



**NATIONAL HIGHWAY AUTHORITY**  
Ministry of Communications  
Government of Pakistan



## **REQUEST FOR PROPOSAL**

**FOR**

**“CONSTRUCTION, OPERATION &  
MANAGEMENT OF HAZARA SERVICE  
AREAS INCLUDING FILLING STATIONS  
AND ALLIED FACILITIES AT KM-26  
(NORTH/SOUTH BOUND) ON  
HASSANABDAL - HAVELIAN EXPRESSWAY  
(E-35)”**

**Issued to \_\_\_\_\_**

**NATIONAL HIGHWAY AUTHORITY**  
**(Revenue-RoW Section - Finance Wing)**  
**27-Mauve Area, G-9/1, Islamabad**

No. ( )/NHA/GM (Rev-RoW)/19/

Dated: - -

**To: ALL INTERESTED BIDDERS**

Subject: **“CONSTRUCTION, OPERATION & MANAGEMENT OF HAZARA SERVICE AREAS INCLUDING FILLING STATIONS AND ALLIED FACILITIES AT KM-26 (NORTH/SOUTH BOUND) ON HASSANABDAL - HAVELIAN EXPRESSWAY (E-35)”**

**INVITATION TO BID (ITB)**

National Highway Authority (NHA) intends to offer interested OMCs (Oil Marketing Companies) concession for **“CONSTRUCTION, OPERATION & MANAGEMENT OF HAZARA SERVICE AREA INCLUDING FILLING STATIONS AND ALLIED FACILITIES AT KM-26 (NORTH/SOUTH BOUND) ON HASSANABDAL - HAVELIAN EXPRESSWAY (E-35)”** on advanced quarterly Net Guaranteed Rental Revenue basis which the bidder shall pay to the Employer in consideration of the right to utilize NHA’s land by the successful bidder for a period of ten (10) years from the date of commencement through competitive bidding. The land has already been acquired by NHA measuring to 35m x 400m which is 27.7 kanals on either side.

Hassanabdal – Havelian Expressway E-35 is a six (06) lane 59.5 KM long access controlled Expressway which connects the Hazara division and Gilgit Baltistan (Northern Areas of Pakistan) to KPK, Islamabad and Punjab. It is also an integral link in Afghan transit route and the only land locked link between China and Pakistan besides N-35. On completion of the remaining under construction links of CPEC (China – Pakistan Economic Corridor), the E-35 will be an integral part of CPEC. The Hassanabdal – Havelian Expressway (Hazara Motorway) expected traffic is about 28,487 vehicles per day. It is expected that traffic will increase commensurate with the growth of GDP and operationalization of CPEC.

Another Expressways from Havelian to Mansehra i.e. other part of Hazara Motorway, from Hakla to Yarik (through D.I. Khan) and Swat Expressway near Col. Sher Khan Interchange is in the process of construction and is nearing completion which will attract many other consumers to use the facility of proposed service area and filling stations.

National Highway Authority (NHA) has already acquired land measuring 35m x 400m which is 27.7 kanals for service areas at KM - 26 on E-35 on either (North/South bound) sides. NHA envisages to engage Oil Marketing Companies (OMC) duly registered with SECP & OGRA for Construction, Operation & Management of Service Areas. The time period of this O&M contract will be ten (10) years on advance quarterly Net Guaranteed Rental Revenue basis. NHA will only provide available land having dimensions

of 35m x 400m i.e. 27 Kanals 7 Marlas on North/South bounds for establishment of facilities in Hazara Service Area.

The successful bidder i.e. OMC shall establish, operate and manage the entire service area at its own cost. **The cost for construction of facilities shall be borne by the O&M operator.** On completion of contract period, the entire construction/established amenities will become property of NHA and the O&M operator will hand over all of the amenities/installations and acquired additional land (if acquired by successful OMC) to NHA in a properly maintained and operational condition without any claim to cost.

Furthermore, Establishment of filling station along with other basic amenities could be accommodated within available land. **If the OMC desires to expand the services, the successful OMC is allowed subject to the condition that acquisition of additional land should be mutated to NHA title, and the cost of acquired additional land would also be borne by the successful OMC/bidder.**

Location of site for the establishment of Hazara Service Area: -

- |                        |                                |
|------------------------|--------------------------------|
| 1. Hazara Service Area | Havelian Bound E-35 (Km 26)    |
| 2. Hazara Service Area | Hassanabdal Bound E-35 (Km 26) |

You are hereby invited to submit your bid for the subject concession. Your bid could form the basis for a concession between you and the Employer i.e. National Highway Authority (NHA).

The detailed description of the assignment and its objectives is given in this Request for Proposal (RFP)/bidding document.

## **1. General**

- 1.1 Bidding is open to interested bidder(s) i.e. Oil Marketing Company/companies (OMCs), duly registered with SECP and having valid license from OGRA.
- 1.2 The successful bidder i.e. OMC shall establish, operate and manage the entire service area at its own cost. The cost for construction of facilities shall be borne by the O&M operator. On completion of contract period or its early termination, the entire construction/established amenities will become property of NHA and the O&M operator will handover all of the established amenities/installations and acquired additional land (if acquired by successful OMC) to NHA in a properly maintained and operational condition without any claim to cost.
- 1.3 Furthermore, Establishment of filling station along with other basic amenities could be accommodated within available land. If the OMC desires to expand the services, the successful OMC is allowed subject to the condition that acquisition of additional land should be mutated to NHA title, and the cost of acquired additional land would also be borne by the successful OMC/bidder.

- 1.4 The Grace period of three (03) months from the date of issuance of commencement letter shall be allowed to the successful OMC on completion of which payment to NHA will become due. This may be extended for one month by the competent authority (Employer).
- 1.5 The initial contract period shall be valid for ten (10) years and further extendable for a period of five (05) years on satisfactory performance and mutual consent of both parties, subject to approval by NHA.
- 1.6 The bidder shall bear all costs associated with the preparation and submission of its bid and the Employer shall not be responsible or liable for any such costs in any event whatsoever, regardless of the conduct or outcome of the bidding process. You must fully inform yourself of local conditions and all factors related to subject services whatsoever and take them into account in preparing your proposal.
- 1.7 The bidders are advised to visit and examine the site of concession and its surroundings and obtain for themselves on their own responsibility all information that may be necessary for preparing the bid and entering into a concession, the average traffic volume mentioned in RFP is for the purpose of general information of the bidders and Employer takes no responsibility of the adequacy and accuracy of this information. The bidder shall be deemed to have checked the traffic volume and prepared his bid accordingly, thereafter no claim(s) in this regard shall be entertained. All cost in this respect shall be at the bidder's expense.
- 1.8 Sub-letting of operation of allowed facilities by successful bidder i.e. OMC may be allowed with prior approval/permission of Employer i.e. NHA.
- 1.9 The bidders are responsible for resolving all the issues which arises between the concessionaire and any local authority during the currency of the contract at his own risk & cost and shall indemnify NHA from all legal recourses.
- 1.10 All proposals must be properly taped/stapled, initialed and numbered having index by the interested bidders for submission to NHA (without loose papers), no ring binding, spiral binding and box file form (with loose papers) will be accepted.
- 1.11 As per PPRA Rule 33, the procuring agency i.e. the Employer may reject all bids or proposals at any time prior to the acceptance of a bid or proposal. However, the procuring agency i.e. the Employer shall upon request communicate to any Operator or contractor who submitted a bid or proposal, the grounds for its rejection of all bids or proposals, but not required to justify those grounds.
  - a. Name and address of the Employer is: -  
Chairman National Highway Authority  
27 Mauve Area, G-9/1, Islamabad.
  - b. The authorized representative of the Employer is;  
General Manager (Rev-Row) NHA-HQ, Islamabad.

## **2. Documents Comprising the Bid**

- 2.1 In addition to the Invitation for Bids, the Bidding Documents are those stated below, and should be read in conjunction with any Addendum issued under Clause 2.4.
- I. Invitation to bid (ITB) including instructions to bidders.
  - II. Bid Data Sheet.
  - III. Qualification Criteria (Technical + Financial).
  - IV. Conditions of concession: Articles I to XII.
  - V. Addendum to the Request for Proposal (RFP), if any.
  - VI. Sample Forms.
  - VII. Financial Proposal and Bid Form.
- 2.2 The bidders are required to examine carefully the contents of all the above documents. Failure to comply with the requirements of bid submission will be at the bidders own risk. Pursuant to Clause 11, bids which are not substantially responsive to the requirements of the Bidding Documents will be rejected.

### **Clarifications**

- 2.3 A prospective bidder requiring any clarification(s) in respect of the Bidding Documents may notify the Employer in writing or by fax at the address:

Office of General Manager (Rev-Row)  
27-Mauve Area, G-9/1, Islamabad.

Phone: +92-51-9032729, Fax # 92-51-9032948

Employer will examine the request for clarification of the Bidding Documents, if received not later than seven (07) days prior to the deadline for the submission of bids or during the Pre-Bid meeting, and will issue a clarification before the date of submission of Bids (without identifying the source of enquiry) to all prospective bidders who have purchased the Bidding Documents.

- 2.4 At any time prior to the submission/opening of bids, the Employer may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, modify the Bidding Documents by issuing an addendum.
- 2.5 Any addendum thus issued shall become the integral part of Bidding Documents.
- 2.6 To accord prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer may at its discretion extend the deadline for submission of bids.

### **3. Bid Validity**

- 3.1 Bids / proposals shall remain valid for the period of One Hundred and Eighty-Two (182) days after the date of bid opening.
- 3.2 In exceptional circumstances prior to expiry of original bid validity period, the Employer may request the bidders to extend the period of validity for a specified additional period which shall in no case be more than the original bid validity period. The request and the responses thereto shall be made in writing. A bidder may refuse the request without forfeiture of his Bid Security. A bidder agreeing to the request will be required to extend the validity of his Bid Security for the period of the extension, in accordance with PPRA Rule 26.

### **4. Bid Security**

- 4.1 Each bidder shall furnish, as part of his bid, a Bid Security in the amount of Pak. Rupees equivalent to Rs. 1,000,000/- (Rupees one million only).
- 4.2 The Bid Security shall be, at the option of the bidder, in the form of Bank Draft or a Pay Order issued by a Scheduled Bank in Pakistan in favour of the “*Road Maintenance Account, National Highway Authority, Islamabad*” valid for a period twenty-eight (28) days beyond the bid validity date.
- 4.3 The Bid Security is required to protect the Employer against the risk of bidder’s conduct which would warrant the security’s forfeiture, pursuant to Sub-Clause 4.8 hereof.
- 4.4 Any bid not accompanied by an acceptable Bid Security shall be rejected by the Employer forthwith as being non-responsive, pursuant to Clause 11.
- 4.5 Any amount of bid security which is lying with the Employer for any previous bidding processes shall not be considered for this bidding.
- 4.6 The bid security of all participating firms will be discharged/returned as promptly as possible except for the top two (02) highest bidders, which will be returned upon award of concession to the successful bidder or on the expiry of validity of Bid Security whichever is earlier subject to rights of parties under clause 3.2.
- 4.7 The Bid Security of the successful bidder will be returned when the bidder has furnished the required Performance Security and signed the concession Agreement, pursuant to Clause 18.
- 4.8 The Bid Security may be forfeited:
- (a) if a bidder withdraws his bid during the period of bid validity; or

- (b) if a bidder does not accept the correction of his Bid Price, pursuant to Sub- Clause 11.2 hereof; or
- (c) in the case of a successful bidder, if he fails to:
  - (i) furnish the required Performance security in accordance with Clause 17 or
  - (ii) sign the concession Agreement, in accordance with Clause 18.

## **5. Format and Signing of Bid**

- 5.1 All Bid documents including Bid Form/Financial Proposal Forms, Integrity Pact and Schedules to Bid are to be properly completed and signed/stamped by the bidders.
- 5.2 No alteration is to be made in the Form of Bid nor in the Schedules thereto except in filling up the blanks as directed. If any alteration be made or if these instructions be not fully complied with, the bid may be rejected as being non-responsive.
- 5.3 Each bidder shall prepare one (1) Original and one (01) Copy, of the documents comprising the bid as described in Clause 2 and clearly mark them “ORIGINAL” and “COPY” as appropriate. In the event of discrepancy between them, the original shall prevail.
- 5.4 The original and a copy of the bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign them. This shall be indicated by submitting a written Power of Attorney authorizing the signatory of the bidder to act for and on behalf of the bidder. All pages of the bid shall be initialed and stamped by the person or persons signing the bid.
- 5.5 The bid shall contain no alterations, omissions or additions, except to comply with instructions issued by the Employer, or as are necessary to correct errors made by the bidder, in which case such corrections shall be initialed by the person or persons signing the bid.
- 5.6 Bidders shall indicate in the space provided in the Form of Bid their full and proper addresses at which notices may be legally served on them and to which all correspondence in connection with their bids and the concession is to be sent.
- 5.7 Bidders should retain a copy of the Bidding Documents as their file copy.

## **6. Submission of Bids**

- 6.1 Each bidder shall submit his bid as under:-

- a. One (01) ORIGINAL and one (01) COPY of the Bid shall be separately sealed and put in separate sealed envelopes and marked as such.
  - b. The envelopes containing the ORIGINAL and COPY will be put in one sealed envelope and addressed/identified as given in Sub-Clause 6.2 hereof.
- 6.2 The Bidder shall paste the Form duly filled in on the inner and outer envelopes as per given sample including;
- a. be addressed to the Employer at the address given in Bid Data Sheet.
  - b. bear the contract name and Date of opening of Bid.
  - c. provide a warning not to open before the time and date for bid opening.
- 6.3 The Bid shall be delivered in person or sent by registered mail at the address to Employer as given in Bid data sheet heretofore.
- 6.4 In addition to the identification required in Sub-Clause 6.2 hereof, the inner envelope shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared “late” pursuant to Clause 8.
- 6.5 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the bid.
- 6.6 **Single Stage Two Envelope System of Tendering**

The Employer adopted single two envelope procurement procedure in accordance with the PPRA Rule 37.

The NHA will separately evaluate all Technical and Financial proposals; therefore, Bidders are required to submit their Technical and Financial proposals in two separately sealed "envelopes." The NHA requires the first envelope, marked TECHNICAL PROPOSAL, to contain the original and a set of copy (soft & hard) of the Bidder's technical proposal. The NHA requires the second envelope, marked FINANCIAL PROPOSAL, to contain the original and a set of copy (soft & hard) of the Bidder's financial proposal. Bidders are cautioned to ensure that their Technical and Financial proposals are contained in separately sealed envelopes clearly marked as indicated above. The NHA requires Bidders to submit the separately sealed envelopes in one bound package. In the event of any discrepancy between the original and copies, the original shall govern.

The original and copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to bind



the Bidder to the offer. Proof of authorization shall be furnished in the form of a written Power-of-Attorney, which shall accompany the Bid. All pages of the bid, except for un-amended printed material, shall be initialed by the person or persons signing the Bid.

The complete Bid shall be without alterations, interlineations or erasures, except as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

#### **6.7 Language**

All proposals shall be presented in the English language.

### **7. Deadline for Submission of Bids**

- 7.1 (a) Bids must be received by the Employer at the address specified in Bid Data Sheet not later than the time and date stipulated in the Bid Data Sheet.
- (b) Bids with charges payable will not be accepted, nor will arrangements be undertaken to collect the bids from any delivery point. Bidders shall bear all expenses incurred in the preparation and delivery of bids, which shall not be reimbursed by the Employer in any circumstances.
- (c) Where delivery of a bid is by mail and the bidder wishes to receive an acknowledgment of receipt of such bid, he shall make a request for such acknowledgment in a separate letter attached to but not included in the sealed bid package.
- (d) Upon request, acknowledgment of receipt of bids will be provided to those making delivery in person or by messenger.
- 7.2 Bids submitted through telegraph, telex, fax or e-mail or by any means other than those specified hereinabove shall not be considered.
- 7.3 The Employer may, at his discretion, extend the deadline for submission of bids by issuing an addendum in accordance with Clause 2.4, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended.

### **8. Late Bids**

- a. Any bid received by the Employer after the deadline for submission of bids prescribed in Clause 7 will be returned unopened to such bidder.
- b. Delays in the mail, delays of person in transit, or delivery of a bid to the wrong office shall not be accepted as an excuse for failure to deliver a bid at the proper place and time. It shall be the bidder's responsibility to determine the manner in which timely

delivery of his bid will be accomplished either in person, by messenger or by mail.

## **9. Bid Opening and Evaluation**

- 9.1 A committee consisting of nominated members by the Employer will open the bids in the presence of bidders’ representatives who choose to attend, at the time, date and location stipulated in the Bid Data Sheet.
- 9.2 The bidder’s representatives who are present shall sign in a register evidencing their attendance.
- 9.3 The bidder’s name, bid amount, any rebate, bid substitution, bid modifications and withdrawals, the presence or absence of Bid Security, and such other details as the Employer at its discretion may consider appropriate, will be announced by the Employer at the bid opening.

## **10. Clarification of Bids**

- 10.1 To assist in the examination, evaluation and comparison of Bids the Employer may, at its discretion, ask the Bidder for a clarification of its Bid. The request for clarification and the response shall be in writing and no change in the price or substance of the Bid shall be sought, offered or permitted.

## **11. Preliminary Examination & Determination of Responsiveness of Bids**

- 11.1 Prior to the detailed evaluation of bids, pursuant to Clause 12,
  - (a) the Employer will examine the Bids to determine whether;
    - i. the Bid is complete and does not deviate from the scope,
    - ii. any computational errors have been made,
    - iii. required sureties have been furnished,
    - iv. the documents have been properly signed/stamped,
    - v. the Bid is valid till required period,
    - vi. the Bid prices are firm during currency of concession if it is a fixed price bid,
    - vii. the Bidder is pre-qualified to Bid,
    - viii. the Bid does not deviate from basic requirements and
    - ix. the Bids are generally in order.
  - (b) A bid is non responsive, if;
    - i. it is unsigned,
    - ii. its validity is less than specified,
    - iii. it is submitted for incomplete scope of work,
    - iv. it indicates that Bid prices do not include the amount of income tax.
  - (c) A bid will not be considered, if;

- i. it is not accompanied with bid security,
- ii. it is received after the deadline for submission of bids,
- iii. it is submitted through fax, telex, telegram or email, or any means other than those specified in clause 7.
- iv. the bidder refuses to accept arithmetic corrections in its bid,
- v. it is materially and substantially different from the Conditions/Specifications of the Bidding Documents.

11.2 If the Bidder does not accept the corrected amount of Bid, his Bid will be rejected and his Bid Security forfeited.

11.3 Prior to the detailed evaluation, pursuant to Clause 12 the Employer will determine the substantial responsiveness of each Bid to the Bidding Documents. For purpose of these Clauses, a substantially responsive Bid is one which conforms to all the terms and conditions of the Bidding Documents without material deviations. A material deviation or reservation is one:

- (i) which affects in any way the scope, quality or performance of the Works.
- (ii) which limits in any substantial way, inconsistent with the Bidding Documents, the Employer’s rights or the bidder’s obligations as under the concession; or
- (iii) whose rectification/adoption would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

The Employer’s determination of a Bid’s responsiveness will be based on the contents of the Bid itself without recourse to extrinsic evidence.

11.4 A Bid determined as substantially non-responsive will be rejected and cannot subsequently be made responsive by the Bidder by rectification of the non-conformity.

## **12. Detailed Evaluation of Bids**

12.1 The Employer will evaluate and compare only the bids previously determined to be substantially responsive pursuant to Clause 11 as per requirements given hereunder.

12.2 Evaluation of bids will be based on Financial Proposals/Bid forms to be submitted by the bidders as per Bid Data Sheet.

12.3 The detailed information shall be provided as required as it may, otherwise make it liable for rejection.

12.4 Financial Bids of only the technically qualified bidders will be opened, announced and put to comparison process. The remaining bid(s) will be returned back to its relevant bidder(s)/Oil Marketing Company(ies) unopened.

### **13 Negotiations**

In the event of the successful Bidder forfeiting its Bid Security the NHA may, at its discretion, either invite another Bidder to negotiate or terminate the Bidding process.

### **14. Award Criteria**

The Employer will award the concession to the bidder whose bid has been determined to be substantially responsive to the Bidding Documents and who has offered the highest paying evaluated bid price (net guaranteed rental revenue).

### **15. Employer’s Right to Accept any Bid and to Reject any or all Bids**

15.1 Notwithstanding Clause 13, the Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids, at any time prior to award of concession, without thereby incurring any liability to the affected bidders or any obligation to inform the affected bidders of the grounds for the Employer’s action except that the grounds for its rejection shall upon request be communicated, to any bidder who submitted a bid, without justification of grounds. Rejection of all bids shall be notified to all bidders promptly, in accordance with Rule 33 of PPRA.

15.2 Negotiations with the bidder having been evaluated as highest paying responsive or any other bidder shall be permitted, limited to the extent of addition or deletion or amendment in preliminary design/drawings. Moreover, the Employer may also seek clarification through letter for any item(s) in the bid evaluation report.

15.3 The applicant must not be a defaulter of revenue of NHA, in any case/shape, or inventory/assets loss or utility bills at any section/toll plazas/weigh stations/police fines/mobile workshops etc.

### **16. Notification of Award**

16.1 Prior to expiration of the period of bid validity prescribed by the Employer, the Employer will notify the successful bidder in writing through a letter of acceptance (“Letter of Acceptance”) that his bid has been accepted. This letter shall name the sum i.e. Advance quarterly Net Guaranteed Rental Revenue amount per year which the bidder shall pay to the Employer in consideration of the right of operating the facilities at Service Areas, by the successful bidder as prescribed by the concession (hereinafter and in the condition of concession called the “Concession Price”).

16.2 The Letter of Acceptance and its acceptance by the bidder will constitute the formation of the concession, binding the Employer and the Bidder till signing of the formal concession Agreement.

16.3 Upon furnishing the Performance Security by the successful bidder and other requisites, the Employer will promptly notify the second & third bidders that their bids have been unsuccessful and return their bid securities.

## **17. Performance Security**

17.1 The successful bidder shall furnish to the Employer the Performance Security, Revenue Security (as defined in clause “O”, Section I.03 of Article I) and Advance Tax in the forms and the amounts stipulated in the Bid Data Sheet within a period of Seven (07) days after the receipt of Letter of Acceptance.

17.2 Failure of the successful bidder to comply with the requirements of Sub-Clause 16.1 or Clause 17 or Clause 22 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security.

## **18. Signing of Concession Agreement**

18.1 Within seven (07) days from the date of furnishing of acceptable Performance Security under the Conditions of concession, the Employer will send to the successful bidder the Form of concession Agreement provided in the Bidding Documents, duly filled in and incorporating all agreements between the parties for signing and return it to the Employer.

18.2 The formal Agreement between the Employer and the successful bidder shall be executed within seven (07) days of the receipt of such Form of concession Agreement by the successful bidder from the Employer.

## **19. One Bid per Bidder**

19.1 Each bidder shall submit only one bid either by himself, or as a partner in a joint venture for the said concession otherwise bids submitted by him shall not be considered for evaluation and award.

19.2 In case of Joint Venture, the proposal should state clearly that partners will be “Jointly and severally” responsible for performance under the concession and Lead partner will be “solely” responsible for all dealings with the Employer on behalf of the Joint Venture with undivided responsibility. The agreement of Joint Venture or Special Power of Attorney must be registered in the office of sub registrar.

## **20. Bidder to Inform Himself**

20.1 The bidder is advised to obtain for himself at his own cost and responsibility all information that may be necessary for preparing the bid and entering into a concession for execution of the contract. This shall include but not be limited to the following:

- (a) Inquiries on Pakistani Income Tax/Sales Tax/Surcharge or any other Levy/Fee/Tax imposed by the Government of Pakistan, Provincial and Local/District Governments. NHA shall not be liable to pay any such Levies/Fee/Tax on behalf of concessionaire.
- (b) Income Tax Ordinance 2001 vide Sub-clause 236 (a) provides that any person making sale through public auction of any property or goods confiscated or attached either belonging to or not belonging to government, local government, any authority etc. shall collect advance tax for the concession period computed on the basis of sale price of such property and at the specified rate given in first Schedule of the Income Tax Ordinance 2001, from the person to whom such property or goods are being sold. The term sale of property has been explained to include the award of any lease to any person, including a lease to the right to collect tolls, fees and other levies by whatever name called. Tax shall be the responsibility of the bidder. This tax shall be over and above the Net Guaranteed Revenue offered by the successful bidder and the bidder must cater for the subject tax while preparing bid.
- (c) Advance Tax on advance quarterly net guaranteed rental revenue shall have to be deposited by the successful bidder along with Performance Security, prior to signing of concession agreement as per Government Rules/Regulations.

## **21. Due Diligence**

- 21.1 NHA reserves the right to carry out due diligence in sole discretion during procurement, award and execution of the concession.

## **22. Local Conditions**

- 22.1 **Bidder must verify and supplement by his own investigations all necessary information about site, traffic volumes local conditions etc. for the purposes of filling and submitting his bid and entering into the concession. No claim in connection to or arising out these conditions will be entertained during or after the completion of concession period.**

22.2 Subsequent to the award of concession, the Concessionaire will be required to submit to NHA for review and approval of Detailed Design, including the construction drawings, design life and its specifications for supervision by the Employer or its authorized representatives.

- 22.3 Bidders must adhere to the Project location, as well as the site boundary limitations.

## **23. Integrity Pact**

- 23.1 The Bidder shall sign and stamp the Integrity Pact sample provided in the Bidding Document for all Federal Government Procurement

Concessions exceeding Rupees ten million. Failure to provide such Integrity Pact shall make the bid non-responsive.

**24. Confirmation of Receipt**

Please confirm the Employer that you have received all the correspondence as prescribed in the Invitation to bid. The authorised representative of Employer for correspondence/communication is: -

**General Manager (Rev-Row)**

National Highway Authority-HQ,  
Islamabad

## **II. BID DATA SHEET**



**BID DATA SHEET**

1. The name of the Assignment:

**“CONSTRUCTION, OPERATION & MANAGEMENT OF HAZARA SERVICE AREAS INCLUDING FILLING STATIONS AND ALLIED FACILITIES AT KM-26 (NORTH/SOUTH BOUND) ON HASSANABDAL - HAVELIAN EXPRESSWAY (E-35)”**

2. Name and address of the Employer is: -

**Chairman**

National Highway Authority.  
27-Mauve Area, G-9/1

**Islamabad.**

3. The name and address of the authorized representative of Employer as per clause 1.11.b. of ITB is:

**i. General Manager (Rev-Row) NHA – HQ, Islamabad.**

4. The Bidding Documents are:

- I. Invitation to bid (ITB).
- II. Bid Data Sheet.
- III. Qualification Criteria (Technical + Financial).
- IV. Conditions of concession: Articles I to XII.
- V. Addendum to the Request for Proposal (RFP), if any.
- VI. Sample Forms.
- VII. Financial Proposal and Bid Form.

5. The number of copies of the Financial Proposal required:

One Original & one copy

6. The address for seeking clarification and writing on the proposal:

**General Manager (Rev-Row)**

National Highway Authority-HQ,

27- Mauve Area, G-9/1, Islamabad.

Phone: +92-51-9032729, Fax: +92-51-9032948

7. **Schedule of Pre-Bid Meeting/Pre-Proposal Conference:**

Date & Time: Thursday 17<sup>th</sup> January, 2019 at 1130 hrs.

Venue: NHA Auditorium

**27-Mauve Area, G-9/1, Islamabad**

8. The address for submission of Bids:

**NHA’s Auditorium**

National Highway Authority-HQ, 27-Mauve Area, G-9/1, Islamabad.

9. Schedule for **submission & opening of Bids:**

- Date & Time (Submission) : Tuesday 29<sup>th</sup> January, 2019  
at 1100 hrs
- Date & Time (Opening) : Tuesday 29<sup>th</sup> January, 2019  
at 1130 hrs
10. Bid Security : **Rs. 1,000,000/- (rupees one million only) as per Clause 4.1 of ITB.**
11. **Form & Validity** : **As per Clause 4.2 of ITB.**
12. Bid validity : **As per Clause 3 of ITB.**
13. Standard form and amount of **Performance Security** acceptable to the Employer:
- Amount** : **Equal to 10% of the bid value of the Project**
- Form** : Cash/Pay order/Demand Draft in favour of “Road Maintenance Account, National Highway Authority, Islamabad” Account No.1230-1  
**OR**  
Bank Guarantee (Form enclosed)
- Validity** : Until 90 days after expiry of the concession
14. Standard form and amount of **Advance Rent** acceptable to the Employer:
- Amount** : Equivalent to three (03) Months net guaranteed revenue offered by the successful bidder.
- Form** : Pay order/Demand Draft in favor of the “National Highway Authority, Road Maintenance Account, Islamabad”.
15. **Advance Tax** : Prevailing Income Tax laws shall be applicable as defined in clause 20 of ITB.
- Form** : Pay order/Demand Draft in favor of the “National Highway Authority, Road Maintenance Account, Islamabad

**16. Annual Increment in Advance Quarterly Net Guaranteed Rental Revenue.**

The advance quarterly net guaranteed rental revenue shall be increased @ 10% each year accumulatively.

**17. Period of Completion**

Initial contract period will be ten (10) years from the date of commencement and further extendable upon the satisfactory performance of OMC through the approval of Employer.

**18. Processing of Proposals before Evaluation**

**(a)** The NHA intends to facilitate and sustain an environment of competitiveness, transparency and fairness in the procurement process by, among other means, fairly and impartially processing and evaluating Bidders' technical and financial proposals in accordance with the procedures and pre-established evaluation criterion specified in this RFP.

**(b)** The NHA shall receive and keep secure all proposals submitted before the date and time specified for Proposal Closing. Any and all proposals received by the NHA after the above stipulated date and time for Proposal Closing will be returned unopened to the submitting Bidder.

**(c)** The NHA shall maintain, secure and unopened, all timely submitted proposals until the date and time announced for Proposal Opening, at which time technical proposals will be publicly opened.

**(d)** The Bidders representatives who are present shall sign a register evidencing their attendance. The NHA will examine the Bids to determine whether they are complete, whether the requisite Bid Securities have been furnished, whether the documents have been properly signed, and whether the Bids are generally in order.

**(e)** The Bidder's name, bid withdrawals (if any), the presence of the requisite Bid Security and such other details as the NHA at its discretion, may consider appropriate will be announced at the Bid Opening. The NHA may prepare minutes of Bid Opening for its own record. The public portion of the Proposal Opening is then closed.

**(f)** The NHA shall separately, and privately, evaluate each Bidder's Technical and Financial proposals in accordance with the evaluation criteria detailed in this RFP.

**(g)** From the date and time of Proposal Opening until the time the Concession Agreement is awarded, any Bidder wishing to contact the NHA on any matter related to this tender must do so in writing at the NHA's address noted above. Any effort by any Bidder to influence the

NHA in its evaluation of technical and/or financial proposals may be a violation of Pakistani law and may result in the rejection of the Bidder's proposal.

## **19. Pre-Bid Conference**

Bidders are invited, and strongly encouraged, to attend a pre-bid conference organized, and to be conducted, by the NHA:

Date: Thursday 17<sup>th</sup> January, 2019.

Time: 1130 hours

Location: NHA Auditorium, Islamabad.

Prior to the Pre-Bid Conference, Bidders are invited to submit written questions concerning the Project requirements, this RFP/bid document or other related matters pertinent to the Project. All such questions should be submitted to General Manager (Rev-RoW), NHA, within five (05) *days* of the issuance of this RFP. The NHA will conduct the pre-bid conference, record all questions, both written and verbal, posed by Bidders, record all answers provided thereto, and provide a written Pre-Bid Conference Memorandum or, if required, RFP amendment to each Bidder. The NHA will not, during the Pre-Bid Conference, modify in any material respect any provision or term of this RFP unless such modification is made as a written addendum thereto prepared by the NHA and disseminated to all Bidders.

## **20. Confidentiality**

After the Bid Opening, information relating to the examination, clarification, evaluation and comparison of Bids and recommendations concerning the award of a Concession shall not be disclosed to Bidders, or other persons not officially concerned with such process, until the award of the Concession is announced.

Any effort by a Bidder to influence the NHA in the process of examination, clarification, comparison and evaluation of Bids, or decisions concerning award of a Concession, may result in the rejection of that Bidder's Bid(s).

### **III. Qualification Criteria (Technical + Financial)**

## **1. TECHNICAL QUALIFICATION CRITERIA AND REQUIREMENTS**

### **1.1 MINIMUM TECHNICAL INFORMATION REQUIRED**

The minimum technical information the NHA requires Bidders to submit in their Technical proposal to be considered responsive to the technical requirements is:

#### **a. Executive Summary**

A cover letter identifying the firm(s), joint venture or consortium, the relationship of the parties, joint venture agreement or intent of joint venture agreement the lead and associated firms and an Executive Summary of the Bidder's Technical Proposal (not to exceed five pages);

#### **b. Managerial, Technical and Construction Qualifications**

A narrative and graphic presentation (no page limitation) of the Bidder's current managerial, technical, construction and other non-financial, related qualifications to undertake and successfully design, construct, operate and maintain the Project under a concession agreement. It should further elaborate in detail the relevant experience of the bidder, internationally as well as in local conditions. The narrative must explain the Bidder's institutional arrangements; including its proposed project organization during construction, operation and maintenance phases. The narrative must also contain the curriculum vitae (CV) of key personnel for the project such as the Project Manager, Construction Manager, Operations and Maintenance Manager detailing the relevant experience and qualifications. The CV of the Bidder's Chief Executive Officer must also be provided. Within this section, the Bidder may provide comments to the draft Concession Agreement;

#### **c. Preliminary Design Drawings**

The preliminary conceptual design/drawings shall be submitted/provided by the interested bidder alongwith the technical and its cost shall be provided with the financial proposal. It is pertinent to mention here that; the acceleration/deceleration lanes should be designed for minimum speed of 100 Km/hour, regarding entry/exit points of Service Areas for vehicles.

#### **d. Methodology**

A narrative and graphic presentation (no page limitation) of the bidder's methodology to execute the works. The bidder shall clearly explain its construction methodology, time period, state of the art practices, tentative plans, type of structures and erection technology, the machinery, plant and labor needs of the project, requirement for associated working and accommodation areas, anticipated construction problems and measures to overcome these etc. It should also include

work zone safety plans (if required) and the methodology shall be clearly elaborated in layout plans.

**e. Operations and Maintenance Procedures & Systems**

During the operational phase of the Project, the NHA shall measure the Concessionaire’s compliance with operations and maintenance standards included in an Operations and Maintenance Manual. For the Technical proposal, Bidders must include a narrative of the contents of an Operations and Maintenance Manual the Bidder will prepare, subject to NHA approval, for the Project, as well as a narrative and graphic presentation of the Bidder’s proposed organization and approach to implement the Operations and Maintenance requirements for the Project (no page limitation). The CVs of key operations and maintenance personnel must be provided.

**f. Project Implementation Timetable**

A narrative and graphic presentation of the Bidder’s proposed Implementation Timetable (no page limitation), including a narrative of how the Bidder, as the Concessionaire, would work with the NHA. Any deviation from the approved timetable (in concession agreement) may be cause for a determination of non-responsiveness;

**g. Innovation**

Bidders may, propose innovations (no page limitation) to help ensure public safety and convenience for the Project. Bidders proposing innovative approaches, concepts or other features for general public welfare acceptable to the NHA shall receive score as detailed herein.

**h. Services Provided**

Bidders may propose the services which they intend to provide to the road commuters in accordance National & International standards.

## **1.2 TECHNICAL ELIGIBILITY AND QUALIFICATION EVALUATION CRITERIA**

NHA developed a list of following evaluation factors that will be used to evaluate each Technical proposal. The quantitative factors and their associated maximum technical point scores which will be used for the technical component evaluation. A valid registration of SECP and OGRA is an obligatory requirement for each OMC/JV:

<b>Sr. No.</b>	<b>Evaluation Factor</b>	<b>Max. Score</b>
i	Managerial, Technical & Construction Qualifications	25
ii	Preliminary Design Drawings - Innovation	20
iii	Methodology	15
iv	Operations & management procedures and systems	10
v	Implementation Timetable	25
vi.	Services Provided	05
	<b>Total Points:</b>	<b>100</b>

**Note:**

- The minimum qualifying marks are Sixty (60).
- Only Prequalified applicants shall be allowed to participate in the bidding and shall be intimated for the same subsequent to the Prequalification.
- If two or more higher/highest bidders quote equal financial bid, then, the technically qualified higher/highest bidder will be declared successful.



## **2. FINANCIAL QUALIFICATION REQUIREMENTS**

### **2.1 MINIMUM FINANCIAL INFORMATION REQUIRED**

The minimum financial information the NHA requires each Bidder to submit in its financial proposal to be considered responsive:

**(a)** Estimated total cost of the Project in a Work Breakdown Structure (WBS); A breakdown of capital/construction costs on a quarterly basis, divided into the following categories (to the extent applicable), is to be provided by the Bidder for each section of the Project:

- Earthworks
- Buildings (Restaurants, Masjids, Fast food outlets, Coffee shops, etc.)
- Facilities required for operations
- Parking Areas
- Internal Roads
- Surveillance Systems
- Landscaping
- Sewerage, Water Supply & Electrification and
- Filling Stations with Tuck shops
- Paid luxury toilets
- Etc.

**(b)** Each bidder has to submit audited reports and financial statements on the following standards:

- **Audit Report** shall be in accordance with International Auditing Standard (ISA-700).
- **Financial Statements** shall be in accordance with International Accounting Standards (IAS-1).

**Note: -**

- Only Prequalified applicants shall be allowed to participate in the bidding and shall be intimated for the same subsequent to the Prequalification.

## **IV. CONDITIONS OF CONCESSION**

**ARTICLE I**  
**TERM OF THE AGREEMENT AND CONCESSION SITE**

**Section I. 01 Term**

- a) Unless renewed or extended, the term of the Agreement shall expire after Ten (10) years from the Effective Date (“Term”) as per clause 1.5 of ITB,
- b) The Effective Date shall be started from the date on which the Letter of commencement is issued by the Employer after expiry of grace period as per clause 1.4 of ITB.

**Section I. 02 Concession Site**

- (a) Concessionaire shall render the services solely within or with respect to the Project Site, as defined under sub-paragraph (b). For the purposes of this Agreement, the Concessionaire shall have no rights or obligations beyond the geographical limits of the Project Site except for acquisition of any additional land acquired for the establishment of said service area at the concessionaires own cost after getting mutata on the title of NHA as per clause 1.3 of ITB.
- (b) The area licensed to the Concessionaire by NHA pursuant to this Agreement shall be at Service Area on KM-26 North/South Bound of Hassanabdal – Havelian Expressway E-35 for Construction, Operation & Management Service Areas including filling stations and allied facilities. The successful bidder i.e. OMC shall establish, operate and manage the entire service area at its own cost. The cost of construction of new facilities shall be borne by the O&M operator at its own cost. On completion of ten (10) years operation, the entire construction/established amenities will become property of NHA and the O&M operator will be liable to handover all of the amenities/installations to NHA without any claim to cost if not extended further as per clause 1.5 of ITB. Exact parameters of the area licensed to the concessionaire pursuant to this agreement (“Project Site”) shall be determined and demarcated by NHA.
- (c) The initial contract period shall be valid for ten (10) years and extendable for a period of five (05) years on satisfactory performance and mutual consent of both parties, subject to approval by NHA as per clause 1.5 of ITB.

**Section I. 03 Definitions and Rules of Interpretation:**

All capitalized terms used herein shall have the meanings assigned to them in this Agreement.

- a. **“Agreement”** means the Agreement, Articles, Conditions of concession and Appendices.
- b. **“Ancillary or Allied Facilities”** shall means those facilities like tuck shops, pay phone, public toilets, first Aid, fire extinguishers, sitting arrangements, potable water, etc. which the company shall erect, install or make available upon the Concession Area.
- c. **“Authority”** means National Highway Authority, Government of Pakistan, Islamabad.
- d. **“Concessionaire”** means the organization running the concession in accordance with the terms and conditions of the Agreement and the Scope of Concession.
- e. **“Concession Price”** means the advance quarterly net guaranteed rental revenue payable to the Employer by the concessionaire as stated in the Letter of Acceptance (LoA).
- f. **“Construction Works”** means construction of all specified filling station’s civil works, buildings, including constructions for installation and other facilities, supply and installation of equipment for provision of fuels, other petroleum products and for the construction of all other required facilities.
- g. **“Day”** means the Calendar Day.
- h. **“Employer”** means the Chairman, National Highway Authority, Government of Pakistan, Islamabad.
- i. **“Employer’s Representative”** means General Manager (Rev-Row) NHA-HQ, Islamabad or any other person appointed in writing by the Employer from time to time.
- j. **“Filling Stations”** The buildings, civil infrastructure for establishing Petrol/Diesel/Gasoline Stations and other allied facilities like tuck shops, tire shop, toilets, lube shop, potable water, workshop, etc.
- k. **“ITB”** means Invitation to Bid.
- l. **“Modification of Agreement”** is defined as an Agreement in writing negotiated and signed between the Employer and the Concessionaire for any change in the original agreement and any obligations associated therewith.
- m. **“OMC”** means Oil Marketing Company.
- n. **“Party”** means the Employer or the Concessionaire as the case may be, and Parties means both of them.

- o. “Revenue Security”** means the amount equals to the one advance quarter net guaranteed rental revenue, which shall be deposited by the concessionaire to the Employer against security deposit.
- p. “RoW”** means Right of Way.
- q. “Scope of the Project”** means provision of works and establishment of facilities in accordance with the terms & conditions set in by this document i.e. Request for Proposal (RFP).
- r. “Services”** means services required to be rendered by the Concessionaire in accordance with various articles of the Agreements.
- s. “Site Location”** means the land offered for Construction, Operation and Management of Hazara Service Area. The sites of Service Areas are located at KM – 26 on Hassanabdal - Havelian Expressway (E-35): -

  - 1. Hazara Service Area                      Havelian Bound E-35 (Km 26)
  - 2. Hazara Service Area                      Hassanabdal Bound E-35 (Km 26)

**Section I. 04      Notices:**

All notices under this concession will be given in writing and will be deemed to have been given if delivered by one of the following means:

- a.** By Facsimile
- b.** By E-Mail
- c.** By Registered Post or Courier Services at the specific designation/ addresses of the parties as set forth in this concession Agreement.

**Note:** The address for seeking clarification regarding any query/queries is as under: -

**General Manager (Rev-Row)**

National Highway Authority-HQ,

27- Mauve Area, G-9/1, Islamabad.

Phone: +92-51-9032729, Fax: +92-51-9032948

## **ARTICLE II**

### **SCOPE OF CONCESSION AND OBLIGATIONS OF THE PARTIES**

#### **Section II. 01                      Scope of Concession**

NHA hereby grants to the Concessionaire subject to the terms and conditions of this Agreement, Concessionaire is required to Finance, Design, Construct, Manage, Insure, Operate, Maintain and Transfer the facilities compatible with filling stations and other allied facilities at Hazara Service Area on KM 26 of Hassanabdal – Havelian Expressway E-35 that includes but not limited to the following: -

#### **Requirements by Authority:**

- i. Formation of Embankment from borrow excavation.
- ii. Separate Masjids for Males and Females with Ablution Area and toilets;
- iii. Main Building consisting of Restaurants, outdoor sitting areas, Public toilets, Tuck shops, Coffee bars, playing areas for kids;
- iv. Filling station with Tuck Shop, Tyre Shop, Lube shop, Workshop, Car Wash, Potable Water, Toilets, Credit/Debit Card swipe facility;
- v. Dhaba/Driver/Trucker Hotel/Restaurant with public toilets;
- vi. Waste dumping/disposal area (Incinerator/landfill);
- vii. Drainage Trench;
- viii. Generator Room;
- ix. Paid Luxury Toilets/Restrooms;
- x. Parking Areas with Sheds (must be spacious enough to accommodate the service area commuters);
- xi. Internal Roads, Sewerage, Water Supply and Proper Electrification;
- xii. Fast Food outlets (i.e. Reputable National and International brands);
- xiii. ATM Facility (OMC shall solicit approval from Employer for the selection of Bank regarding installation of ATM facility);
- xiv. Emergency Relief Center and Facilitation center for NH&MP;
- xv. Well maintained sitting/stay room facility alongwith toilets, allocated exclusively for NHA’s officers when visiting the site, on proving his/her identity i.e. NHA Employee card.
- xvi. Establishment of CNG Stations (if permissible by the Government of Pakistan during the currency of concession contract)

The Concessionaire shall establish, operate and manage the entire service area at its own cost. On completion of contract period, the entire construction/established amenities will become property of NHA and the O&M operator will be handover all of the amenities/installations and acquired additional land (if acquired by successful OMC) to NHA in a properly maintained and operational condition without any claim to cost.

Furthermore, Establishment of filling station along with other basic amenities could be accommodated within available land. **If the OMC desires to expand the services, the successful OMC is allowed subject to the condition that acquisition of additional land should be mutated to NHA title, and the cost of acquired additional land would also be borne by the successful OMC/bidder.**

Location of site for the establishment of Hazara Service Area: -

- |                        |                                |
|------------------------|--------------------------------|
| 1. Hazara Service Area | Havelian Bound E-35 (Km 26)    |
| 2. Hazara Service Area | Hassanabdal Bound E-35 (Km 26) |

It is obligatory for the concessionaire that he will properly maintain the NHA perception in the service area and NHA's monogram will be advertised as a compulsory component both in electronic and print media at or outside the service area and no other Government/ Semi Government/ Private department will be allowed to use the service area for any sort of advertisement without its payment to concessionaire subject to prior approval by the Employer in writing.

## **Section II. 02 Obligations and Covenants of the Concessionaire**

### **I. The obligations of the Concessionaire shall include:**

- a. The Concessionaire will get approval of design, specifications, schedule of work according to work plan from NHA and shall not make any additions, alterations and/or modifications to the approved plan, either temporary or permanent, in or around the Concession Site without the prior written permission from the Employer.
- b. Ensuring routine maintenance, service and repair of the filling stations and all allied fixtures at the concession site so as to give a clean look.
- c. Supply of Diesel, Petrol & Oil products at prevailing rates and Supply of hygienic, nutritious, fresh Halal food and beverages (“Edibles”), at the tuck shop, at reasonable and competitive prevailing market prices; provided that the quality, menu and prices of the Edibles shall be subject to the review as per Govt. Policy and shall accord with established international health and hygiene standards; provided further that any revision or change in the quality, menu or prices of the Edibles shall be subject to the approval from the department concerned.

- d. NHA has no restriction on selecting the Operator of petroleum products however the supplies shall be governed by all government rules and regulations on the subject and that the quality shall strictly be maintained.
- e. Keep all parts of the Filling stations in a sanitary and clean state;
- f. Providing appropriate waste/trash cans for the disposal of refuse/waste/trash (“Trash”) in and around the Project Site and arranging for removal of Trash from the Project Site every day.
- g. Establishing and maintaining a computerized sale system at the Filling stations whereby a record of all the sales (“Record”) at the Filling stations shall be maintained, as per existing laws of the land.
- h. Paying all utility bills, including, bills for electricity, gas, telephone, water and conservancy with respect to inter alia the operation, management and maintenance of the Filling stations and other amenities including, Tube Well, Street Lights, Mechanic/Tyre shops etc. at the Project Site according to their usage in the domains of filling stations, failure will result in forfeiture and encashment of Performance Guarantee/Bond. The encashment of Performance securities may be exercised as and when the concessionaire defaults/violates any of the agreed terms & conditions set in by this document i.e. RFP.
- i. Arranging, at its own expense, alternative/standby arrangements/generators as necessary in the case of non-availability of electricity or load shedding for whole concession period.
- j. Maintaining a complaint register at the Project Site at a clearly accessible and visible place including display of telephone/mobile number and e-mail address of the operator as well as NHA. Monthly report to this effect shall be forwarded to NHA by the 5<sup>th</sup> day of every succeeding month, listing the complaints lodged with the name & phone number of the complainant during the preceding month and the corrective steps taken by the concessionaire in that regard.
- k. Providing suitable and well-organized 24 hours’ security arrangements like installation of CCTV Cameras on the entire Project Site and its surrounding area and Security Guards for the safety of commuters.
- l. Cooperating with NHA and any authorized person(s) or entity acting on NHA’s behalf, with regard to the transfer of the Project Site to NHA or any person(s) or entity nominated by NHA upon expiry or termination of this Agreement.
- m. Maintaining effective Fire Fighting arrangements.
- n. Provide First Aid facility.
- o. Provide drug-free and hygienic services by establishing a drug-free atmosphere in compliance with Govt. policies.



- p. Providing potable drinking water for the use of general public by installation of electric water coolers one each at Mosque.
- q. Complying with all terms and conditions of this Agreement and all instructions and directions of NHA, as provided from time to time.
- r. Using the Concession Site solely for defined/given purposes as per Article I, Section 1.02 (a) & (b);
- s. Supplying labor, materials, equipment and other resources necessary for the performance of the above mentioned tasks.
- t. Complying with all terms and conditions of this Agreement and all instructions and directions of NHA, as provided from time to time.

**II. In carrying out its obligations, the Concessionaire represents and covenants that:**

- a. There are no legal, criminal & financial default proceedings pending or threatened for the liquidation of the Concessionaire or that could materially or adversely affect the performance by the Concessionaire of its obligations under this Agreement.
- b. The Concessionaire shall at all times maintain its corporate existence in compliance with the Laws of Pakistan.
- c. The Concessionaire shall procure and maintain all consent necessary to perform its obligations under this Agreement, give all required notices and allow all required inspections under all consents obtained or applied for by it, in connection with this Concession.
- d. The concessionaire may assign, delegate or subcontract its rights and obligations pursuant to this Agreement subject to the prior written approval of NHA as per clause 1.8 of ITB.
- e. This Agreement has been duly authorized, executed and delivered by it and constitutes the irrevocable, legal, valid and binding obligation of it, and
- f. In the event of termination of this Agreement by NHA for convenience the concessionaire shall have no rights to claim damages and shall not seek continuation of performance of services neither shall approach any court in an attempt to restrain NHA from assuming control of the Project Site.
- g. In no event shall termination for convenience be deemed a default by NHA under this contract agreement.
- h. NHA shall have the right at any time and from time to time during the term, and for any reason whatsoever at NHA's sole discretion, to terminate this agreement with respect to all or any portion of the services (such total or partial termination being referred to herein as a "Termination for Convenience"). NHA may exercise its right of Termination for Convenience

by furnishing to concessionaire written notice of its election to do so, which notice shall specify the services that NHA has elected to remove from the scope and operation of this agreement. The Termination for Convenience as to such services shall be effective sixty (60) days following the date of such notice. Thereafter all references herein to “Services” shall be deemed to refer only to those operation and management tasks that continue to be required to be performed by concessionaire hereunder. In the event of termination of this Agreement by NHA for convenience the Concessionaire shall not seek continuation of performance of services neither shall approach any court in an attempt to restrain NHA from assuming control of the concession site.

- i. In no event shall termination for convenience be deemed a default by NHA under this concession agreement. Nevertheless, NHA recognizes that a Termination for Convenience will cause temporary but adverse financial consequences upon concessionaire. The parties recognize and agree that the precise amount of the adverse financial consequences that would be suffered by concessionaire would be impossible to predict at the time of execution of this Agreement. Therefore, the parties agree that a termination fee will be paid by NHA to concessionaire upon the occurrence of any Termination for Convenience, which termination fee is a fair and reasonable estimate of the adverse economic consequences that will be sustained by concessionaire. The termination fee shall be fixed by a designated committee comprising of the following, who shall assess the monetary value of the asset at that particular time and the concessionaire shall be compensated according to assessed value of the commodity by NHA when the termination for convenience clause is invoked by NHA.

**III. Committee for Assessment of the Damages in case of termination at NHA’s Convenience:**

In case of early termination due to convenience of NHA, the following assessment committee will assess the claims for damages submitted by the concessionaire and recommendations in this regard shall be forwarded for perusal of the Chairman NHA through General Manager (Rev-RoW) for indemnifying the loss of concessionaire: -

General Manager (Region)	Chairman
Director (Audit)	Member
Director (Legal)	Member
Deputy Director (FR/HB)	Member
Deputy Director (Maint)	Member
Assistant Director (Rev-RoW)	Co-opt Member

**Section II.03 The Employer’s Representations, Warranties and Covenants**

NHA hereby represents and warrants to the Concessionaire that as of the date of this Agreement:

- a. It is duly created pursuant to the National Highway Authority Act, 1991 and has complied fully with all applicable Laws of Pakistan in the grant of this concession;
- b. The Concession Site falls within the jurisdiction of NHA and that NHA is duly authorized under the Laws of Pakistan to enter into the Agreement with regard to the Concession Site;
- c. This Agreement has been duly authorized, executed and delivered by it and constitutes the legal, valid and binding obligations of NHA; and
- d. NHA shall exercise its powers under the National Highway Authority Act, 1991, the rules and regulations framed there under and all other Laws of Pakistan and amendments made thereto in a manner that is consistent with this Agreement;
- e. NHA shall use its good offices to support the Concessionaire’s performance of its business activities pursuant to the Agreement, but without assuming any liability or obligation in this regard unless expressly stated in this Agreement;
- f. NHA shall make available or cause to be made available to the Concessionaire the Concession Site, for establishment of the Hazara Service Area including restaurants, filling stations alongwith tuck shops and tyre shops, paid luxury toilets & fast food outlets as per approved plan free of all encumbrances, lien and charge;
- g. NHA shall ensure that access to the Concession Site is not closed or restricted in any way;
- h. NHA shall use its good offices if requested and facilitate the Concessionaire in obtaining permissions and licenses required from time to time for the purposes of the Concession;
- i. NHA shall grant or assist the grant or processing of applications for any work permits, employment passes, visas and other permits, as necessary for the Concessionaire, its directors, employees, Concessionaires and other individuals employed for performance of its obligations pursuant to this Concession Agreement in accordance with the laws of Pakistan; and
- j. NHA will comply with all the terms and conditions of this Agreement.

### **QUALITY ASSURANCE**

For the purpose of Quality Assurance, bidder should have to follow the best international practices of quality assurance and checking procedure. Following yardsticks may be followed:-

- i. There shall also be a mechanism to keep clothing of the staff neat and clean at all the times.

- ii. The fuel provided at the filling station should be of national standards and at the notified prices by Government of Pakistan.
- iii. The staff shall be courteous to the road commuters and follow best practices while imparting services.
- iv. Only fresh and hygienic food stuff will be served 24 hours at the tuck shops.

**ARTICLE III**  
**TERMS AND CONDITIONS OF PAYMENT & PENALTIES**

**Section III. 01 Terms and conditions of payment**

- a. The general terms and conditions with regard to the payments to be made by the Concessionaire pursuant to the Agreement are as under:
- (i) The Concession Agreement is based upon fixed revenue payment arrangement between the Concessionaire and NHA. NHA shall receive advance quarterly net guaranteed rental revenue sum amounting to (“amount quoted in the Bid”), notwithstanding the actual revenue collected/generated by the Concessionaire from the Concession Site. The Advance Quarterly Net Guaranteed Rental Revenue amount with respect to any year of the Term shall be enhanced at the rate of ten (10) percent of the Advance Quarterly Net Guaranteed Rental Revenue of the preceding year accumulatively.
  - (ii) The Concessionaire shall deposit the advance guaranteed rental revenue for three (03) months in NHA designated account. Upon completion of three (03) months, if the Concessionaire fails to deposit the advance guaranteed revenue for next three (03) months by 5<sup>th</sup> of the calendar month than an amount of Rs. 5,000/- per day shall be charged upto 15<sup>th</sup> of each calendar month. After delay of 15 days from the due date, concession shall become liable to be terminated under default of Concessionaire including encashment of performance guarantee.
  - (iii) All payments due under this agreement shall be in Pakistani Rupees;
  - (iv) All taxes including income tax shall be paid by the Concessionaire according to the prevailing income Tax Laws in Pakistan; and
- b. The Concessionaire shall deposit three (03) months guaranteed rental revenue in advance to NHA in addition to performance security. The Concessionaire shall be refunded the Performance Security upon expiry of the Term, after clearance of all outstanding liabilities of the Concessionaire pursuant to the Agreement, Any structural or cosmetic damage caused to the Concession site due to the willful or negligent acts or omissions of the Concessionaire or the employees, agents, servants or representatives thereof, shall be deducted from the Security, provided that deposit of the Security shall not absolve the Concessionaire of its liabilities and duties pursuant to this Agreement nor shall it indemnify the Concessionaire in the event of default in paying the Guaranteed Revenue to NHA.

**ARTICLE IV  
TRADE NAME AND ADVERTISEMENT**

**Section IV .01**

- a. The concessionaire shall only use and display its proprietary trade name in marketing and advertisement its services pursuant to this Agreement, provided that NHA shall at all times retain a right to display its name and or messages in the form of advertisement at the Project Site.
- b. The concessionaire shall advertise about the service area & allied facilities including filling stations, restaurants etc. at its own cost and expense, subject to the prior approval of NHA. The concessionaire shall not display advertisements or signs that are environmentally damaging, dangerous for highway safety, or against the social culture of Pakistan.
- c. The concessionaire shall seek prior written approval of NHA for the content of the advertisement as well as the size, design and installation plan for the signboards.
- d. During the term, NHA shall retain the right to lease open space within the Project Site for third party advertisement at its sole discretion.
- e. The concessionaire shall remove all its signboards, and advertisements immediately upon termination or expiry of this Agreement.

## **ARTICLE V PUBLIC UTILITIES**

### **Section V.01 Limit of NHA Obligation**

NHA shall provide on the concessionaire’s request in a timely manner, such information as it holds or is available in respect of public utilities provided at the Project Site; provided that NHA shall not be liable to reimburse the concessionaire for any loss, damage or expense incurred by the concessionaire as a result of inaccurate or late information being provided by NHA.

### **Section V.02 Facilities**

#### **Drinking Water Cooler**

The operator shall arrange at his own all the facilities including drinking water and must ensure provision of electric cooler at mosques for the use of general public.

#### **Surveillance cameras**

Operator shall be responsible to install and cover all the service area filling stations with surveillance cameras round the clock having sufficient storage capacity of data for security purpose at his own cost.

### **Section V.03 Application for supply**

In relation to the supply of public utilities and services required by the concessionaire to effectively perform the Services, NHA shall not be responsible for submitting or procuring any applications in respect thereof to the relevant public utility authorities, companies or undertakings charged with the responsibility for the same.

### **Section V.04 Coordination of Works**

The concessionaire shall not be responsible for the costs and expenses of any works that may be carried out by the relevant public authorities and companies at the Project Site that are not necessary for performance of the Services.

### **Section V.05 Access to Project Site for Public Utilities**

The concessionaire shall permit at any time during the Term the authorized personnel of a public utility provider to have access to the Project Site for the purpose of:

- a. Routine maintenance of any public utility already located within the Project Site;
- b. The strengthening, replacing or upgrading of any public utility already located within the Project Site;

- c. Reinstating any foundations, structures, buildings, pavements, cabling and the like which may be disturbed or affected by reason of such works undertaken by a public utility provider, or
- d. Any other work including the installation of any new additional services of the public utility provider within the Project Site.

**Section V.06      Payment for Utilities**

The concessionaire shall be responsible for the payment of all utility bills and POL/Maintenance of stand by generators for the Project Site in his area of jurisdiction including but not limited to street lights to be paid by concessionaire of Service Area filling stations on actual basis by installing a sub-meter in accordance with the provisions of Article II of this Agreement.



## **ARTICLE VI**

### **THE NHA REPRESENTATIVE AND EMPLOYEES OF THE CONCESSIONAIRE**

#### **Section VI.01 Employer Representative**

The Employer representative for field supervision will be General Manager (Rev-RoW). He will supervise Concession site through DD (Maintenance/Rev-RoW) and will be responsible to implement the Contractual Obligations of concessionaire.

#### **Section VI.02 Staff of the Concessionaire**

- a. The Concessionaire shall, at its own cost and expense, hire the services of skilled and unskilled staff (“Employees”) for the operation, management, maintenance and supervision of service area, filling stations & its allied facilities etc. List of the employees that shall be hired for this purpose shall be maintained with the Supervisor of the concerned field staff as a record for verification.
- b. NHA may in its sole discretion desecration deem an employee unfit to perform services at under this concession agreement. Such employee shall be immediately dismissed by the Concessionaire besides taking other course of action required as per Legal way and Law upon the request of NHA and shall not be reappointed to perform any work under this concession agreement except with the written consent of NHA. In the event that NHA elects to exercise its power under this provision, the Concessionaire shall have no right to any compensation whatsoever for any loss consequential to the exercise of such power.
- c. The Employees shall be in proper uniform and must be capable of providing services pursuant to the Agreement in an honest, courteous and efficient manner.
- d. If at any time after provision of the List, the concessionaire desires to recruit or dismiss an employee, the concessionaire shall forthwith notify NHA of such recruitment or dismissal, to operate list of employees all the times.
- e. The concessionaire shall promptly notify NHA if with respect to an employee (I) any disciplinary action has been commenced or taken by the concessionaire, or (II) any criminal proceedings have been initiated or concluded.
- f. The Concessionaire shall comply with all prevailing laws, rules and regulations of Pakistan with regard to rights and obligations of the Employees.

## **ARTICLE VII DEFAULT**

### **Section VII.01 Defaulting events along with penalty**

- a. The occurrence of any one or more of the following events shall constitute an event of default by the Concessionaire under this Agreement:
  - i. Addition or deletion of any business/facility without prior agreement with the employer, NHA;
  - ii. Indulgence in fraudulent acts;
  - iii. Failure to promptly reimburse NHA for any loss or damage caused thereto attributable at an act or omission of the Concessionaire;
  - iv. Delay in commencement or discontinuance by the Concessionaire in the performance of obligations under this concession agreement;
  - v. Failure to pay the Guaranteed Rental Revenue amount to NHA timely as committed in this concession agreement.
  - vi. Insolvency, bankruptcy or liquidation of the Concessionaire;
  - vii. Failure by the Concessionaire to perform any component of the concession in a manner specified in the concession agreement.
  
- b. If the Concessionaire commits a default as set out herein above, NHA shall be entitled to exercise the following rights in addition to any or all remedies available to NHA under the law:
  - i. Will encash performance guarantee.
  - ii. NHA may terminate this Agreement immediately alongwith blacklisting of the Concessionaire on the recommendation of GM (Revenue-ROW);
  - iii. NHA may fine the Concessionaire upon each occurrence of a defaulting event. The fine shall range from Rupees ten thousand (Rs. 10,000/-) to Rupees one Lac (Rs. 100,000/-), the exact fine depending on the severity of the defaulting event to be determined by a representative from Revenue-ROW section nominated by GM (Revenue-ROW); and
  - iv. NHA may confiscate the Security deposits i.e. Performance and Revenue Securities deposited by the concessionaire to the Employer for the said concession contract.

## **ARTICLE VIII EXPIRY AND TERMINATION**

### **Section VIII.01 Expiry Date of Concession**

Concession agreement shall be valid for Ten (10) years after taking over possession at the project site and expiry of grace period. The concession agreement shall be extendable for a period of five (05) years on satisfactory performance and mutual consent of both parties, subject to approval by NHA as clause 1.5 of ITB.

### **Section VIII.02 Early Termination of the Agreement**

- a. NHA shall have the right to terminate this Agreement or particular services being rendered pursuant to this Agreement, for convenience as determined in its sole discretion, at any time during the Term. NHA may exercise this right by furnishing a written notice to the Concessionaire of its action to do so, which the Agreement is being terminated. Such termination shall be effective following the date as mentioned in such notice. Thereafter, all references to the obligations under this Agreement shall be deemed to refer only to any particular part of the obligations with respect to which this Agreement has not been terminated.
  
- b. In case NHA fails to provide peaceful possession of concession site, free of all encumbrances, the Concessionaire may give notice to NHA in writing, specifying the default and requiring NHA to rectify the same within sixty (60) days from the date of such notice. If NHA fails to remedy/rectify the said default within the given time period, the Concessionaire shall have the right to issue final notice for termination of concession on NHA, which shall become effective sixty (60) days from the date of the Termination Notice and in this case NHA will release the Securities deposits of the concessionaire.

## **ARTICLE IX FORCE MAJEURE**

### **Section IX.01 General**

Force Majeure means an event which is not caused by and is beyond the reasonable control of either Party and whose occurrence could not have been reasonably foreseen at the date of this Agreement by exercise of due diligence and which makes performance of this Agreement impossible in the sense or mode contemplated by the Parties or so impractical as to be considered so impossible under the new circumstances, and includes, but is not limited to war, invasion, riots, insurrection, civil commotion, acts of terrorism in that particular locality only, unusual flood, major earthquake, volcanic activity, radiation or chemical contamination, ionizing radiation, explosions, serious epidemics, any amendment in legislation by Government, any judgment/order passed by the Honorable Supreme Court regarding termination of the subject agreement or its any portion, or any act of God.

### **Section IX.02 Notice of Force Majeure**

If either Party is unable to perform or fulfill any of its obligations under this Agreement, as a result of an event of Force Majeure, it shall give notice within ten (10) days of the occurrence thereof to the other Party.

### **Section IX.03 Termination/Suspension due to Force Majeure**

Neither party shall by reason of such eventuality, be entitled to terminate this Agreement nor shall either party have any claim for damages against the other in respect of such non-performance of this Concession Agreement shall be resumed as soon as practicable after such eventuality has come to an end or caused to exist provided that if the performance in whole or party of any obligation under this Concession Agreement is delayed by reason of any such eventuality for a period exceeding fifteen (15) days, the Parties shall meet and review in good faith the desirability and conditions of terminating this Agreement or suspension of the contract up to maximum 182 days.

### **Section IX.04 Extension of Time due to Force Majeure**

If the operations at site remain suspended for more than 15 days but become operational within 182 days during the currency of contract, the concessionaire will be granted extension of time for compensating him. The Extension of Time shall be exactly equal to that time period, for which the sites were not remained operational due to event(s) of force majeure.

### **Section IX.05 Continuation of the Agreement**

The Parties acknowledge that it is in their mutual interest that to the extent possible, decisions concerning Force Majeure shall be directed towards the continued operation of the Concession for the full duration of the Term as provided in this Agreement.

**ARTICLE X**  
**TRANSFER UPON EARLY TERMINATION OR EXPIRY**

**Section X.01      Transfer upon early termination or expiry**

- a. Upon early termination or expiry of this Concession Agreement in accordance with the terms and conditions set out herein, the Concessionaire shall immediately cease to enjoy rights under the concession agreement and shall remove all the Employees, workmen, employees, servants, agents and Concessionaires engaged in operation of concession immediately on the date on which the termination or expiry takes effect and clear the site for NHA or duly nominated representative thereof, in a properly maintained & operational condition.
- b. The NHA shall, inspect the Project Sites and assets thereon including all civil works, installations, equipments and facilities and shall issue an inventory to Concessionaire specifying the condition of the assets thereon and whether Concessionaire has failed to abide by any of its obligations under the Agreement.
- c. Upon early termination or expiry of this Concession Agreement, the rights and entitlements of Concessionaire pursuant to this Agreement shall revert to, vest in or remain vested in the NHA, as the case may be.
- d. Concessionaire shall ensure that the Project Site and other assets under the agreement upon the date of early termination or expiry become free of all liens and charges.
- e. If this Agreement is terminated pursuant to Sections VIII.02 (a) or VIII.02 (b), then an amount equal to the assessed value of the facility by the designated committee shall be reimbursed to the Concessionaire as demobilization charges.
- f. Notwithstanding any dispute between the Parties or any claim against NHA, the Concessionaire shall hand over vacant and peaceful possession of the Project Site and other assets thereon to NHA in accordance with the terms and conditions as set out in this Agreement. Any dispute between the Parties or any claims of the Concessionaire against NHA shall not in any case entitle the Concessionaire to refuse or delay the transfer of these assets to NHA. Failure by the Concessionaire to do so in accordance with the terms and conditions of this Agreement shall be treated as encroachment and unauthorized occupation by the Concessionaire and may be dealt with by NHA under Section 12 of the National Highway Authority Act, 1991 as amended in 2001.

**ARTICLE XI**  
**RESOLUTION OF DISPUTES**

If any dispute or difference of any kind whatsoever arises between the Concessionaire and the NHA in connection with or arising out of the Agreement or performance of the obligations whether during the progress of the obligations or after its completion or after its termination, abandonment or breach of the Agreement, it shall in the first place be referred to:

- I. The Employer Representative General Manager (Rev-RoW), NHA shall be served with a notice containing the cause of action, mentioning facts of the case and relief sought. The General Manager (Rev-RoW) shall decide the dispute within twenty-eight (28) days of the receipt of such notice.
- II. If the concessionaire is dissatisfied with the decision of the General Manager (Rev-RoW) or if the decision of the General Manager (Rev-RoW) is not forthcoming within the stipulated or extended period, the Concessionaire may within two (02) weeks from the receipt of the decision of the General Manager (Rev-RoW) or expiry of twenty-eight days' time refer the matter to the Member (Finance) along with the cause of action, mentioning facts of the case and relief sought. The Member (Finance) will act as a Sole Adjudicator and shall decide the matter within twenty-eight (28) days from the date of submission.
- III. The Concessionaire, if dissatisfied with the decision of the Adjudicator shall have the right to serve Notice for Intention to commence arbitration within twenty-eight (28) days of receipt of the Adjudicator's decision or within twenty-eight (28) days after the expiry of the period stipulated herein above for decision of the Adjudicator in case he fails to give decision. The Arbitration shall take place at Islamabad under the Pakistan Arbitration act of 1940 as amended from time to time. The arbitration proceedings shall be conducted in the English language. The Award of the Arbitrator shall be final and binding upon both parties. Unless note of dissent/disagreement is given by either party or either of the parties file objection before any judicial fora within stipulated time as per prevailing law.

Provided however, that the parties shall have the right at resolution of disputes amicably within fifty-six (56) days of service of Notice for Intention to commence Arbitration and the Arbitration shall commence in case of failure of amicable settlement.

## **ARTICLE XII MISCELLANEOUS**

### **Section XII.01 Variations in Writing**

This Agreement may be varied or amended only by the mutual consent of the Parties. All such variations and amendments shall be binding only if they are in writing and are signed by duly authorized representatives of the Parties. Any addition or deletion of obligations, rights or business will be effected in form of a V.O. to the agreement.

### **Section XII.02 Waivers**

- a. No waiver by either Party of any default by the other in the performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default whether of a like or different character.
- b. The failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or time or other indulgence granted by one Party to the other shall not thereby act as a waiver of such breach or acceptance of any variation.

### **Section XII.03 Insurance Coverage from ‘AA’ Rated Insurance Companies.**

- a. The concessionaire shall obtain and maintain during the currency of contract, insurance for all assets of Employer handed over to concessionaire for performing services under this contract agreement against loss & damage due to any reason.
- b. The concessionaire's Equipment and other things brought onto the Site by the concessionaire, for a sum sufficient to provide for their replacement at the Site.
- c. concessionaire shall obtain and maintain comprehensive health insurance for its entire staff working on Project Site.
- d. concessionaire shall obtain and maintain during the currency of contract, insurance for all its employees working on Project Site against injury or death having a minimum coverage of Rs.500,000/-in case of death and Rs.200,000/- for each case of injury/disability with unlimited number of incidents.
- e. The premium for such insurances shall be paid by the concessionaire.

### **Section XII.04 Compliance with Government Rules and Regulations**

The Concessionaire shall, during the Term of this Agreement, strictly comply with all laws, polices, guidelines, rules and regulations now existing or hereafter promulgated by the Government of Pakistan and/or NHA. All policies, guidelines,

rules and regulations and all applicable laws, shall be read into and made integral parts of this Agreement.

#### **Section XII.05 Headings; Grammatical Usage; Names**

Words in the singular number are deemed to include the plural when the sense requires, and the plural shall similarly include the singular. Where the government agencies are named, the name used is deemed to include any successor agency in the event the name is changed or the relevant functions are transferred.

#### **Section XII.06 Non-Relief from Accrued Liability**

The termination of this Agreement shall not relieve either Party of any liability that may have already accrued pursuant to the terms of this Agreement.

#### **Section XII.07 Applicable Law**

- a. This Agreement shall be governed by and construed in accordance with the Laws of Pakistan.

#### **Section XII.08 Limit of Rights**

The rights given under this Agreement to the concessionaire in respect of the land made available to it do not confer upon the concessionaire any proprietary right, title or interest over such land.



**V. ADDENDUM TO THE REQUEST FOR PROPOSAL (RFP), IF ANY**

## **VI. SAMPLE FORMS**

**FORM OF ENVELOPE LABEL**

**ORIGINAL BID + 01 COPY**

**WARNING:** DO NOT OPEN BEFORE: \_\_\_\_\_

Concession Title: \_\_\_\_\_

Package: \_\_\_\_\_

Bid Opening Date: \_\_\_\_\_

**To:**

**General Manager (Rev-Row)**  
**National Highway Authority-HQ**  
**27-Mauve Area, G-9/1, Islamabad**

**From:**

Name of Bidder: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

**CONCESSION AGREEMENT**

**CONSTRUCTION, OPERATION & MANAGEMENT OF HAZARA SERVICE AREAS INCLUDING FILLING STATIONS AND ALLIED FACILITIES AT KM-26 (NORTH/SOUTH BOUND) ON HASSANABDAL - HAVELIAN EXPRESSWAY (E-35)**

**PREAMBLE**

This Concession (“AGREEMENT”) hereinafter referred as “Concession” is entered into at Islamabad on this the \_\_\_\_\_ day of \_\_\_\_\_ 2019 (“Effective Date”).

**BETWEEN**

(1) **National highway Authority** (“hereinafter called Employer”). A body corporate established under the National Highway Act 1991 (Act XI of 1991) and having its office at 28-Mauve Area, G-9/1, Islamabad, represented through its Chairman, legal assignees and successor in office (1<sup>st</sup> Party).

**AND**

(2) **“Bidder Name”** duly incorporated, registered and existing under the applicable Laws of Pakistan, with its registered office at \_\_\_\_\_ Pakistan (“Name of Concessionaire”, which expression shall include where the context so permits its successors-in-interest in terms of assignees) OF THE OTHER PART.

The NHA and the Concessionaire hereinafter individually referred to as “Party” and collectively as “Parties”.

**WITNESSETH:**

**WHEREAS** the NHA offered a concession/contract for “Construction, Operation & Management of Hazara Service Area, including Filling Stations and Allied Facilities at Km-26 (North/South Bound) on Hassanabdal - Havelian Expressway (E-35)” against Advance Quarterly Net Guaranteed Rental Revenue amounting to Rs. \_\_\_\_\_, (to be increased @10% per annum in the subsequent years) which the bidder shall pay to the Employer in consideration of the right to utilize NHA’s land, for a period of ten (10) years extendable for five (05) years. The payment to NHA shall be due towards the concessionaire after expiry of the grace period which is mentioned in letter of commencement. The contract/concession should be performed by the Concessionaire strictly in accordance with the requirements of Employer as set out in the concession documents.

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of concession referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, in the following order of priority:
  - I. Invitation to bid (ITB).
  - II. Bid Data Sheet.
  - III. Qualification Criteria (Technical + Financial).
  - IV. Conditions of concession: Articles I to XII.
  - V. Addendum to the Request for Proposal (RFP), if any.

**Concessionaire**

**NHA**

- VI. Sample Forms.
- VII. Financial Proposal and Bid Form.

**IN WITNESS** whereof the parties hereto have caused this Agreement to be executed in the day and year first above written.

Signature of the Concessionaire

\_\_\_\_\_  
(Seal)

Signature of Employer

\_\_\_\_\_  
(Seal)

Signed, Sealed and Delivered in the presence of:

Witness:

\_\_\_\_\_

(Name, Title and Address)

Witness:

\_\_\_\_\_

(Name, Title and Address)

**FORM OF PERFORMANCE SECURITY  
(Bank Guarantee)**

Guarantee No. \_\_\_\_\_

Executed on \_\_\_\_\_

Expiry date \_\_\_\_\_

[Letter by the Guarantor to the Employer]

Name of Guarantor (Bank) with address: \_\_\_\_\_

(Scheduled Bank in Pakistan)

Name \_\_\_\_\_ of \_\_\_\_\_ Principal \_\_\_\_\_ (Concessionaire) \_\_\_\_\_ with address: \_\_\_\_\_

Penal Sum of Security (express in words and figures) \_\_\_\_\_

Letter of Acceptance No. \_\_\_\_\_ Dated \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that in pursuance of the terms of the Bidding Documents and above said Letter of Acceptance (hereinafter called the Documents) and at the request of the said Principal we, the Guarantor above named, are held and firmly bound unto the \_\_\_\_\_ (hereinafter called the Employer) in the penal sum of the amount stated above for the payment of which sum well and truly to be made to the said Employer, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has accepted the Employer's above said Letter of Acceptance for \_\_\_\_\_ (Name of concession) for the \_\_\_\_\_ (Name of Concessionaire).

NOW THEREFORE, if the Principal (Concessionaire) shall well and truly perform and fulfill all the undertakings, covenants, terms and conditions of the said Documents during the original terms of the said Documents and any extensions thereof that may be granted by the Employer, with or without notice to the Guarantor, which notice is, hereby, waived and shall also well and truly perform and fulfill all the undertakings, covenants terms and conditions of the concession and of any and all modifications of said Documents that may hereafter be made, notice of which modifications to the Guarantor being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue till 84 days after the date of expiry of Concession.

Our total liability under this Guarantee is limited to the sum stated above and it is a condition of any liability attaching to us under this Guarantee that the claim for payment in writing shall be received by us within the validity period of this Guarantee, failing which we shall be discharged of our liability, if any, under this Guarantee.

We, \_\_\_\_\_ (the Guarantor), waiving all objections and differences under the Concession, do hereby irrevocably and independently guarantee to pay to the Employer without delay upon the Employer's first written demand without cavil or arguments and without requiring the Employer to prove or to show grounds or reasons for such demand any sum or sums up to the amount stated above, against the Employer's written declaration that the Principal has refused or failed to perform the obligations under the Concession which payment will be effected by the Guarantor to Employer's designated Bank & Account Number.

PROVIDED ALSO THAT the Employer shall be the sole and final judge for deciding whether the Principal (Concessionaire) has duly performed his obligations under the Concession or has defaulted in fulfilling said obligations and the Guarantor shall pay without objection any sum or sums up to the amount stated above upon first written demand from the Employer forthwith and without any reference to the Principal or any other person.

IN WITNESS WHEREOF, the above-bounden Guarantor has executed this Instrument under its seal on the date indicated above, the name and corporate seal of the Guarantor being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

\_\_\_\_\_  
Guarantor (Bank)

Witness:

1. \_\_\_\_\_  
\_\_\_\_\_  
Corporate Secretary (Seal)

Signature \_\_\_\_\_  
Name \_\_\_\_\_

Title \_\_\_\_\_

2. \_\_\_\_\_  
\_\_\_\_\_  
Name, Title & Address

\_\_\_\_\_  
Corporate Guarantor (Seal)

**(INTEGRITY PACT)**

**DECLARATION OF FEES, COMMISSION AND BROKERAGE ETC.  
PAYABLE BY THE CONCESSIONAIRE, SERVICES & WORKS IN  
CONCESSIONS WORTH RS.10.00 MILLION OR MORE**

Concession No. \_\_\_\_\_ Dated \_\_\_\_\_  
Concession Value: \_\_\_\_\_  
Concession Title: \_\_\_\_\_

..... [name of Operator] hereby declares that it has not obtained or induced the procurement of any concession, right, interest, privilege or other obligation or benefit from Government of Pakistan (GoP) or any administrative subdivision or agency thereof or any other entity owned or controlled by GoP through any corrupt business practice.

Without limiting the generality of the foregoing, [name of Operator] represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or subsidiary, any commission, gratification, bribe, finder’s fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or inducing the procurement of a concession, right, interest, privilege or other obligation or benefit in whatsoever form from GoP, except that which has been expressly declared pursuant hereto.

[name of Operator] certifies that it has made and will make full disclosure of all agreements and arrangements with all persons in respect of or related to the transaction with GoP and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

[name of Operator] accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any concession, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other rights and remedies available to GoP under any law, concession or other instrument, be voidable at the option of GoP.

Notwithstanding any rights and remedies exercised by GoP in this regard, [name of Operator] agrees to indemnify GoP for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to GoP in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder’s fee or kickback given by [name of Operator] as aforesaid for the purpose of obtaining or inducing the procurement of any concession, right, interest, privilege or other obligation or benefit in whatsoever form from GoP.

Name of Employer: .....**[Seal]**

Name of concessionaire: ..... **[Seal]**

Signature: .....

Signature: .....



## **VII. FINANCIAL PROPOSAL AND BID FORM**



**GOVERNMENT OF PAKISTAN  
MINISTRY OF COMMUNICATIONS  
NATIONAL HIGHWAY AUTHORITY**



## **Financial Proposal**

### **FOR**

**“CONSTRUCTION, OPERATION & MANAGEMENT OF HAZARA SERVICE AREAS INCLUDING FILLING STATIONS AND ALLIED FACILITIES AT KM-26 (NORTH/SOUTH BOUND) ON HASSANABDAL - HAVELIAN EXPRESSWAY (E-35)”**

#### **FIANCIAL PROPOSAL**

1. The pre-qualified bidders must submit the following requisites along with the financial bid for assessment of the financial components of the bid.
  - i. Estimated Project Cost and its Work Breakdown Structure;
  - ii. Construction Time and Financing Structure;

## THE BID

### FOR

**“CONSTRUCTION, OPERATION & MANAGEMENT OF HAZARA SERVICE AREAS INCLUDING FILLING STATIONS AND ALLIED FACILITIES AT KM-26 (NORTH/SOUTH BOUND) ON HASSANABDAL - HAVELIAN EXPRESSWAY (E-35)”**

Amount of Net Guaranteed Rental Revenue		
Description	In Figure	
	Per Month (A)	Per Quarter (B=Ax3)
Advance quarterly net guaranteed rental revenue for the Construction, Operation & Management of Hazara Service Area and filling stations with allied facilities at KM-26 (North/South Bound) on Hassanabdal - Havelian Expressway, E-35 from the date of commencement.		
<b>Advance Quarterly Net Guaranteed Rental Revenue per Month in Words</b>		

The guaranteed monthly rental revenue shall be increased accumulatively @ 10% each year subsequently.

Guaranteed rental revenue shall be deposited on three (03) months in advance by the operator by 5<sup>th</sup> of respective month to **“National Highway Authority, Road Maintenance Account, Islamabad” in the form of Pay order or demand draft to be deposited at Revenue Section NHA HQ under intimation to concerned GM.**

**Payment of all applicable taxes on guaranteed rental revenue shall be the responsibility of bidder which is over and above the net guaranteed revenue to be deposited in advance as per prevailing income tax laws of Pakistan.**

After completion of the concession agreement, the successful bidder shall handover all the established/constructed facilities/amenities to NHA without any claim to cost or any terms & conditions as the Employer i.e. NHA will re-tender the subject facility on its expiry for further operations in accordance with the provisions of NHA code and PPRA Rules.

Signature of Bidder

With Name, CNIC No. and seal of the firm

Address: \_\_\_\_\_

Concessionaire

NHA