCA shall remain unchanged.

The following amendments shall stand incorporated in the RFP and DCA respectively:

- 1.1 Paragraph 4 in the letter to bidders on page 2 of the Request for Proposal shall stand amended to read as under:

*“Project Expressway shall be an access-controlled facility, and its start point is, on the right bank of Malir River, between Jam sadiq bridge and Korangi Crossing causeway and travelling along the Malir River up to the existing Link Road between N-5 and M-9 (2.4 km short of M-9) and it will take left turn from this point and terminate 100 meter before M-9 toll plaza on this link road which is the end point of the Project, as shown in Annexure M (Project Location Plan). The tentative measured length of the Project Expressway is 38.75 km. The existing section of Link Road between N-5 and M-9, will need modification to meet the requirements of the Project Expressway according to given cross-sections.”*

- 1.2 The table of key tentative dates in the letter to bidders on page 2 and part 1.16 (*Project Schedule*) of the Request for Proposal shall stand amended to read as under:

Issuance of the RFP (the <b>Issuance Date</b> )	July 31, 2019
Pre-Bid Meeting (the <b>Pre-Bid Meeting</b> )	August 20, 2019
Availability of bidding documents on SPPRA website	September 16, 2019
Second Pre-Bid Meeting (the <b>Second Pre-Bid Meeting</b> )	October 03, 2019
Submission and opening of Technical Bids and submission of Financial Bids only (the <b>Bid Submission Date</b> )	November 01, 2019
Evaluation of Technical Bids and opening of financial bid (the <b>Evaluation of Technical Bids</b> )	Bid Submission Date + 21 days
Evaluation of Financial Bid (the <b>Evaluation of Financial Bids</b> )	Evaluation of Technical Bids + 14 days
Announcing the Preferred Bidder (the <b>Announcement</b> )	Evaluation of Financial Bids +



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	10 days
Concession Agreement signing (the <b>Signing Date</b> )	Announcement + 15 days
Financial Close	Within 180 Days of Signing Date
<b>Concession Period</b>	
Anticipated start of design, planning and surveys	10 days from Signing Date
Anticipated end of design, planning and surveys	120 days from Signing Date
Anticipated start of construction (the <b>Commencement Date</b> )	180 Days from Signing Date
Anticipated end of segment I construction (the <b>Segment Substantial Completion Date</b> )	18 months from the Commencement Date
Anticipated end of construction (the <b>Substantial Completion Date</b> )	30 months from the Commencement Date
Anticipated expiry of Concession Agreement and handover of facilities	25 years from the Substantial Completion Date

1.3 The number of interchanges in the Project Expressway as provided throughout the Request for Proposal including in Paragraph 3 of the “*Important Notice/Disclaimer*” on page 4 of the Request for Proposal shall stand amended to read as “*six (6) Interchanges*”.

1.4 Length of the Project Expressway as provided throughout in the Request for Proposal including in the definition of “*Project Expressway*” on page 16 of the Request for Proposal shall stand amended to read as “*38.75 km*”.

1.5 In part 2.6.9(d) on page 35 of the Request for Proposal, the following requirement in respect of the Financial Model shall stand inserted as bullet number 3:

*“includes the complete information requested in Form J-13 (Financial Model Form)”.*

1.6 In part 3.1.1(d) on page 41 of the Request for Proposal, the following requirements for reliance on parent companies shall stand inserted:

*“Where a parent company is acting as a guarantor for a Member or Participant of the Bidder then such Member or Participant of the Bidder (as applicable) shall be required to:*

- (i) *procure a parent company guarantee in favor of the Bidder in respect of financial obligations of the Member or the Participant (as applicable) along with a legal opinion confirming that the parent company guarantee has been validly entered into and forms the legal, valid and binding obligations of the parent company;*



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- (ii) *ensure the parent company has taken all necessary corporate actions and has all necessary authorizations to execute and deliver the parent company guarantee;*
- (iii) *ensure that the parent company is empowered under its constitutive documents (including the memorandum and articles of association or charter) to execute and deliver the parent company guarantee and to perform its obligations thereunder; and*
- (iv) *ensure that the parent company guarantee has been/shall be, as applicable, executed by a duly authorized person(s) on behalf of the parent company and is and shall continue to remain binding and enforceable against the parent company”.*

1.7 Part 4.5.5 (*Compensation of Private Partner*) on page 47 of the Request for Proposal the following language shall stand amended to read as under:

*“Provided further that during the first ten (10) years following Commercial Operations Date, if the MRG Amount for the relevant operating year quoted by the Bidder is higher than 120% of the Benchmark Revenue for that particular operating year then the excess amount beyond the MRG Amount for the relevant operating year will be shared between the GoS and the Concessionaire on a 75:25 basis (75% to GoS). Furthermore, in case the MRG Amount for the relevant operating year is higher than the Benchmark Revenue but lower than 120% of the Benchmark Revenue, then 120% of the Benchmark Revenue minus MRG Amount would be fully allocated to the Concessionaire and Revenue beyond 120% of the Benchmark Revenue would be shared between the GOS and the Concessionaire on 75%: 25% basis (75% to GoS). Illustration of the aforementioned has been provided in Annexure D.”*

1.8 Part 4.6.1(2) (*Minimum Revenue Guarantee*) on page 47 of the Request for Proposal shall stand amended to read as under:

*“In order to reduce the demand risk of the Malir Expressway Project, the GoS has agreed to guarantee the MRG Amount up to a maximum of: (a) debt servicing; (b) O&M costs; and (c) taxes, in accordance with the Financial Model. However, the debt servicing/financing costs will be actualized based on the prevailing KIBOR rates and O&M costs will be actualized based on the following:*

- *twenty percent (20%) of the operations component of the O&M cost shall be indexed to a fixed rate of ten percent (10%);*
- *remaining operations component of the O&M cost shall be indexed to CPI; and*
- *remaining maintenance component of the O&M cost shall be indexed to WPI.*



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For the purposes of consistency, the Bidders shall assume the KIBOR at fourteen (14 %) percent and O&M and Major Maintenance cost's escalation rate at ten (10 %) percent.

*It is pertinent to mention that the GoS will fund the MRG Amount after setting off the actual Revenue collected by the Concessionaire during the operational phase of the Concession Period.*

*The MRG Amount will be available for a maximum period of ten (10) years or till the end of Debt Repayment Date, whichever is earlier.*

The Bidders are instructed to distinctly provide, under a separate head, the required MRG Amount in the Financial Model which shall constitute the debt servicing, operations and maintenance cost and taxes as applicable. Additionally, the upwards / increase variation / difference in MRG Amount between any 2 years must not be more than ten percent (10%). It is being restated that minimum debt tenor should not be less than 8 years and more than 10 years, starting from the Substantial Completion Date. Furthermore, for the purpose of Base Case Financial Model, the debt should be amortized on a straight-line basis or mortgage style only.

*Bidders are required to quote maintenance cost, as part of the MRG Amount, for the period starting from Construction Performance Security Expiry Date (i.e. starting from and including 3rd Operational Year) till the Debt Repayment Date.*

In the event where the Bidder requires debt servicing component of the MRG Amount which is less than the debt servicing based on the Pre-Estimated Project Cost as per the Base Case Financial Model, then the debt servicing amount for the purpose of financial bid evaluation would be the sum of following:

- Debt servicing component of the MRG Amount; and
- 50% of the difference between the debt servicing based on the Pre-Estimated Project Cost as per the Base Case Financial Model and debt servicing component of the MRG Amount.

*It is further clarified that minimum debt tenor should not be less than 8 years, starting from the Substantial Completion Date.*

*Furthermore, for the purpose of calculating the MRG Amount, the Revenues from Segment Substantial Completion Date up till Substantial Completion Date should be considered nil.*

*For the purpose of financial evaluation, the treatment of taxes will be kept*



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*uniform for all Bidders.*

*In order to securitize the MRG payments, the GoS shall provide a guarantee in a form and substance acceptable to the Lenders (excluding any sovereign guarantees) for an amount equivalent to the maximum of fifty percent (50%) of the principal amount of Commercial Loan as set out in the Financial Model submitted with the Bid.”*

- 1.9 The Key Performance Indicators required to be provided under part 4.17 (*Key Performance Indicators*) of the Request for Proposal are attached hereto as Appendix J.
- 1.10 The eligibility criteria provided in Annexure A (*Basic Eligibility Criteria*) under the heading “*Eligibility criteria for EPC Contractor (Solely)*” on page 55 of the Request for Proposal shall stand amended to read as under:

***“Eligibility Criteria for EPC Contractor (solely)***

➤ ***Registration with Pakistan Engineering Council (PEC)***

• ***For construction:***

*The EPC Contractor/Lead EPC JV Contractor must possess valid PEC registration certificate in category ‘CA’ and in discipline CE01 & CE02.*

*The EPC JV Contractor, other than Lead EPC JV Contractor, must have the valid PEC Registration Certificate in category where its JV share fall, provided further that such EPC JV Contractor must have a PEC Registration Certificate in a category ‘C2’ or above and in discipline CE01 & CE02.*

*(Copy of Valid PEC registration certificates to be attached)*

*(Foreign entities if participating in the bidding process should strictly follow the rules stipulated in PEC bye laws for participation)*

➤ ***General Construction Experience***

***For Construction:***

***For Single Entity / EPC Contractor:***

*Firms / Contractors/Lead JV Contractors have been in business of construction for at least for ten (10) years. (Attach Constitutional Documents including Memorandum and Articles of Association, Certificate of*





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*Incorporation or other documents of constitution, documents of registration of the legal entity, etc.)*

***For other members of JV:***

*Firms / Contractor have been in business of construction for at least for five (5) years. (Attach Constitutional Documents including Memorandum and Articles of Association, Certificate of Incorporation or other documents of constitution, documents of registration of the legal entity, etc.)*

➤ ***Specific Work Experience***

***For Construction:***

*Firm/Contractors/Lead JV Contractors with three (3) similar projects i.e. Highway /Motorways/ Railway Tracks/Light Rail Tracks/Bus Rapid Transit Tracks including interchanges, Bridges, and flyovers of at least project cost of PKR 2,500,000,000/- (Pakistani Rupees Two Billion Five Hundred Million only) each, or less than three (3) projects with a cumulative worth of PKR 7,500,000,000/- (Pakistani Rupees Seven Billion Five Hundred Million only) (or higher) completed in the past fifteen (15) years (submission of commencement letter and completion certificate are mandatory).*

***For other members of JV:***

*EPC JV member undertaking up to twenty percent (20%) of the construction works or a Participant;*

*One similar project i.e. Highway/Motorways/Railway Tracks/Light Rail Tracks/Bus Rapid Transit Tracks including interchanges, Bridges, and flyovers of at least project cost of PKR 1,000,000,000 (Pakistani Rupees One Billion) completed in the past fifteen years (submission of commencement letter and completion certificate are mandatory).*

*EPC JV member undertaking up to forty-nine percent (49%) of construction works;*

*Two similar projects i.e. Highway/Motorways/Railway Tracks/Light Rail Tracks/Bus Rapid Transit Tracks including interchanges, Bridges, and flyovers of at least project cost of PKR 1,500,000,000 (Pakistani Rupees One Billion Five Hundred Million) each, completed in the past fifteen years*



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*(submission of commencement letter and completion certificate are mandatory).*

➤ **Quality Policy**

*The EPC Contractor shall submit copy of their quality policy.*

*In case there is more than one (1) EPC Contractor, all EPC Contractors must meet the criterion.*

➤ **Health & Safety Policy**

*The EPC Contractor shall submit copy of their health and safety policy.*

*In case there is more than one (1) EPC Contractor, all EPC Contractors must meet the criterion.*

• **Net Worth**

*Net Worth of the EPC Contractor shall be PKR 2,000,000,000/- (Pakistani Rupees Two Billion only) (excluding any surplus on revaluation) as presented in the most recent financial statements / wealth statement.*

*In case there is more than one (1) EPC Contractor, all EPC Contractors, **collectively**, must meet the criterion and at least one EPC Contractor should have Average Annual Construction Turnover of PKR 1,000,000,000/- (Pakistani Rupees One Billion only).*

*(the EPC Contractor shall submit Audited Financial Statements and / or wealth statement to demonstrate their capability for this criteria).*

• **Average Annual Construction Turnover**

*The EPC Contractor shall have an average annual construction turnover of PKR 5,000,000,000/- (Pakistani Rupees Five Billion only) for last three (3) years.*

*In case there is more than one (1) EPC Contractor, all EPC Contractors, **collectively**, must meet the criterion and at least one EPC Contractor should have Average Annual Construction Turnover of PKR 2,500,000,000/- (Pakistani Rupees Two Billion Five Hundred Million only).*



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*(the EPC Contractor(s) shall submit Audited Balance Sheet)."*

- 1.11 Part B-1 (*Relevant Construction Experience*) of Annexure B (*Technical Evaluation Criteria*) on page 58 and 59 of the Request for Proposal shall stand amended to read as under:

***"B – 1) Relevant construction experience***

*Specific experience of the firm i.e., infrastructure development such as roads, highways, motorways, bridges, flyovers, interchanges, buildings and underpasses executed in last ten (10) years, with the following scoring criteria. Any project worth less than PKR 750,000,000/- (Pakistani Rupees Seven Hundred Fifty Million only) shall not be considered for scoring. Documentary proof (i.e., work order and completion certificate) be attached.*

- *10 points, for at least three (3) projects each worth of PKR 2,500,000,000/- (Pakistani Rupees Two Billion Five Hundred Million only) (or higher) or less than three (3) projects with a cumulative worth of PKR 7,500,000,000/- (Pakistani Rupees Seven Billion Five Hundred Million only) (or higher)*
- *02 points for each additional project worth PKR 750,000,000/- (Pakistani Rupees Seven Hundred Fifty Million only) or higher*

*Note: Only those projects will be considered whose work order or completion certificate, clearly indicating the name of the applicant as contractor and the cost of the works is attached."*

- 1.12 In paragraph 7 part (i) of the Annexure D (*Bid Security*) on page 63 of the Request for Proposal "*Bid Submission + [120 days]*" shall stand replaced with "*Bid Submission + [148 days]*".
- 1.13 The instructions for the commitment form provided in Annexure F (*Commitment Form*) on page 69 of the Request for Proposal shall stand amended to read as under:

*"A Commitment Form must be completed by the Bidder and by each of its Members and Participants, and by Key Individuals who are not employees of the Bidder, a Member, or a Participant.*

*Note: Requirements appearing in part 3 (Pricing) and part 4 (Guarantees by Lenders) are only required to be included in the Commitment Form being provided by the Bidder and each of its Members."*



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- 1.14 In Form J-3 (*Financial Situation*) of Annexure J (*Technical Forms*) the first bullet point shall stand amended to read as under:

*“All such documents reflect the financial situation of the Bidder or partner to a JV.”*

- 1.15 A new form shall stand inserted as Form J-13 (*Financial Model Form*) of Annexure J (*Technical Forms*) attached as Appendix A to this Addendum No.1.

- 1.16 Annexure L (*Scope of Work*) of the Request for Proposal shall stand replaced with Appendix B to this Addendum No.1.

- 1.17 Annexure M (*Project Location Plan*) of the Request for Proposal shall stand replaced with Appendix C to this Addendum No.1.

- 1.18 A breakdown of toll rates shall stand inserted in Annexure N (*Benchmark Revenue*) on page 119 of the Request for Proposal and be read as under:

*“For the purposes of clarity, it is highlighted that the Toll rates shall be charged as follows:*

- *toll rates for partial use in an operational year shall be applicable if fifty percent (50%) or less distance is travelled on the Project Expressway;*
- *toll rates for an operational year shall be applicable if more than fifty percent fifty percent (50%) distance is travelled on the Project Expressway;”*

- 1.19 Annexure O (*Illustrations*) of the Request for Proposal shall stand inserted as Appendix D to this Addendum No.1.

- 1.20 In Section 1.1 (*Definitions*) of the Draft Concession Agreement, the following definitions shall be inserted:

*““Approved Preliminary Engineering Design means the Preliminary Engineering Design approved by the Independent Engineer (in consultation with the GoS) in accordance with the Applicable Standards (including Section 12.5);”*

*“Preliminary Engineering Design means the preliminary engineering design for the Project Expressway prepared by the Concessionaire in accordance with Applicable Standards;”*



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*“Proposed Preliminary Design shall have the meaning ascribed thereto in Section 12.5.1;”*”

1.21 In Section 1.1 (*Definitions*) of the Draft Concession Agreement, the definition of “*Change in Law*” shall stand amended to read as under:

*“Change in Law means the occurrence of any of the following events on or after the Bid Submission Date:*

- (a) *the enactment of any new federal, provincial or local government law, as applicable in the Province of Sindh;*
- (b) *the repeal, modification or re-enactment of any existing federal, provincial or local government law, as applicable in the Province of Sindh;*
- (c) *the imposition by a Government Authority of any additional Concessionaire Permit;*
- (d) *a change in the interpretation or application of any Applicable Law (as applicable in the Province of Sindh) by a court of record as compared to such interpretation or application by a court of record prior to the date of this Agreement; and*
- (e) *change in the list of Exempted Vehicles as set-out in this Agreement;*

*provided, that any:*

- (i) *coming into effect, on or after the Bid Submission Date, of any provision of a statute which is already gazetted in accordance with the Applicable Laws prior to the Bid Submission Date; or*
- (ii) *any new Applicable Law or any change in the existing Applicable Law under the active consideration of or in the contemplation of the GoS or the Government of Pakistan as of the Bid Submission Date, which is already gazetted in accordance with the Applicable Laws prior the Bid Submission Date,*

*shall not constitute a ‘Change in Law’;”*

1.22 In Section 1.1 (*Definitions*) of the Draft Concession Agreement, the definition of “*Minimum Revenue Guarantee Amounts*” shall stand amended to read as under:



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*“Minimum Revenue Guarantee Amounts means the amount, that the GoS guarantees to provide to the Concessionaire from Substantial Completion Date until the Debt Repayment Date up to a maximum of: (a) Financing Due; (b) O&M Cost; and (c) taxes provided by the Concessionaire in the Financial Model, provided, however, the Financing Due will be actualised based on the prevailing KIBOR rates;”*

- 1.23 In Section 1.1 (*Definitions*) of the Draft Concession Agreement, the definition of “O&M Costs” shall stand amended to read as under:

*“O&M Costs means the operations and maintenance expenses, as set out in the Financial Model and as adjusted from time to time on each MRG Payment Date on the following basis: (i) twenty percent (20%) of the operations component of the O&M Cost shall be indexed to a fixed rate of ten percent (10%); (ii) remaining operations component of the O&M Cost shall be indexed to CPI; and (iii) remaining maintenance component of the O&M Cost shall be indexed to WPI;”*

- 1.24 Length of the Project Expressway as provided throughout the Draft Concession Agreement including in the definition of “Project Expressway” shall stand amended to read as “38.75 km”.

- 1.25 Clause 3.1.2(p) of the Draft Concession Agreement shall stand amended to read as under:

*“the Concessionaire’s Approved Preliminary Engineering Design of the Project stands approved by the Independent Engineer and the GoS in accordance with Section 12.5; and”*

- 1.26 Clause 3.2.1(a) of the Draft Concession Agreement shall stand amended to read as under:

*“ninety (90) days prior to the Scheduled Segment Substantial Completion Date, the Concessionaire shall provide the GoS (with copies to the Independent Engineer and the Independent Auditor) with evidence of appointment of the O&M Contractor.”*

- 1.27 Clause 3.2.2(b) of the Draft Concession Agreement shall stand amended to read as under:

*“The GoS shall nominate two (2) board observers on the board of directors of the Concessionaire.”*



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1.28 In Clause 4.10 (*Existing Utilities and Roads*) of the Draft Concession Agreement the language “[...] through a detailed design submitted by the Concessionaire to the Independent Engineer [...]” shall be replaced shall stand amended to read as “[...] through the Approved Preliminary Engineering Design submitted by the Concessionaire to the Independent Engineer [...]”.

1.29 Clause 4.13 (*Felling of Trees*) of the Draft Concession Agreement shall stand amended to read as under:

*“4.13.1 The GoS undertakes to fell (at its own cost) such trees at the Project Site, as are identified and determined by the Independent Engineer, provided however, the Concessionaire shall be responsible for procuring any approvals and/or permits required for compliance with this Section 4.13 (Felling of Trees).*

*4.13.2 The trees removed pursuant to this Section 4.13 (Felling of Trees) shall be deemed to be owned by the GoS and shall be disposed in such manner and subject to such conditions as the GoS may in its sole discretion deem appropriate.*

*4.13.3 The Concessionaire hereby undertakes that it shall (as condition precedent to achievement of Substantial Completion), at its sole cost and expense, plant and maintain the greater of: (i) at least ten thousand (10,000) trees at the Project Site; or (ii) such number of trees as required under the Concessionaire Permits. Furthermore, the Concessionaire undertakes to maintain in accordance with the Applicable Standards and Concessionaire Permits, all the trees planted by it pursuant to this Section 4.13 (Felling of Trees) till the Transfer Date.”*

1.30 In Clause 14.3.2, 14.4.2, 14.5.1 and 14.7.1 of the Draft Concession Agreement the following shall stand deleted:

*“(in consultation with the GoS)”.*

1.31 Clause 12.5 (*Approval of the Detailed Engineering Design*) of the Draft Concession Agreement shall stand amended to read as under:

***“12.5 APPROVAL OF THE PRELIMINARY ENGINEERING DESIGN AND THE DETAILED ENGINEERING DESIGN***

*12.5.1 “Notwithstanding anything to the contrary, the Concessionaire shall,*



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*as part of the process of the Concessionaire Conditions Precedent, within one hundred and twenty (120) days of the Effective Date submit the Preliminary Engineering Design (the Proposed Preliminary Design) to the Independent Engineer (with a copy to GoS) for approval of the Independent Engineer and procure issuance of the Approved Preliminary Engineering Design. The Approved Preliminary Engineering Design shall set out, in addition to any other matters determined by the Independent Engineer, the exact location/extent of the Project Site for land acquisition and for the relocation of existing utilities etc., and all other matters in relation to any relocations/impediments in connection with the Project Site.*

*Provided, however, upon receipt of the Proposed Preliminary Design, the GoS shall communicate its objections or reservations (if any) to the Independent Engineer and the Independent Engineer shall ensure that the same are adequately addressed and where necessary form an approval requirement for such Proposed Preliminary Design.*

12.5.2 *The Parties hereby acknowledge and agree that the delivery of Vacant Possession of the Project Site, the exact area, location, relocation of existing utilities and other relevant matters relating to the same are a function of the Approved Preliminary Engineering Design.*

12.5.3 *Thereafter, the Concessionaire shall submit its Detailed Engineering Design (in batches), to the Independent Engineer (with a copy to GoS) within four (4) months of the Commencement Date for approval of the Independent Engineer (the **Proposed Detailed Design**). Within thirty (30) days of receipt of each batch of the Proposed Detailed Design, the Independent Engineer shall review the same and convey their observations to the Concessionaire with particular reference of the conformity of the same with Applicable Standards. In case, no comments/observations are provided by the Independent Engineer, as the case may be, within twenty (20) days of receipt of each batch of the Proposed Detailed Design, the Concessionaire shall notify the Independent Engineer about such inactivity. In case, no comments are received from the Independent Engineer within ten (10) days following such notification, each batch of the Proposed Detailed Design, as submitted by the Concessionaire, shall be deemed to be approved by the Independent Engineer.*

*Provided, however, upon receipt of the Proposed Detailed Design, the GoS shall communicate its objections or reservations (if any) to the Independent Engineer and the Independent Engineer shall ensure that*





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*the same are adequately addressed and where necessary form an approval requirement for such Proposed Detailed Design.*

12.5.4 *In the event the specific observations of the Independent Engineer on the Proposed Preliminary Design or the Proposed Detailed Design (or part thereof) indicate that the Proposed Preliminary Design or the Proposed Detailed Design is not in conformity with the Applicable Standards, the Proposed Preliminary Design or the Proposed Detailed Design (or part thereof) shall be revised by the Concessionaire, at the cost and expense of the Concessionaire, and resubmitted to the Independent Engineer (with a copy to GoS) for its review and approval within a period of fifteen (15) days after receiving the observations of the Independent Engineer on the Proposed Preliminary Design or the Proposed Detailed Design. Following receipt of the observations on the revision (within the time periods contemplated herein), the Independent Engineer shall give its observations, if any, within seven (7) days of its receipt of the revised Preliminary Engineering Design or the revised Detailed Engineering Design from the Concessionaire. In the event the Independent Engineer gives its observations on the revised Preliminary Engineering Design or the revised Detailed Engineering Design, the Concessionaire shall revise the Preliminary Engineering Design or the Detailed Engineering Design and submit the same to the Independent Engineer (with a copy to GoS) within fifteen (15) days after receiving of observations on the same.”*

1.32 Clause 17.4.4 of the Draft Concession Agreement shall stand amended to read as under:

*“If during the first ten (10) years following the Commercial Operations Date, the Minimum Revenue Guarantee Amount for the relevant Operational Year is higher than 120% of the Benchmark Revenue for that particular Operational Year then the excess amount beyond the Minimum Revenue Guarantee Amount for the relevant Operational Year will be shared between the GoS and the Concessionaire on a 75:25 basis (75% to GoS). Furthermore, in case the Minimum Revenue Guarantee Amount for the relevant Operational Year is higher than the Benchmark Revenue but lower than 120% of the Benchmark Revenue, then 120% of the Benchmark Revenue minus Minimum Revenue Guarantee Amount would be fully allocated to the Concessionaire and Revenue beyond 120% of the Benchmark Revenue would be shared between the GOS and the Concessionaire on 75%: 25% basis (75% to GoS).”*



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- 1.33 Clause 19.12 (a) of the Draft Concession Agreement shall stand amended to read as under:

*“The Parties acknowledge that based on the requirements of the Applicable Standards, the Concession Assets should not require the first (1<sup>st</sup>) Major Maintenance before the date falling ten (10) years following the Substantial Completion Date, and thereafter the Second Major Maintenance should not be required before the date falling ten (10) years following the First Major Maintenance Commencement Date. The Parties acknowledge and agree that the costs of each of the Major Maintenances (the **Major Maintenance Costs**) are expressly set out in the Financial Model and shall be adjusted for the prevailing WPI.”*

- 1.34 Clause 19.14(a) of the Draft Concession Agreement shall stand amended to read as under:

*“The Concessionaire shall establish and maintain the Major Maintenance Payment Account prior to the Major Maintenance Costs Funding Date. The Concessionaire shall be required to fund the Major Maintenance Payment Account over a period of eighteen (18) months on an equal installment basis, at a minimum, starting from Major Maintenance Costs Funding Date.”*

- 1.35 Clause 23.1.4 of the Draft Concession Agreement shall stand amended to read as under:

*“Upon issuance of a Termination Notice by the GoS (following expiry of the Cure Period) on account of occurrence and continuation of a Concessionaire Event of Default during the Operations Period, the right of the Concessionaire to collect Revenues shall stand terminated, (unless otherwise required by the Financiers and set out in the Concession Direct Agreement) with immediate effect and no Revenues shall accrue and/or be payable to the Concessionaire from the date of occurrence of the Concessionaire’s receipt of the Termination Notice (unless otherwise required by the Financiers and set out in the Concession Direct Agreement).”*

- 1.36 Clause 23.5.1 of the Draft Concession Agreement shall stand amended to read as under:

*“The Termination Payment shall be payable to the Concessionaire by the GoS on or prior to the Termination Payment Date in accordance with a demand being made by the Concessionaire in writing, subject to the same being duly certified by the Independent Engineer and Independent Auditor. If the*



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*Termination Payment becomes subject to any tax (corporate tax, minimum tax or alternate corporate tax), the GoS shall pay to the Concessionaire such additional compensation (as determined by the Independent Auditor) such that the net amount received by the Concessionaire after deduction of any tax shall be equal to the total Termination Payment that would have been received had no such tax been paid or incurred.*

- 1.37 In Clause 27.2.1 of the Draft Concession Agreement the following new sub-clause (c) shall stand inserted:

*“(c) pledge of Class A Shares, as security only for indebtedness to the Financiers under the Financing Documents in accordance with the Financing Term Sheet or the Financing Amendment Term Sheets, as the case may be. Furthermore, any enforcement of such share pledge shall be subject to the share transfer restrictions under Clause 10.3 (Change in Complete Control, Change in Control and Change in Shareholding) and require prior GoS approval for share transfer thereunder.”*

- 1.38 Schedule A (*Scope of the Project*) of the Draft Concession Agreement shall stand replaced with Appendix E to this Addendum No.1.

- 1.39 Schedule B (*Design Requirement*) of the Draft Concession Agreement shall stand replaced with Appendix F to this Addendum No.1.

- 1.40 Schedule E (*Project Construction Completion Schedule*) of the Draft Concession Agreement shall stand replaced with Appendix G to this Addendum No.1.

- 1.41 Schedule F (*Project Site*) of the Draft Concession Agreement shall stand replaced with Appendix H to this Addendum No.1.

- 1.42 Schedule G (*List of Tests & Completion Tests*) of the Draft Concession Agreement shall stand replaced with Appendix I to this Addendum No.1.

- 1.43 A breakdown of toll rates shall stand inserted in Schedule Q (*Benchmark Revenue*) on page 326 of the Draft Concession Agreement and be read as under:

*“For the purposes of clarity, it is highlighted that the Toll rates shall be charged as follows:*

- *toll rates for partial use in an operational year shall be applicable if fifty percent (50%) or less distance is travelled on the Project Expressway;*



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- *toll rates for an operational year shall be applicable if more than fifty percent fifty percent (50%) distance is travelled on the Project Expressway;”*



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**APPENDIX A - FORM J-13 (*FINANCIAL MODEL FORM*)**

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*(Please see attached)*



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**APPENDIX B – SCOPE OF WORK**

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*Please see attached*



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**APPENDIX C – PROJECT LOCATION PLAN**

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*Please see attached*



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**APPENDIX D – ILLUSTRATIONS**

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*Please see attached*





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**APPENDIX E – SCOPE OF PROJECT**

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*Please see attached*



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**APPENDIX F – DESIGN REQUIREMENT**

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*Please see attached*



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**APPENDIX G – PROJECT CONSTRUCTION COMPLETION SCHEDULE**

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*Please see attached*



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**APPENDIX H – PROJECT SITE**

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*Please see attached*



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**APPENDIX I – LIST OF TESTS & COMPLETION TESTS**

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*Please see attached*



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**APPENDIX J – KEY PERFORMANCE INDICATORS**

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*Please see attached*



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**THE END**

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