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LOAN NUMBER 3395-PAK

GRANT NUMBER 0482-PAK(EF)  
[Additional to Loan No. 3300-PAK and  
Grant No. 0440-PAK (EF)]

PROJECT AGREEMENT

(National Motorway M-4 Gojra-Shorkot-Khanewal Section Project – Additional Financing)

between

ASIAN DEVELOPMENT BANK

and

NATIONAL HIGHWAY AUTHORITY

DATED 20 JUNE 2016

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PAK 48402

## PROJECT AGREEMENT

PROJECT AGREEMENT dated 20 JUNE 2016 between ASIAN DEVELOPMENT BANK ("ADB") and NATIONAL HIGHWAY AUTHORITY ("NHA").

### WHEREAS

(A) by a Loan Agreement dated 22 October 2015 between the Islamic Republic of Pakistan ("Beneficiary") and ADB ("Initial ADB Loan Agreement"), ADB agreed to make to the Beneficiary a loan of one hundred seventy-eight million Dollars (\$178,000,000) for the purposes of financing part of the expenditures of the project described in Schedule 1 to the Initial ADB Loan Agreement ("Initial Project");

(B) the United Kingdom of Great Britain and Northern Ireland ("UK"), represented by the Department for International Development ("DFID"), agreed to provide a grant to the Beneficiary in the amount of fifty-eight million eight hundred fifty thousand British Pounds (£58,850,000) for the purposes of financing part of the expenditures of the Initial Project, which such grant is being fully administered by ADB pursuant to its relevant cofinancing arrangement with DFID ("DFID Cofinancing Agreement") and subject to the terms and conditions of an externally financed grant agreement dated 22 October 2015 between the Beneficiary and ADB;

(C) the Initial Project is being carried out by NHA, and by a project agreement dated 22 October 2015 between NHA and ADB, NHA undertook certain obligations towards ADB in connection with the Initial Project;

(D) by a loan agreement of even date herewith between the Beneficiary and ADB ("Additional ADB Loan Agreement"), ADB has agreed to make an additional loan to the Beneficiary from ADB's ordinary capital resources in the amount of one hundred million Dollars (\$100,000,000) ("Additional ADB Loan") for the purposes of financing part of the expenditures of the Project described in Schedule 1 to the Additional ADB Loan Agreement, which comprises construction of a new road section of the Beneficiary's National Motorway M-4 that connects with the road section being constructed under the Initial Project;

(E) the UK, represented by DFID, has agreed to provide an additional grant to the Beneficiary in the amount of twenty-three million four hundred eighty thousand British Pounds (£23,480,000) ("Additional UK Grant") for the purposes of financing part of the expenditures the Project, such grant to be fully administered by ADB pursuant to the DFID Cofinancing Agreement and subject to the terms and conditions of an externally financed grant agreement of even date herewith between the Beneficiary and ADB ("Additional EF Grant Agreement");

(F) by a loan agreement to be entered into between the Beneficiary and the Asian Infrastructure Investment Bank ("AIIB") ("AIIB Loan Agreement"), it is expected that AIIB will provide a loan to the Beneficiary in the amount of one hundred million Dollars (\$100,000,000) ("AIIB Loan") for the purposes of financing part of the expenditures of the Project, such loan to be administered by ADB in accordance with the terms and conditions of a cofinancing agreement between AIIB and ADB;

(G) the proceeds of both the Additional ADB Loan and the Additional EF Grant are being provided to the Beneficiary on the basis that they will be made available to NHA and that NHA agrees to undertake certain obligations towards ADB set forth herein; and

(H) NHA, in consideration of ADB entering into both the Additional ADB Loan Agreement and the Additional EF Grant Agreement with the Beneficiary, has agreed to undertake the obligations set forth herein;

NOW THEREFORE the parties hereto agree as follows:

## **ARTICLE I**

### **Definitions**

Section 1.01. (a) Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Additional ADB Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth.

(b) In addition to the terms referred to in subsection (a) hereinabove, the following terms, wherever used in this Project Agreement, unless the context otherwise requires, have the following meaning:

- (i) "Financing Agreements" means the Additional ADB Loan Agreement, the Additional EF Grant Agreement and the AIIB Loan Agreement;
- (ii) "Financing Proceeds" means the proceeds of the Additional ADB Loan, the Additional UK Grant and the AIIB Loan; and
- (iii) "Financings" means the Additional ADB Loan, the Additional UK Grant and the AIIB Loan.

## **ARTICLE II**

### **Particular Covenants**

Section 2.01. (a) NHA shall carry out the Project with due diligence and efficiency, and in conformity with sound applicable technical, financial, business, and development practices.

(b) In the carrying out of the Project and operation of the Project facilities, NHA shall perform all obligations set forth in the Financing Agreements to the extent that they are applicable to NHA.

Section 2.02. NHA shall make available, promptly as needed, the funds, facilities, services, land and other resources as required, in addition to the Financing Proceeds, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, NHA shall employ competent and qualified consultants and contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) Except as ADB may otherwise agree, NHA shall procure all items of expenditures to be financed out of the Financing Proceeds in accordance with the provisions of Schedule 4 to the Additional ADB Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Beneficiary and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 2.04. NHA shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. NHA shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.05. (a) NHA shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, NHA undertakes to insure, or cause to be insured, the goods to be imported for the Project against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such goods.

Section 2.06. NHA shall maintain, or cause to be maintained, records and accounts adequate to identify the items of expenditure financed out of the Financing Proceeds, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.07. (a) ADB and NHA shall cooperate fully to ensure that the purposes of the Financings will be accomplished.

(b) NHA shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of its obligations under this Project Agreement or the accomplishment of the purposes of the Financings.

(c) ADB and NHA shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, NHA and the Financings.

Section 2.08. (a) NHA shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Financings and the expenditure of the proceeds thereof; (ii) the items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of NHA; and (v) any other matters relating to the purposes of the Financings.

(b) Without limiting the generality of the foregoing, NHA shall furnish to ADB periodic reports on the execution of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the period under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following period.

(c) Promptly after physical completion of the Project, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, NHA shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by NHA of its obligations under this Project Agreement and the accomplishment of the purposes of the Financings.

Section 2.09. (a) NHA shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements for the Project audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements and use of the proceeds of the Additional ADB Loan, the Additional UK Grant and the AIB Loan, respectively) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the close of the fiscal year to which they relate, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

(c) In addition to annual audited financial statements referred to in subsection (a) hereinabove, NHA shall (i) provide its annual financial statements prepared in accordance with national accrual-based financing reporting standards acceptable to ADB; (ii) have its financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; and (iii) furnish to ADB, no later than 1 month after approval by the relevant authority, copies of such audited financial statements in the English language and such other information

concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(d) NHA shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and its financial affairs where they relate to the Project with the auditors appointed by NHA pursuant to subsections (a)(iii) and (c) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of NHA, unless NHA shall otherwise agree.

Section 2.10. NHA shall enable ADB's representatives to inspect the Project and Works and any relevant records and documents.

Section 2.11. (a) NHA shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of its operations.

(b) NHA shall at all times conduct its operations in accordance with sound applicable technical, financial, business, development and operational practices, and under the supervision of competent and experienced management and personnel.

(c) NHA shall at all times operate and maintain its plants, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound applicable technical, financial, business, development, operational and maintenance practices.

Section 2.12. Except as ADB may otherwise agree, NHA shall not sell, lease or otherwise dispose of any of its assets which shall be required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Project Agreement.

Section 2.13. Except as ADB may otherwise agree, NHA shall apply the proceeds of the Financings to the financing of expenditures on the Project in accordance with the provisions of the Financing Agreements and this Project Agreement, and shall ensure that all items of expenditures financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Except as ADB may otherwise agree, NHA shall duly perform all its obligations under the Financing Agreements, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Financing Agreements.

Section 2.15. NHA shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its Charter, which, if implemented, could adversely affect the carrying out of the Project or the operation of the Project facilities. NHA shall afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative action thereon.

### ARTICLE III

#### Effective Date; Termination

Section 3.01. This Project Agreement shall come into force and effect on the date on which the Additional ADB Loan Agreement comes into force and effect. ADB shall promptly notify NHA of such date.

Section 3.02 This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the Additional ADB Loan Agreement shall terminate in accordance with its terms.

Section 3.03. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Additional ADB Loan Agreement.

### ARTICLE IV

#### Miscellaneous

Section 4.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand, mail or facsimile to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For ADB

Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
1550 Metro Manila  
Philippines

Facsimile Numbers:

(632) 636-2444  
(632) 636-2340.

For NHA

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

Attn: Chairman

Facsimile Number:

(92-51) 926-0404.

Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement or under Section 7.01 of both the Additional ADB Loan Agreement and the Additional EF Grant Agreement by or on behalf of NHA may be taken or executed by its Chairman or by such other person or persons as he or she shall so designate in writing notified to ADB.

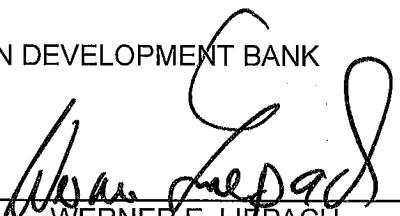
(b) NHA shall furnish to ADB sufficient evidence of the authority of each person who will act under subsection (a) hereinabove, together with the authenticated specimen signature of each such person.

Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.



IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Project Agreement to be signed in their respective names as of the day and year first above written, and to be delivered at the principal office of ADB.

ASIAN DEVELOPMENT BANK

By   
WERNER E. LIEPACH  
Country Director  
Pakistan Resident Mission

NATIONAL HIGHWAY AUTHORITY

By   
ARSHAD MAHMOOD CH.  
Member  
Engineering Coordination

