



L.N. MALVIYA INFRA PROJECTS PVT. LTD.

Head Office : T-10, 11th Floor, City Centre, Press Complex, Plot No. 1, M.P. Nagar, Zone-I, Bhopal (M.P.) 462 011
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E-mail : lnmalviya@rediffmail.com, Website : www.lninfra.com
CIN No. :- U45201MP2010PTC024316

Letter No.: LNM/PD/NHAI/V-A/2024-25/0893

Dated: 05.04.2024

To,
Mr. Priyaranjan,
Authorized Signatory
Soma Indus Varanasi Aurangabad Tollway Pvt. Ltd.,
Plot No. 266,268, Gram-Mauja Akhri,
Post-Kuradhua, Tehsil- Sadar, Near Indra Hospital
Varanasi (U.P.) – 221005

Name of Work:- Independent Engineering Service for the of six Lanning of Varanasi Aurangabad section of NH-2 from Km. 786.00 to Km. 978.400 in the state of U.P./Bihar on Design, Build, Finance, Operate and Transfer (DBFOT) Toll Basis under NHDP Phase-V **Subject: Not taking up the remedial measures for rectification of defective works and poor maintenance of project highway.**

Ref:

1. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0119 dated 27.04.2023
2. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0150 dated 13.05.2023
3. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0196 dated 01.06.2023
4. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0231 dated 15.06.2023
5. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0238 dated 22.06.2023
6. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0241 dated 23.06.2023
7. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0258 dated 07.07.2023
8. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0268 dated 20.07.2023
9. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0374 dated 16.09.2023
10. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0395 dated 05.10.2023
11. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0399 dated 06.10.2023
12. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0615 dated 07.11.2023
13. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0626 dated 24.11.2023
14. IE Letter no. LNM/PD/NHAI/V-A/2023-24/0839 dated 06.03.2024
15. Con. Letter no. SI-PO/NH-2/2023-24/14854 dated 21.03.2024
16. NHAI letter no. NHAI/PIU-SSM/SOMA/2023/8974 dated: 27.03.2024

Dear Sir,

- 1 Reference your letter no. NHAI letter no. Con. Letter no. SI-PO/NH-2/2023-24/14854 dated 21.03.2024.
- 2 The Project has entered into Commercial operation since 12 Sep 2011 after signing of the agreement. Your kind attention is drawn to Article 3.1.2 (c), (d), and (e) vide which concession was granted and concessionaire shall oblige to agree the same.

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- 3 As per Article 8.1.5, "all risks related to Project shall be borne by Concessionaire and the Authority shall not be liable in any manner for such risks and consequences thereof." are the responsibility of the concessionaire
- 4 Provisions of Article 17 of concession agreement is applicable from the date of commencement of commercial operation. Your contention that Pavement failures like Rutting, undulations and cracks in the surface is due to overloaded vehicles using the project highway is not agreed to as the same is your responsibility as per Article 17.1.1 of CA. Your attention is drawn to subcases 17.1.1(g) for the same. In case you have taken adequate preventing measures with the assistance of concerned law enforcement agencies with information to Authority, please, elucidate the same for the assistance by the Authority. In this connection your kind attention is invited to Article 27.10 of Concession agreement -Additional fee for Overloaded vehicles are applicable. It has been noticed that the same are being applied in the Project Highway while collecting user fee by you. Therefore, your contention that the overloading of vehicles is responsibility of Authority and State Govt is not agreed to.
- 5 Also, your attention is drawn to Article 17.11.1 (d) & (e) reproduced as under:

"During the Operation Period, the Concessionaire shall operate and maintain the Project Highway in accordance with this Agreement either by itself, or through the O&M Contractor and if required, modify, repair or otherwise make improvements to the Project Highway to comply with the provisions of this Agreement, Applicable Laws and Applicable Permits, and conform to Specifications and Standards and

Good Industry Practice. The Obligations of the Concessionaire hereunder shall include:

(d) Carrying out periodic preventive maintenance of the Project Highway;

(e) Undertaking routine maintenance including prompt repairs of potholes, cracks, joints, drains, embankments, structures, pavement markings, lighting, road signs and other traffic control devices.

In view of above, the concessionaire is requested to comply with contractual obligations, otherwise shall be penalized as per provision of Article 17.8 of concession agreement.

- 6 IE has requested concessionaire vide has letter Ref no. 1 to 14 to rectify the defects, concessionaire has taken partial remedial measures by redesigning the pavement with SMA for the actual loading of the pavement and Time limits for rectification was mutually agreed by the concessionaire and Authority, but, has

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stopped rectification of pavement defects without any information to IE or extension of time request to rectify the defects. If this situation continues for further 7 days, IE shall be compelled to take action as per Article 17.8 of CA. If there is further failure by the concessionaire in rectification of defects, IE shall recommend the competent Authority of NHAI to take remedial action by laying SMA as per approved design by IE as under Article 17.9 of Concession Agreement.

- 7 In view of above it is requested to attend to the pavement failures as per Pavement design of SMA approved by IE immediately to avoid levying of Damages as per provisions of Concession agreement.

Yours Sincerely

For L. N. Malviya Infra Projects Pvt. Ltd.


Rajesh Kumar Singh

Acting Team Leader cum Highway Engineer



CC: 1: Project Director, NHAI, PIU, Sasaram Bihar
2: Sh. R.K Bansal, The Engineer
3: Office Copy

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