

झारखण्ड सरकार
उद्योग विभाग

संकल्प

विषय: झारखण्ड आधारभूत संरचना विकास निगम लिमिटेड के प्रस्ताव के आलोक में परामर्शी सेवाओं के लिए समेकित लागत (landed cost) के आधार पर भुगतान एवं Memorandum of Agreement की कंडिकाओं में आशिक संशोधन के सम्बन्ध में।

झारखण्ड औद्योगिक आधारभूत संरचना विकास निगम लिमिटेड (JIIDCO) एवं Infrastructure Leasing and Financial Services (IL&FS) द्वारा झारखण्ड आधारभूत संरचना विकास लिमिटेड (JINFRA) नाम से एक विशेष प्रयोजन कंपनी (Special Purpose Company) गठित की गई है। इस विशेष प्रयोजन कंपनी (Special Purpose Company) का उद्देश्य पथ, स्वास्थ्य सेवायें, ऊर्जा, शिक्षा, आधारभूत संरचना एवं अन्य क्षेत्रों में आवश्यक आधारभूत संरचना के विकास के लिए लोक निजी भागीदारी हेतु राज्य सरकार को तकनीकी परामर्शी सेवायें उपलब्ध कराना है। ऐसी योजनाओं को चिन्हित करने एवं वैधानिक स्वीकृति प्रदान करने हेतु मुख्य मंत्री, झारखण्ड की अध्यक्षता में आधारभूत संरचना प्राधिकृत समिति गठित की गई थी। जिन्फ्रा, कंपनी अधिनियम तहत निबंधित कंपनी है, जिसके निदेशक मण्डल में झारखण्ड सरकार एवं IL&FS का प्रतिनिधित्व है। इस कंपनी के कार्यकलापों को कार्यान्वित करने हेतु Memorandum of Agreement हस्ताक्षरित किया गया था। इसके अंतर्गत परियोजना का चयन, वित्तीय व्यवस्था, प्रबंधकीय व्यवस्था आदि के सम्बन्ध में प्रावधान किया गया है।

2. लोक निजी क्षेत्र भागीदारी परियोजना के लिए परामर्शी सेवाओं के वित्त पोषण के सम्बन्ध में MOA की कंडिका- 5.2 में प्रावधान किया गया था। दोनों पक्षों द्वारा मिलकर परियोजना विकास निधि (Project Development Fund) स्थापित किया जाना था, जिसमें समान राशि दोनों पक्षों द्वारा जमा की जानी थी। चयनित परियोजना के परामर्शी सेवाओं के लिए किये गये कार्यो यथा- अध्ययन, अभिलेखन (Documentation), परियोजना के प्रचार-प्रसार तथा अन्य संबंधित सेवाओं के लिए राशि इस मद से खर्च प्रारंभ में की जानी थी। निजी भागीदार के सफलतापूर्वक चयन हो जाने पर उनसे परियोजना के लिए परामर्शी सेवाओं इत्यादि में हुए खर्च प्राप्त कर पुनः परियोजना विकास निधि को वापस की जानी थी, जब कि इसके अतिरिक्त दोनों परियोजनाओं की परिगणित (landed) लागत पर 2 प्रतिशत success fee ली जानी है, जो IL&FS एवं JIIDCO के बीच बराबर हिस्सों में बांटी जानी है।

3. JINFRA के गठन से लेकर उक्त व्यवस्था चल रही है, किन्तु अब तक चिन्हित परियोजनाओं की प्रगति की समीक्षा से यह बात उभर कर आई है कि यद्यपि विभागों द्वारा लोक निजी क्षेत्र भागीदारी के लिए परियोजनाओं की पहचान तो की जाती है, किन्तु इन परियोजनाओं के कार्यान्वयन में विशेष रुचि नहीं ली जा रही है। फलस्वरूप न सिर्फ परियोजना धरातल पर नहीं उतर पा रही है बल्कि इस निमित्त परियोजना विकास निधि से हुआ व्यय निष्फल साबित हो रहा है और परियोजना विकास निधि खत्म होने

के कगार पर है। JINFRA की प्रबंध पर्वद में इस मुद्दे पर दिनांक 13 फरवरी, 2009 की बैठक में विचार हुआ। यह सहमति बनी कि विभागों की लोक निजी क्षेत्र भागीदारी के कार्यान्वयन में रुचि बनाये रखने हेतु यह आवश्यक है कि विभाग अपनी परियोजना के लिए Mile Stone पर आधारित परामर्शी शुल्क भुगतान करे। परामर्शी शुल्क का भुगतान (disbursal) Mile Stone की उपलब्धि से जुड़ा रहे एवं निजी भागीदारी के सफलतापूर्वक चयन के उपरांत परामर्शी सेवाओं पर लगी लागत विभागों को ही निजी भागीदार भुगतान कर दे। जहां तक success fee का प्रश्न है, वह पूर्व की भांति JINFRA के दोनो भागीदारों के बीच बांटी जाएगी।

4. झारखण्ड आधारभूत संरचना विकास निगम लिमिटेड के Memorandum of Agreement की कंडिका- 5.2 के उपरांत कंडिका 5.3 निम्नप्रकार से समावेशित किया जाता है :-

5.3 SPC may accept project specific funds from the Government Departments / Agencies / Authorities which shall be used only for the projects for which the same has been contributed. Fund which may be called Project Development Fee shall be based on estimated cost to be incurred on the Project and will include the project development fees payable to the project development agency based on the percentage of landed project cost plus the applicable service tax.

5.3.1 The Project Development Fee and Success Fee payable to the project development agency will be based on the following table :

Sl. No.	Landed Project Cost	Project Development Fees (Percentage of landed project cost)	Success Fees (Percentage of landed project cost)	Total Fees range (Percentage of landed project cost)
1	25 crore or less	1.5% (maximum Rs 25 lakhs)	1.5%	3% to 2.5%
2	More than 25 crore to 50 crore or less	1.25% (maximum Rs 50 lakhs)	1.25%	2.5% to 2.25%
3	More than 50 crore to 100 crore or less	1% (maximum Rs 75 lakhs)	1%	2 to 1.75%
4	More than 100 crore to 200 crore or less	0.8% (maximum Rs 1 crore)	0.75%	1.55% to 1.25%
5	More than 200 crore to 500 crore or less	0.6% (maximum Rs 1.75 crore)	0.65%	1.25% to 1%
6	500 crore to 1000 crore	0.5% (maximum Rs 3.75 crore)	0.50%	1% to 0.75%
7	1000 crore to 5000 crore	0.375% (maximum Rs 1.25 crore)	0.375%	0.75% to 0.60%
8	5000 crore and above	As approved based on project concept and development program.		

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5.3.2 For the projects for which the Project Development Expense is borne by the concerned department and such project is successfully awarded to the developer for implementation in a Public Private Partnership format or otherwise, Jharkhand Industrial Infrastructure Development Corporation Ltd. (JIIDCO) will also be entitled to receive a portion of success fee (not exceeding 50% of the success fee received by the Project Development Agency from the Developer), as mutually decided between the Secretary, Department of Industries and the Project Development Agency on case to case basis. The gross success fee receivable from the Developer is as indicated in the table in sub clause 5.3.1.

5.3.3 JINFRA will endeavor to get the project development expenses, which includes Project development fee to the Project Development Agency incurred by the Government Department / Agencies / Authorities in development of the concerned project, reimbursed by the successful developer directly to the concerned department / agency / authority.

5. परियोजना के चयन एवं अनुमोदन के लिए मुख्य मंत्री की अध्यक्षता में प्राधिकृत समिति का गठन किया गया है। मा10 मुख्य मंत्री की व्यस्तता के कारण प्राधिकृत समिति की बैठक का आयोजन संभव नहीं हो पाता है। प्राधिकृत समिति की बैठक का आयोजन JINFRA के गठन के बाद से अब तक मात्र एक बैठक दिनांक 27.11.06 को हो सका है, इस कारण लोक निजी भागीदारी के कार्यों को बढ़ाने में कोई सफलता नहीं मिल पाई है। यह भी देखा गया है कि विभागों द्वारा लोक निजी क्षेत्र भागीदारी विषयक विभिन्न दस्तावेजों के अनुमोदन के लिए विधि एवं वित्त विभाग के पास अपने स्तर से प्रस्ताव भेजा जाता है, जिसके अनुमोदन में काफी विलम्ब होने के कारण न सिर्फ पूरी प्रक्रिया में ज्यादा समय लगता है, वरन परामर्शी सेवाओं पर अत्यधिक व्यय करना पड़ रहा है। इस निमित्त जिन्फ्रा के साथ हुए Memorandum of Agreement की कंडिका- 4 में "**Chief Minister**" के वाक्यांश को "**Chief Secretary**" वाक्यांश से प्रतिस्थापित किया जाता है एवं कार्यों को सुचारू रूप से एक निश्चित समय सीमा तक निर्णय लेने हेतु मुख्य सचिव की अध्यक्षता में प्राधिकृत समिति निम्नांकित सदस्यों के साथ गठित की जाती है :-

- I. विकास आयुक्त,
- II. प्रधान सचिव/सचिव, वित्त विभाग अथवा उनके द्वारा नामित प्रतिनिधि,
- III. प्रधान सचिव/सचिव, राजस्व एवं भूमि सुधार विभाग अथवा उनके द्वारा नामित प्रतिनिधि,
- IV. प्रधान सचिव/सचिव, उद्योग विभाग,
- V. सचिव, विधि विभाग अथवा उनके द्वारा नामित प्रतिनिधि,
- VI. परियोजना के प्रशासी विभाग के सचिव,
- VII. प्रबंध निदेशक, जिडको,
- VIII. मुख्य सचिव द्वारा नामित दो विशेषज्ञ एवं
- IX. प्रबंध निदेशक, जिन्फ्रा विशेष आमंत्रित

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25

इस समिति का दायित्व परियोजना के चयन, RFP, अन्य संबंधित दस्तावेजों का अनुमोदन लोक निजी क्षेत्र भागीदारी के चयन का अनुमोदन एवं अन्य अनुषंगी कार्य होंगे, जिससे कि लोक निजी क्षेत्र भागीदारी को मूर्त रूप दिया जा सके।

6. इस संकल्प को दिनांक 01 फरवरी, 2007 को हस्ताक्षरित Memorandum of Agreement के साथ रखा जाय।

आदेश: आदेश दिया जाता है कि इस संकल्प को झारखण्ड राजपत्र के अगले असाधारण अंक में प्रकाशित किया जाए।

झारखण्ड राज्यपाल के आदेश से,

H0/-
(एन0 एन0 सिन्हा)
सरकार के सचिव।

ज्ञापांक _____/रांची, दिनांक
9/उ0नि0(जिन्फा नि0 मंडल)-065/2006

प्रतिलिपि: अधीक्षक, राजकीय मुद्रणालय, डोरण्डा, राँची को झारखण्ड राजपत्र के आगामी अंक में प्रकाशित करने एवं उसकी 100 प्रतियाँ इस विभाग को प्रेषित करने हेतु अग्रसारित।

H0/-
सरकार के सचिव।

ज्ञापांक _____/रांची, दिनांक
9/उ0नि0(जिन्फा नि0 मंडल)-065/2006

प्रतिलिपि: महालेखाकार, झारखण्ड, राँची को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

H0/-
सरकार के सचिव।

ज्ञापांक 25-05 _____/रांची, दिनांक 23/10/2005
9/उ0नि0(जिन्फा नि0 मंडल)-065/2006

प्रतिलिपि: महामहिम राज्यपाल के प्रधान सचिव/महामहिम राज्यपाल के सलाहकारों के आप्त सचिव/मुख्य सचिव के सचिव/सदस्य, राजस्व पर्वद के सचिव/विकास आयुक्त के सचिव/ प्रधान सचिव/सचिव, सरकार के सभी विभाग/सभी विभागाध्यक्ष/झारखंड राज्य विद्युत बोर्ड, झारखण्ड, राँची/सभी प्रमंडलीय आयुक्त/सभी उपायुक्त/निदेशक उद्योग, झारखंड/प्रबंध निदेशक, सभी औद्योगिक प्राधिकारों/प्रबंध निदेशक, झारखण्ड औद्योगिक आधारभूत संरचना विकास निगम लिमिटेड/प्रबंध निदेशक, झारखण्ड आधारभूत संरचना विकास निगम लिमिटेड को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित।

Nehe
23/10/05
सरकार के सचिव।

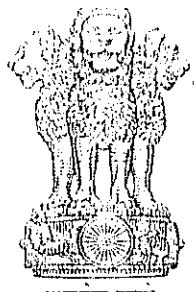
भारतीय गैर न्यायिक

(74)
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एक सौ रुपये

Rs. 100

₹. 100



ONE
HUNDRED RUPEES

भारत INDIA
INDIA NON JUDICIAL

झारखण्ड JHARKHAND

334924

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MoA) executed on this 7th day of February 2007
between:

Sangata Maitha

The Jharkhand Infrastructure Development Corporation Limited, a company incorporated under the Companies Act, 1956, having registered office at 183/C, Road No. 4, Ashok Nagar, Ranchi 834002, Jharkhand, India (hereinafter referred to as 'JINFRA' which expression shall unless repugnant to the context thereof, include its successors and assigns) of the **FIRST PART**

AND

IL&FS Infrastructure Development Corporation Limited, a company incorporated under the Companies Act, 1956 (1 of 1956) and having its Registered Office at "UG Floor, Mahindra Towers, 2A Bhikaji Cama Place, New Delhi 110066, in the State of Delhi (hereinafter referred to as 'IIDC', which expression shall, unless repugnant to the context thereof, include its successors, assigns, affiliates, associate/group companies, and funds under management) of the **SECOND PART**

JINFRA and IIDC are hereinafter referred to individually as 'The Party' and collectively 'The Parties'

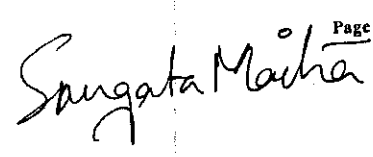
Sangata Maitha

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WHEREAS

- A. The Jharkhand Infrastructure Development Corporation Limited (JINFRA) is a joint venture company of JIDCO, a Government of Jharkhand (GoJ) enterprise and IL&FS and has been incorporated as a Special Purpose Company (SPC) pursuant to the Memorandum of Agreement dated.....executed between JIDCO, GoJ and IL&FS (Tripartite Agreement) for undertaking project development activities in respect of the identified projects. The company has been mandated to promote industrial development in the state of Jharkhand and assist private initiative in industry and infrastructure development, implementation and management.
- B. IIDC is a wholly owned subsidiary company of IL&FS Limited an investment banking institution, and is engaged in advisory and project development activities across diverse sectors in a Public Partnership (PPP) format in collaboration with Government of India, State Governments and the Private sector. It specialises in providing integrated and comprehensive professional services towards development of infrastructure projects and related components from project conceptualisation to project implementation
- C. Infrastructure Leasing & Financial Services Limited (IL&FS) is a leading institution in the field of infrastructure development promoted by UTI, Central Bank of India and HDFC. The IL&FS group of companies have successfully collaborated with several other State Governments including Punjab, Andhra Pradesh, Kerala, Goa, Karnataka, Himachal Pradesh, Tamil Nadu, Gujarat and Uttaranchal to assist these State Governments in structuring, developing and implementing infrastructure projects in Public Private Partnership (PPP). The IL&FS group companies have significant expertise and experience in this sector, in policy formulation and related aspects for catalysing privatisation.
- D. IIDC has been involved in a several PPP initiatives in the country in a variety of infrastructure sectors like industrial parks and SEZs, surface transport projects, water supply and urban infrastructure, civil aviation, e-governance, IT and tourism. IIDC has developed and pioneered the concept of Special Purpose Vehicle (SPV) and have successfully used it in several of its projects thereby demonstrating a successful PPP


Managing Director
Jharkhand Infrastructure Development


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project. I IDC therefore have in depth understanding of all the issues pertaining to development of PPP Models.

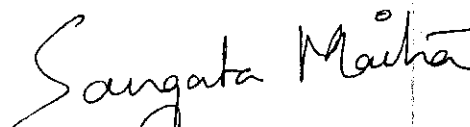
- E. JINFRA/ State Government of Jharkhand is desirous of undertaking a comprehensive program for the infrastructure and industrial development of the State of Jharkhand. For this purpose, they wish to utilize the resources and expertise of I IDC and its associate companies in order to facilitate professional Project Development resulting in rapid Implementation of Projects, access funds from the Central Government, Bilateral and Multilateral Agencies, promote industrial development and introduce Public Private Partnerships where possible and appropriate.
- F. Jharkhand Infrastructure Development Corporation Limited (JINFRA) and IL&FS wish to jointly finance the Project Development activities for mutually agreed infrastructure projects in Public Private Partnerships, and I IDC is in a position and willing to provide all services pertaining to the objectives of Government of Jharkhand as outlined in Para D above.

Now therefore, JINFRA and I IDC have entered into this MoA to undertake a diverse range of activities and hereby agree hereto as under

Definitions:

- a) "Agreement" shall mean this Agreement together with its Annexures signed by the Parties hereto.
- b) "Affiliate" means, in relation to any Person, any entity controlled, directly or indirectly, by that Person, any entity that controls, directly or indirectly, that Person, or any entity under common control with that Person or, in the case of a natural Person, any Relative of such Person. Without limiting the generality of the above, a holding or subsidiary company of any entity shall be deemed to be an Affiliate of that entity.
- c) "Applicable Law" shall mean and include law, rule, regulation, ordinance, order, treaty, judgment, notification, decree, bye-law, governmental approval, directive,



Managing Director

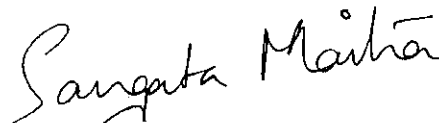

Sangata Maitha

(21) [Signature]

guideline, requirement or other governmental restriction, or any similar form of decision of, or determination by, or any interpretation, policy or administration, having the force of law and shall include any of the foregoing, injunction, permit or decision of any central, state or local, municipal government, authority, agency, court having jurisdiction over the matter in question, whether in effect as of the date of this Agreement or thereafter, in any jurisdiction.

- d) **"Force Majeure"** shall mean any event or circumstance or combination of events or circumstances which is beyond the reasonable control of a Party and which prevents such Party from performing any of its obligations or duties under this Agreement. Such events or circumstances shall include, without limitation, the effect of any natural element or other acts of State or God (including but not limited to fire, flood, earthquake, lightning, cyclone, landslides or other natural disasters), strikes or other industrial disturbances, war, riots, civil commotion, terrorist attacks, embargoes, blockades, governmental restriction, intervention of civil, naval or military authorities, change in Applicable Law.
- e) **"Implementing Agency"** shall mean a firm, company or consortium to whom the implementation of a Project is awarded through a competitive bidding process on terms as finally approved by JINFRA and would include a Special Purpose Vehicle (SPV), if any, formed by JINFRA for the purpose of implementation of the project.
- f) **"Landed Project Cost"** shall have the meaning assigned to such term Annexure B.
- g) **"Project(s)"** shall mean those infrastructure projects in the State of Jharkhand as agreed upon between the Parties, which may be selected for development under the provisions of this MoA (collectively called the "Projects") and shall include such other Projects as may be entrusted to JINFRA by Other Departments/Agencies under the control of Government of Jharkhand.
- h) **"Project Development"** shall mean all activities in respect of a Project commencing from identification up to and including preparation of project assessment reports, feasibility studies, specifications, drawings, financing models, structuring,


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bidding/contract documents to enable invitation of bids for selection of bidders through transparent competitive bidding process for implementation of a Project.

- i) "Project Development Cycle" shall have the meaning ascribed to this term in Annexure A.
- j) "Project Development Fund or PDF" shall mean one or more corpus as set up by JIIDCO and IL&FS pursuant to the Tripartite Agreement, and to be deployed for meeting the expenditure incurred for Project Development activities of the of the various projects.
- k) "Project Implementation" shall mean those activities in respect of a Project commencing from the end of development stage and shall also include financing, construction, operation and maintenance. The implementation of a Project would be taken up by the Implementing Agency to whom the Projects are entrusted by JINFRA, such as a firm, company or consortium selected to do so through a competitive bidding process on terms as finally approved by JINFRA.
- l) "Project Implementing Agency/Implementing Agency": The entity to which the implementation of a Project is awarded by the JINFRA and would include any SPV formed for this purpose or the JINFRA itself in case it decides to implement the project itself.

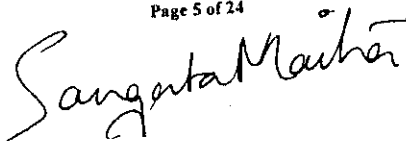
1. OBJECTIVES OF MOA

1.1 Institutional Arrangement

Through this Memorandum of Agreement the Parties agree to establish a "Project Development and Promotion Partnership" as an institutional arrangement where IIDC will work together with JINFRA on industrial and infrastructure development in Jharkhand in general, and in particular on evolving projects in Public-Private-Partnership through (PPP) mechanisms.


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1.2 To achieve above objective, the Parties will undertake several activities that will focus on:

- (a) Project Development and Implementation of Projects in Public Private Partnerships
- (b) Proposal Preparation and Process Management to access funds from Central Government (e.g. Industrial Infrastructure Upgradation Scheme) and Bilateral and Multilateral Agencies
- (c) Assistance for Industrial Promotion in Jharkhand
- (d) Program & Project Management for public funded (government financed) projects
- (e) Engaging specialised technical consultants / professionals to undertake the above activities.

These activities have been detailed out below

1.3 **Project Development and Implementation of Projects in Public Private Partnerships**

The parties will jointly develop and implement infrastructure projects that are suitable for implementation in Public Private Partnership formats.

a) Possible PPP Structures

- (i) User fee Based PPP's
- (ii) Annuity Based PPP's

The PPP approach in such cases will enable government to raise resources and implement projects expeditiously on the strength of future revenues.

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b) Project Development for PPP's

In order for such PPP projects to be able to attract private capital, substantial project preparation and development work will need to be undertaken. This will include undertaking Techno Commercial Feasibility Studies, Financial Modelling and Engineering, Risk Management Plans, Environmental and Social Impact Assessments, Marketing of the projects, Management of the Procurement Process, design of appropriate Contractual and Regulatory Structures, management of the Government approval process at the state and the central government levels etc.

1.4 Proposal Preparation and Process Management for Access to funds from Central Government and Bilateral and Multilateral Agencies

Substantial sources of financing for specific infrastructure projects are available from the Government of India as well as from bilateral and multilateral agencies. However, detailed preparatory work and good quality proposals are necessary pre-requisites in order to successfully access these funds.

1.5 Assistance for Industrial Promotion in Jharkhand

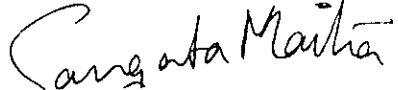
Jharkhand is home to substantial natural resources including fruits and vegetables, herbs and medicines, and agricultural produce. Substantial industrial activity can be built around these natural resources with suitable linkages with the government of Jharkhand.

As part of various project mandates, IIDC will conduct a detailed analysis from time to time to identify the industrial potential of Jharkhand as well as the bottlenecks faced by potential investors. Based on the analyses appropriate strategies will be formulated and implemented to attract private investors to industrial activity in the state.

This will include steps to market Jharkhand state at the major industrial centre of the country.


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2. PROJECT SELECTION AND FINANCING ARRANGEMENTS

2.1 Selection of projects for development

Selection of projects to be taken up for Project Development will be done jointly by JINFRA and IIDC. They shall also periodically review the progress of projects and tasks being taken up under the agreement. Initially the following projects have been identified:

- Mega Industrial Growth Centre at Barhi
- Auto Industrial Park at Adityapur
- Knowledge City, Jharkhand
- Re-development of Bacon Factory at Ranchi
- Redevelopment of Birsa Munda Memorial Old Jail Complex at Ranchi
- Development of Common Effluent Treatment Plant (CETP) and Hazardous Waste Management Facility (HWMF)
- Integrated Horticulture Market and Food Processing Zone at Ranchi
- Development of Five Star Hotel with Convention Centre at Ranchi
- Operation and Maintenance of Shopping mall, Multiplex, Banquet Hall and Club being constructed as part of National Games Facilities at Ranchi
- Any other project referred to IIDC by JINFRA from time to time.

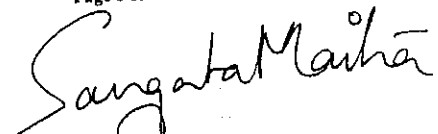
3. ROLE OF JINFRA

3.1 Co-ordinate with the Government and its Agencies

Coordinate with the Government of Jharkhand, its departments and its agencies for specific work to be jointly undertaken by the parties and to facilitate the decisions and approvals on issues such as project clearances, project agreements and fiscal concessions, including all clearances, approvals, permissions, NoC, etc as may be required during the project development activities in respect of various projects selected for development under this MoA.


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3.2 **Contribution of human resources**

Contribute the skills and resources of its project management team, in-house professionals and other manpower available, as required for specific projects.

3.3 **Provision of Project-related Information**

To share requisite information with the parties, as may be required by them from time to time, provided the same is available with JINFRA or any public agency of the state and central government.

4. **ROLE OF IIDC**

4.1 **Provide Oversight**

Provide oversight in managing the entire process spanning Project Identification, Project Development, Program Management, Proposal Preparation and Promotion of Industrial Development.

4.2 IIDC will develop infrastructure projects on a PPP format where possible and appropriate and will undertake implementation of such projects in the PPP format (A Typical Project Development Cycle is detailed in Annexure –“A”).

IIDC will be accountable and responsible for its output and deliverables and will work seamlessly in close coordination with JINFRA as a team and keep JINFRA posted about progress and problems on a regular basis. JINFRA will endeavour to resolve problems and difficulties raised by IIDC in coordination with respective government authorities.

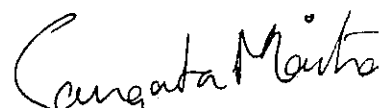
4.3 IIDC may also undertake Program / Project Management of PPP or Government Funded Projects through the implementation process upto the commissioning of the Project.

4.4 **Mobilize Financial Resources**

Mobilize financial resources from the private sector / market for the identified projects on behalf of the operator / contractor / JINFRA / State Government or a


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Special Purpose Vehicle established for the project. The terms and conditions for this role shall be mutually discussed and finalised separately.

4.5 Contribute Human Resources

Contribute the requisite technical, financial and managerial resources as well as in-house professional and other manpower available to undertake project identification and development. IIDC will depute the requisite personnel at Ranchi. The team will also carry out preliminary work and screening process of various projects mooted by JINFRA and will advise on the merits or otherwise of taking up a project for further development.

4.6 IIDC will undertake Proposal Preparation and Process Management to Access Funds from Central Government and Bilateral/Multilateral Agencies for any specific project/s. This will involve:

- Undertaking Problems Analysis to identify suitable projects,
- Performing Project Analysis and Development leading to submission of Project Proposals,
- And then taking responsibility for presenting the proposals with suitable follow up measures to ensure positive outcomes.

5. COST OF CONSULTANTS AND OTHER DIRECT COSTS

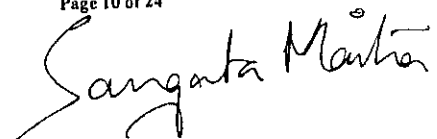
5.1 The Parties to this MoA may mutually decide to engage consultants having expertise / specialization in various areas / subjects, which may be considered essential during the course of development of projects. IIDC would undertake a suitable procurement process for hiring the services of competent external consultants under information to JINFRA. The fees, cost and expenses in engaging such external consultants shall be met directly by JINFRA.

In addition to the above costs, all direct cost incurred for effective project development activities such as issue of advertisement in national and international



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media will be the responsibility of the concerned department / agency of the Government of Jharkhand. The legal fee for development or vetting of agreements / other documents, other legal fees, pre-bid meetings and all travelling, board & lodging expenses would be debited to project development fund (PDF), established by JIDCO and IL&FS under the Tripartite Agreement, directly on actuals.


6. **FEES, SUCCESS FEES AND PAYMENT STRUCTURE**

6.1 Towards consideration for the role performed by them, the parties shall be entitled to receive Fees, Success Fees and other payments on the basis outlined below:

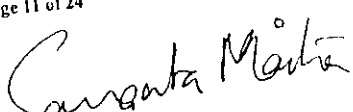
(a) A monthly professional fee of minimum Rs Two Lakh Fifty thousand (Rupees 2.5 Lacs only) shall be payable to IIDC by JINFRA in consideration of the services rendered under this MoA.

(b) Success Fee: wherever a project is successfully awarded to an implementing agency for implementation either in a Public Private Partnership format or otherwise, an indicative Success Fee of 2% of the Landed Project Cost, of each project, will be recovered from the selected successful implementing agency. The Success Fee will be shared between JIDCO and IIDC equally (or in the ratio in which investments have been made in the PDF setup by JIDCO and IL&FS). At the time of termination / expiry of this agreement or otherwise intention is expressed by either party to bring this arrangement to a conclusion, the parties would agree to share the Success Fees in a 50:50 ratio (or in the ratio in which investments have been made in the PDF) at any point of time

(c) If it is not possible to determine the Landed Project Cost, or the Landed Project Cost is not found to be an appropriate basis for fixing the Success Fees, then the Success Fees may be determined by any other suitable mechanism mutually acceptable to the Parties at the Initial Screening Report stage.


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- (d) For Project Management role mentioned in Para 4.3, parties would negotiate mutually acceptable fee structure in project specific context.
 - (e) In case, JINFRA decides to drop any project before its completion without assigning any reasons or reasons not attributable to IIDC, it shall pay a fraction (50%) of success fee to IIDC and also reimburse to the PDF the expenses on professional fees and direct costs. However, if the project is deemed to be not to be viable after the initial due diligence the project will either be shelved and no further payments will be made on that account. Similarly, if both IIDC and JINFRA decide that the project should be put on hold for a certain period of time after preliminary work has been carried out professional fees in relation to that project as described in (a) above will not be applicable.

6.2 Treatment of Taxes

It has been agreed between the parties to this MoA that all fees payable to IIDC in pursuance of this MoA shall be net of service taxes i.e. service tax would be paid for, in addition to the Fees.


7. ACCOUNTING TREATMENT OF PROJECT DEVELOPMENT EXPENSES ON PPP PROJECTS

All expenses incurred by IIDC and other contributors towards Project Development and financing of projects on a PPP format, will be capitalized in the project and recovered on appropriate returns from the project.

8. VALIDITY & TERMINATION

This MoA will be valid until terminated by either party, by giving one months' prior written notice to the other party, of its intention to terminate the MoA. In the event of such termination JINFRA shall pay to IIDC all the direct cost's together with the


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professional fees for services rendered upto the date of termination and success fees in accordance with clause 6.1(e) hereof.

During the validity of the MoA, the parties shall take effective steps for the implementation of the provisions of this MoA. Any act on the part of the parties after termination of this MoA by way of communication, correspondence etc., shall not be construed as an extension or revival of validity of this MoA. In the event of early termination of this MoA for any reason, the liability of the Parties shall be restricted to the amounts that have become payable to the Parties till the date of termination of MoA.

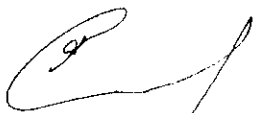
The termination of this Agreement shall not affect the rights of the Parties accrued prior to such termination.

9. **AMENDMENT/WAIVER**

No amendment, modification or waiver of any provision of this MoA shall in any event be effective unless the same has been made in writing and signed by a duly authorized officer of each of the parties, and approved in writing by other and any waiver or consent shall be effective only in the specific instance and for the specified purpose for which it is given.

10. **GOVERNING LAW AND JURISDICTION**

This MoA shall be governed and construed in accordance with the substantive laws of India and all matters arising out of or related to this agreement shall be subject to the jurisdiction of the courts at Ranchi, Jharkhand


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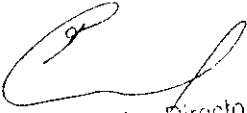

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11. INTERPRETATION

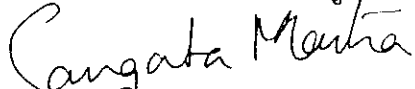
The various headings appearing in this MoA are only for the sake of convenience and shall not affect the interpretation of the subject matter of various clauses of this MoA.

12. FORCE MAJEURE

- a) A Party shall not be liable to the other Party for any loss, injury, delay, damages or other casualty suffered or incurred by the latter due to Force Majeure, and any failure or delay by any Party in performance of its obligations under this Agreement due to Force Majeure shall not be considered as a breach of this Agreement.
- b) The Party suffering Force Majeure shall notify the other Party in writing promptly after the occurrence of such Force Majeure and shall, to the extent reasonable and lawful, use its best efforts to remove or remedy such cause. Upon the occurrence of any circumstances of Force Majeure the Party claiming Force Majeure shall use all reasonable endeavors to continue to perform its obligations under this Agreement and to minimize the adverse effects of such circumstances. Such a Party shall notify the other Party of the steps it proposes to take including any reasonable alternative means for performance. In the event any obligation cannot be performed due to continuance of a Force Majeure event for a period of 60 (sixty) days, the Parties agree that the time period for the performance of such obligation shall stand extended for an equivalent period after such time as the Force Majeure event ceases to exist.


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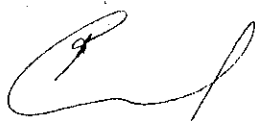
13. DISPUTE RESOLUTION

13.1 If any dispute or difference of any kind whatsoever arises between the parties in connection with or arising out of or relating to or under this MoA, the parties shall promptly and in good faith negotiate with a view to its amicable resolution and settlement. In the event no amicable resolution or settlement is reached within a period of thirty (30) days from the date on which the above-mentioned dispute or difference arose, such dispute or difference shall be finally settled by arbitration. The arbitral tribunal shall consist of a sole arbitrator appointed by mutual agreement of the parties. In case of failure of the parties to mutually agree on the name of a sole arbitrator, the arbitral tribunal shall consist of three arbitrators. Each party shall appoint one arbitrator and the two arbitrators so appointed shall jointly appoint the third arbitrator. The seat of arbitration shall be Ranchi and the arbitration shall be conducted in the English language. The Arbitration and Conciliation Act, 1996 shall govern the arbitral proceedings. The arbitral tribunal shall render its award within a period of 45 days from the date of commencement of arbitration proceedings and the award rendered by the arbitral tribunal shall be final and binding on the parties.

13.2 Any unresolved dispute or difference or the initiation or continuance of the arbitral proceedings shall not be a cause for postponing or delaying the performance by the parties of their respective obligations under or pursuant to this MoA. Further, this MoA shall remain subsisting and operative during the arbitral proceedings and no payment due and payable shall be withheld, except the payment in dispute, if any.

14. CONFIDENTIALITY

The Parties acknowledge the confidentiality of the information, which may be transferred between the Parties from time to time as being essential to this Agreement and agree not to disclose the same to any other third party. However, each Party shall be free to disclose such information as is:



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- a) Part of the public domain at the time of disclosure;
 - b) Required to be disclosed by official authorities in accordance with the applicable law;
 - c) To their professional advisors;
 - d) To their officers, employees, agents or representatives, who need to have access to such information for the proper performance of their activities; The obligation of Parties as defined above shall apply notwithstanding termination of this Agreement.

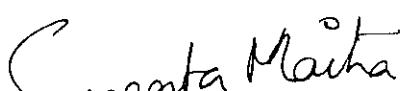
15. EXCLUSIONS

Each Party shall be free to pursue its interests outside the purview of the Agreement in other States as well as in the State of Jharkhand and for this purpose to enter into other partnerships/agreements for projects including the projects similar to the projects envisaged under this MoA

16. NOTICES

- a) Notices in Writing: Any notice or other communication given or made under or in connection with the matters contemplated by this Agreement shall be in writing and in English.
- b) Method of Service: Any such notice or other communication shall be addressed as provided in clause 16 (c) and, if so addressed, shall be deemed to have been duly given or made (unless it is obvious that it has not been) as follows:
 - i) If sent by personal delivery, upon delivery at the address of the relevant Party;
 - ii) If sent by registered post, 5 days after dispatch; and


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iii) If sent by facsimile transmission, when dispatched, but only if the sender's transmission report shows the entire facsimile to have been received by the recipient with 'OK' transmission report.

c) **Address for Notices:** The relevant addressee, address and facsimile numbers of the Parties for the purposes of this Agreement, subject to clause 16 (d) are:

Party : JINFRA
Kind Attn: : Abhaya K. Agarwal
Managing Director
Address : 183/C, Road No. 4
Ashok Nagar, Ranchi
Phone : 0651-2242172
Fax : 0651-2242173

Party : IL&FS Infrastructure Development Corporation Limited
Kind Attn: : Saugata Maitra, Asst. Vice President
Address : UG Floor, Mahindra Towers, 2A,
Bhikaji Cama Place, New Delhi - 110 066
Ph No. : 011 - 417 90200
Fax No : 011 - 246 82070/71

d) **Change of Address**

A Party may notify the other Party of a change to its name, addressee, address and telex or facsimile numbers for the purposes of clause 16 (c) provided that such notification shall only be effective on:

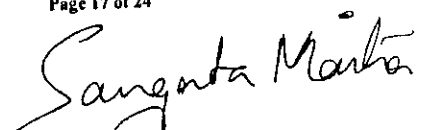
- i) The date specified in the notification as the date on which the change is to take place; or
- ii) If no date is specified or the date specified is less than five-days after the date on which notice is given, the date falling five days after notice of any such change has been given.



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IL&FS Infrastructure Development Corporation

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17. **GENERAL**

a) **Remedies and Waiver**

No delay or omission on the part of any Party in exercising any right, power or remedy provided by applicable Law or under this Agreement shall impair such right, power of remedy or operate as a waiver thereof.

The single or partial exercise of any right, power or remedy provided by applicable Law or under this Agreement shall not preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by applicable Law.

b) **Severability**

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the applicable Law of any jurisdiction, that shall not affect or impair:

- i) The legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- ii) The legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this Agreement.

c) **Counterparts**

The parties in two counterparts, each of which shall be deemed to be original but both of which shall constitute one and the same instrument, are executing this agreement.


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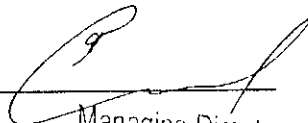


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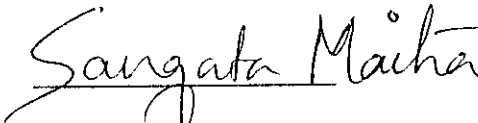
IN WITNESS WHEREOF the Parties hereto have put their hand on the date first above-mentioned

For and on behalf of JINFRA



Managing Director
Jharkhand Infrastructure Development
Corporation Ltd. (JINFRA)

For and on behalf of IIDC



Sangata Maitha

Witness:

1. _____

2. _____

Place: Ranchi
Date: 7/2/2007

Annexure A

Typical Project Development Cycle

The typical Project Development Cycle for a project to be developed is detailed hereunder. However, the precise scope of project development will have to be identified on a project-specific basis

- (1) Initial Project Screening: After identifying the projects to be implemented on commercial format, Initial Screening exercise would be taken up where upon a quick review of each project's technical, environmental, social, financial and legal viability would be taken up. This stage would culminate in Initial Screening Report (ISR) of each project. Upon approval of ISR, further project development work would be undertaken.

- (2) Project Documentation: The starting point is structuring of the project and creating the necessary project documentation that would establish the bankability of the project and position it for private sector participation. These documents enable the potential sponsors of the project to evaluate the project from a commercial perspective. The Project documentation would consist of the following core documents:

- Detailed Feasibility and Project Report
- Investment Banking Report
- Environmental and Social Assessment Report
- Risk Management Plan
- Bidding Documents
- Contract Documentation
- Project Information Memorandum

This stage would also include approvals/Clearances from all stakeholders on project documentation and statutory Project approvals

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(3) Technical Close: To select a suitable operator/contractor for the project and achieve technical close, the following activities would be taken up:

(a) Formation of Bid Evaluation Review Committee

(b) Qualifying Criteria and Selection Methodology for the Operator/Developer: Based on the requirements of the Project, the Committee would decide the qualification criteria and the selection methodology for the operator/contractor.

(c) Short-listing of Operators/Developers: Based on the Detailed Feasibility and Investment Banking Report, Request for Qualification (RFQ) document would be prepared for short-listing eligible Developers / operators. Review and approval of the RFQ by the Bid Evaluation Review Committee would also form part of this stage.

(d) Issue of suitable advertisement to elicit response from interested parties. RFQ would be issued to the interested parties who respond to the advertisement. After holding a pre-bid conference to clarify potential bidder queries and suitable amendments / clarifications to the RFQ would be issued thereafter. Based on the RFQ and the bids received, short-listing the operators, who meet the eligibility conditions, would be carried out. Preparation of the bid evaluation report, which is reviewed and approved by the Bid Evaluation Review Committee, would be next stage.

(e) Selection of the Operator/Developer: Preparation of Request For Proposal (RFP) document, outlining the complete scope of the Project, the scope of work, risk sharing methodology, selection methodology etc., would be the next stage of project development. After review and approval by the Bid Evaluation Committee of the RFP document, RFP would be issued to the short listed parties. The selection of designated operator / contractor for the project is undertaken based on the responses received from the bidders. The final selection process may involve a two-stage evaluation of technical and financial bids



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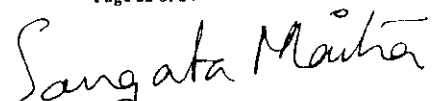
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Cangata Mantra


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- (f) Finalization of Contract: A Negotiation Team (NT) would be formed for negotiations of the final terms of contract with the preferred bidder and finalization of the relevant contracts. The negotiations would culminate in signing of the relevant contracts (Management / Construction / O&M)
- (4) Financial Close: On signing of the contract, the selected operator/Developer for the project would be required to undertake tying up of the financial arrangements through his own resources or through financial institutions for the debt/equity components. Depending on the assistance needed by the selected operator/ contractor for achieving financial close, the following activities may be taken up by IIDC:
- (a) Financial Requirements: Decide ways and means to fund the costs of implementation;
- (i) Risk Management Framework: The risk management framework developed earlier during project development could entail a combination of government financial support, contingent funding structures, demand/ supply management through appropriate phasing and overall co-ordination to ensure implementation of projects.
- (ii) Financial Structuring: Infrastructure Projects are capital intensive and require long term financing. At the post-commissioning stage of project implementation, the financial structuring of the project for self-sustainability requires innovative financing mechanisms typically during the early period due to low revenues.
- (iii) Preparation of Project Information Memorandum: IIDC would lead and manage the preparation of documents such as preparation of project information memorandum (for financial institutions), dialogue and presentations to be able to garner adequate support from funding agencies


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②
- (b) Merchant Banking: Arrange the equity and debt to undertake the projects on a commercial format. The Partners may arrange equity and debt contribution from the domestic and foreign financial institutions, interested promoters, multilateral aid agencies and other lending agencies


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Jharkhand Infrastructure Development
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Sangata Maitha

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Annexure B

Landed Project Cost Basis

The components for landed project cost would include:

- i. The costs incurred for carrying out project related activities such as formulation, development, design, engineering, construction, operation, management consultancy etc.
- ii. Total capital outlay on the project, which includes cost of land, Government grant (if any), material, labour transport, consumables, testing, commissioning overheads, sundries, contingencies, insurance, supervision, etc.
- iii. Any fees (including professional and success fees), commissions, levies and taxes.
- iv. Expenses related to fund mobilization such as fees for financial services, brokerage, interest, commission, publicity expenses etc.
- v. Interest during construction.



Managing Director
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Sangata Mahto