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**REPUBLIC OF ALBANIA**  
**MINISTRY OF TRANSPORT AND**  
**INFRASTRUCTURE**

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**BIDDING PROCEDURE DOCUMENTS**  
**FOR**  
**MILOT - MORINE HIGHWAY**  
**CONCESSION**  
**REQUEST FOR PROPOSAL**

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**8 February, 2016**

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## Definitions

Terms defined in the Draft Concession Contract in Annex 8 shall, unless otherwise defined in the Bidding Procedure Documents, have the same meanings when used in the Bidding Procedure Documents.

“Bid” means a Bid submitted in accordance with these Bidding Procedure Documents.

“Bid Documents” means the documents submitted by a Prospective Bidder as part of a Bid in accordance with paragraph 16.

“Bid Evaluation Committee” means the bid evaluation committee established by the Contracting Authority in accordance with the Decision of the Council of Ministers N.634, dated 1/10/2014 "ON THE APPROVAL OF RULES FOR EVALUATING AND AWARDED OF CONCESSIONS / PUBLIC PRIVATE PARTNERSHIPS IN PUBLIC WORKS FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND REHABILITATION OF NATIONAL ROADS" (DCM N.634, dated 1/10/2014) as amended.

“Bid Requirements” means the bid requirements set out in paragraph 16.

“Bid Security” means any bid security required in accordance with the DCM N.634, dated 1/10/2014.

“Bidding Procedure” means the bidding procedure set out in the Bidding Procedure Documents.

“Bidding Procedure Documents” means this bidding procedure document together with Annexes 1 – 14.

“Capital Works Financial Close” means the date on which the Concessionaire achieves financial close in respect of Capital Works.

“Concession Contract” means the draft concession contract attached at Annex 8.

“Contact Person” means the person identified in paragraph 2.1.3.

“Contract Security” means any contract security required in accordance with paragraph 2.1.5.

“Contracting Authority” means the Ministry of Transport and Infrastructure of the Republic of Albania.

“Construction Unit Price Manual” means the set of market reference prices approved by the Council of Ministers of Albania and published every six months in the Official Gazette and at [www.transporti.gov.al](http://www.transporti.gov.al) or in the event that publication is discontinued, such other manual as may replace the current form from time to time or is agreed between the Parties acting reasonably to be an acceptable replacement.

“Data Sites” means the Virtual Data Site and the hard drives of data made available to the Prospective Bidders.

“DCM N.634, dated 1/10/2014 means Decision of the Council of Ministers N. 634,dated 1/10/2014 "ON THE APPROVAL OF RULES FOR EVALUATING AND AWARDED OF CONCESSIONS / PUBLIC PRIVATE PARTNERSHIPS IN PUBLIC WORKS FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND REHABILITATION OF NATIONAL ROADS" as amended.

“Due Diligence Memorandum” means the agreement entered into by each of the Prospective Bidders in respect of the Data Sites processes and rules.

“Financial Bid” means the documents comprising the financial section of the Bid as set out in paragraph 16.4.

“Highway” means the Milot – Morine Highway as described in the Concession Contract.

“Lead Member” shall be the member of a consortium duly authorised by all other consortium members to act on their behalf in respect of the Project.

“Legal Bid” means the documents comprising the legal section of the Bid as set out in paragraph 16.2.

“Prequalification Application” has the meaning given to it in the Request for Qualification.

“Prequalified Bidder” has the meaning given to it in the Request for Qualification.

“Prospective Bidder” has the meaning given to it in the Request for Qualification.

“Reference Financial Model” means the audited financial model of the Selected Bidder as reviewed and approved by the Contracting Authority.

“Request for Qualification” means the request for qualification in relation to the Project issued on or about the date of the Bidding Procedure Documents.

“Selected Bidder” means the Prospective Bidder selected to enter into the Concession Contract as a result of achieving the best score in the evaluation of Bids.

“Selected Bidder’s Declaration Notice” means a notice in the form of Annex 4.

“Submission Deadline” means the time and date of the submission deadline set out in paragraph 2.2.1.

“Technical Bid” means the documents comprising the technical section of the Bid as set out in paragraph 16.3.

“Virtual Data Site” means the virtual due diligence data room (accessible via the Internet).

## **Bidding Procedure Documents**

### **1. General Information**

#### **1.1 Objective of the Bidding Procedure**

The Contracting Authority has decided to award a concession to upgrade, operate and maintain the Milot – Morine Highway (the “Project”) through a public private partnership in accordance with the terms of the Bidding Procedure Documents.

#### **1.2 Prospective Bidders**

All interested parties are invited to submit Bid Documents for the Project.

#### **1.3 Highway description**

The Highway forms part of the National Roads network of Albania. Linking Milot, approximately 60 km north east of the Adriatic port of Durres, with Morine at the Kosovo border, the route forms the central section of the wider Albania to Kosovo Highway, connecting Tirana and Durres with Kosovo.

Constructed in stages, the Highway is comprised of three sections, built to differing engineering standards:

- Section 1: Milot - Rreshen (26 km) is a two-lane road financed by the World Bank, IDA and the OPEC Fund. The section starts at the Milot Junction, which is at the intersection with the Tirana-Shkoder highway;
- Section 2: Rreshen - Kalimash (60.3 km) is a four-lane motorway in mountainous terrain built by Bechtel-Enka JV between April 2007 and June 2009 with Government funding. It includes the 5.5 km Thirra tunnel;
- Section 3: Kalimash - Morine (28.2 km) is a four-lane expressway with the exception of seven bridges which are two-lane, completed in 2011 with Government funding.

The Highway contains 57 bridges and 5 overpasses. Out of the 57 bridges, 37 are dual carriageway (all bridges in Section 2 and some in Section 3), 16 are single carriageway (all in Section 1 and the existing bridge over river Drini), and the rest are under construction by the Government (the left carriageway, all in Section 3).

Pavement strength is satisfactory and no failures are expected to occur due to traffic. Section 2 has been constructed with a semi-rigid pavement, while Sections 1 and 3 have a flexible pavement structure.

Traffic along the Highway varies between 4,200 AADT at the Thirra tunnel (Section 2) and 6,400 AADT in the vicinity of Milot (Section 1).

#### **1.4 Summary of main Concession terms**

The main objective of the Concession is upgrading of the Highway, particularly slope stabilization works, and its effective operation and maintenance. Core Concession terms include the following:

1. Subject of the concession/PPP project: the road between Milot and Morine, consisting of sections Milot-Rreshen, Rreshen-Kalimash, and Kalimash-Morine.
2. Duration of the concession term: 30 years (subject to the earlier termination of the Concession Contract in accordance with its terms).
3. Activities to be performed by the concessionaire: upgrading, financing, constructing, operating (including tolling) and maintaining the Milot-Morine highway subject to a set of contractually defined performance standards.
4. Sources of concessionaire's revenue: (i) toll revenues collected from road users; (ii) an annual subsidy payable by the Contracting Authority to the concessionaire, the level of which shall be fixed and proposed by the concessionaire as part of its Bid; and (iii) payments received from the Contracting Authority in accordance with the Guaranteed Traffic Revenue as defined in the Concession Contract. For the avoidance of doubt payments under head (iii) above shall only be made in the event that toll revenues collected under head (i) fall below the level of the Guaranteed Traffic Revenue and shall only be made in order to address the shortfall.
5. Concession fee payable by the concessionaire: none.
6. Governing law: the Concession Contract shall be governed by the law of the Republic of Albania.
7. Bidding criterion: the winning bidder shall be selected on the basis of the lowest annual subsidy requested from the Contracting Authority.

## **2. Notice of Contract**

### **2.1 General**

#### **2.1.1 Contracting Authority**

Ministry of Transport and Infrastructure of the Republic of Albania

#### **2.1.2 Contracting Authority address**

Sheshi "Skenderbej", No. 5  
Tirana, Albania

#### **2.1.3 Name and address of contact person**

Mr. Eduart Seitaj  
Secretary General  
Ministry of Transport and Infrastructure of the Republic of Albania  
Sheshi "Skenderbej", No. 5  
Tirana, Albania

Email: [Eduart.Seitaj@transporti.gov.al](mailto:Eduart.Seitaj@transporti.gov.al)

Any communication, question or information required by Prospective Bidders about the Bid Procedure shall be addressed only to the Contact Person, with a copy to the IFC's Transaction Leader at [okudashov@ifc.org](mailto:okudashov@ifc.org).

#### **2.1.4 Type of Contracting Authority and the scope of its action or main activity**

## Central Institution

### 2.1.5 Contract signature

The Contracting Authority will inform the Selected Bidder by issuing a Winner's Declaration Notice. A detailed copy of this notice shall be published in the Public Announcements Bulletin.

The Contracting Authority will require Contract Security for the performance of the Concession Contract in accordance with the terms of the Concession Contract.

### 2.1.6 Governing Law

All documents provided by the Contracting Authority to Prospective Bidders are governed by and interpreted under the laws of the Republic of Albania.

## 2.2 Bidding Procedure

### 2.2.1 The Bid

The Submission Deadline for Bids is:

Date: 9 May, 2016

Time: 15:00 Central European Time

Prospective Bidders shall submit their Bid Documents in both English and Albanian, electronically, by uploading them prior to the Submission Deadline onto the web-based portal of the Albanian Public Procurement Agency at [www.app.gov.al](http://www.app.gov.al). Bids submitted after the Submission Deadline will be rejected.

Instructions for uploading the Bid Documents can be found in the Albanian and English languages on the web-based portal of the Albanian Public Procurement Agency at [www.app.gov.al](http://www.app.gov.al). Requests for clarification in relation to the electronic submission of the Bid Documents shall be submitted to the Contact Person in accordance with the procedure set out in paragraph 2.1.3 of this Request for Proposals.

Each page of the documents contained in the original Bid must be consecutively numbered and initialed.

All figures expressed in the Bid should be expressed in the following format "1,000 (one thousand)" and in the case of inconsistency words shall prevail over numbers.

### 2.2.2 Virtual Data Site

A Prospective Bidder should apply for access to the Virtual Data Site by sending an email to the Contract Person, with a copy to IFC, as per paragraph 2.1.3. Upon receiving the email Contracting Authority, or IFC on its behalf, will send to the Prospective Bidder a copy of the Due Diligence Memorandum and Confidentiality Agreement, which the Prospective Bidder should promptly sign and send back to the Contact Person, with a copy to IFC, as per paragraph 2.1.3, following which the Prospective Bidder will receive an invitation to access to the Virtual Data Site.

### 2.2.3 Questions



Requests for clarification to the Bidding Procedure Documents should be submitted via email to the contact persons listed in paragraph 2.1.3.

Requests for clarification may be submitted any time prior to:

Date 25 April], 2016          Time: 15:00 Central European Time

The Contracting Authority shall not be obliged to respond to any request for clarification or other communications received after this date.

The Contracting Authority will distribute replies to requests for clarification via the Virtual Data Site to all Prospective Bidders without exception.

#### 2.2.4      Project Data and Information

The Contracting Authority has completed the following analyses, reports of which have been made available to Prospective Bidders on the Virtual Data Site:

- traffic analyses and toll feasibility study, which include information about traffic counts, road user interviews, willingness to pay surveys, interviews with transport companies and traffic and revenue forecasts;
- comprehensive diagnosis of the condition of the Highway, including pavement quality assessment, stress testing of bridges etc.;
- geotechnical survey, which included a LiDAR survey of all geologically complex sections of the Highway, ortho-photo imaging, detailed ground testing, engineering geology mapping at a scale of 1:1,000 as well as identification, definition, description and hazard classification of all slopes on the Highway;
- as-built drawings of the existing Drini bridge and conceptual design of the new Drini bridge.

#### 2.2.5      Data Sites Processes and Rules

The Prospective Bidders are only permitted to access the Data Sites in accordance with the processes and rules set out in the Due Diligence Memorandum.

#### 2.2.6      VAT

Unless stated otherwise, all references to costs, expenses, fees and prices shall be expressed exclusive of VAT.

### **3.      Confidentiality**

#### 3.1      Confidentiality of Bid

Any material, document, act or written statement containing any information shall be regarded as confidential if it:

- is by its nature secret;
- is determined to be confidential.

Prospective Bidders must clearly identify any document or information that they wish to remain confidential by filling in the form as provided in Annex 12 “List of Confidential Information”.

Any discussion, communication or negotiation between the Contracting Authority and the Prospective Bidders remains confidential. If not provided by law, court decision or request for proposal, no party can disclose technical information, pricing information or any other information relating to the Bidding Procedure without prior approval.

The Contracting Authority will not have violated the obligations to maintain confidentiality regarding a Prospective Bidder in the case when data:

- is provided by the Contracting Authority to its employees, consultants or subcontractors only in relation to the Bidding Procedure or in order to prepare for or manage any contract;
- is provided to personnel of the Contracting Authority to enable the effective management and control of the Bidding Procedure;
- is issued by the Bid Evaluation Committee to enable the evaluation of Bids;
- is issued by the Contracting Authority in response to a request by a committee of the Parliament of Albania;
- is issued by the Contracting Authority within the Government of Albania or to a different Government Department or Agency in accordance with the legitimate interests of the Government of Albania and the Contracting Authority;
- is required by law to be issued.

### 3.2 Confidentiality of Contracting Authority information

Information provided by the Contracting Authority to Prospective Bidders shall be treated as confidential by the Prospective Bidder, its representatives and consultants.

Bidders must ensure that their employees, subcontractors and consultants do not disclose or communicate data obtained during the preparation of the Bid from the Contracting Authority, Bid Evaluation Committee or any third party except as permitted by the Contracting Authority.

The Contracting Authority may require that all written information (whether confidential or not and regardless of the way such information has been provided to Prospective Bidders) given to Prospective Bidders:

- be returned to the Contracting Authority – in which case all such information shall be returned immediately by the Prospective Bidder to the address identified by the Contracting Authority; or
- be destroyed by the Prospective Bidder – in which case Prospective Bidders will be required to immediately destroy all such information and provide the Contracting Authority with written evidence of such destruction.

### 3.3 Use of Bid documents

All Bids become the property of the Contracting Authority.

Notwithstanding the above and without prejudice to any subsequent agreement signed between the Contracting Authority and any Prospective Bidder, the ownership of intellectual property rights in respect of information contained in the Bid remains unchanged.

The Contracting Authority may use data contained in any proposal or data provided by a Prospective Bidder for the purposes of the Bidding Procedure (including the preparation or management of any contract or agreement).

The Contracting Authority shall treat the Prospective Bidders equally during the Bidding Procedure respecting confidentiality and information provided by them.

#### **4. Clear reference and compliance**

Prospective Bidders should include in any document a clear reference to the relevant page and paragraph of the Bidding Procedure Documents.

Each Bid must contain a Prequalification Application and comply with all of the requirements of the Bidding Procedure Documents.

Subject to paragraph 16.3.4, any financial information in connection with the Bidding Procedure should be expressed in Euro or Lek (but for the avoidance of doubt if the same financial information is submitted in both Euro and Lek, the Lek amount shall be used for the purposes of evaluation and the Euro amount shall be discarded). If any elements of a Bid are submitted in a foreign currency, that amount will be evaluated by reference to local currency. All amounts would be converted by reference to the official rate of the Bank of Albania on the day that Bids are opened.

All measurements should be expressed in Albanian legal standards of measurement as per Law No. 9875, dated 14.02.2008 "On Metrology" (as amended).

The Contracting Authority may exclude any Bid which is not prepared in accordance with this paragraph 4.

#### **5. Diffusion of information**

##### **5.1 Public statements**

The Prospective Bidder shall not make any statement or issue any document or material or provide information for publication in any media in connection with the Bidding Procedure, the evaluation of Bids, the acceptance of any Bid, the conduct of negotiations or any notice of appointment of a Selected Bidder without the prior written consent of the Contracting Authority.

The Contracting Authority may exclude any Prospective Bidder which does not comply with this paragraph 5.1.

##### **5.2 Additional rights of Contracting Authority**

Without limitation to its other rights during the Bidding Procedure, the Contracting Authority may at any time ahead of Bid Submission without giving any reasons:

- provide any additional information or clarification to all Prospective Bidders;

- seek further information from any Prospective Bidder about its Bid;
- require clarification from any Prospective Bidder;
- change the structure or timing of the Bidding Procedure;
- extend the Submission Deadline, during which each Prospective Bidder shall be given the opportunity to amend Bids;
- answer any questions addressed for clarification to the Contracting Authority by the Prospective Bidders and publish the question and response via the Virtual Data Site;
- decline to respond to requests for information;
- require a written response from any Prospective Bidder in respect of any change to the Bidding Procedure;
- repeat, suspend, re-establish or terminate the Bidding Procedure.

Prospective Bidders do not have the right to make any claim against the Contracting Authority, the Bid Evaluation Committee, the Government or any of its officials, contractors, employees, agents or advisers in relation to the exercise or failure to exercise any of the rights set out in this paragraph 5.2.

### 5.3 Internal documentation

The Contracting Authority is not obliged to make any internal documentation (including assessment reports or consultations) public.

### 5.4 False information

Any Prospective Bidder who provides false information may be excluded from the Bidding Procedure at any time. If the provision of false information is discovered after signature of the Concession Contract, the Contracting Authority has the right to terminate the Concession Contract in accordance with its terms.

## 6. Bid validity and costs

### 6.1 Bid Validity

Each Bid shall be valid for a period of 8 (eight) months from the Submission Deadline. The Bid of the Selected Bidder will be valid until the Effective Date and the Contracting Authority shall be able to request that the Bid of an unsuccessful Prospective Bidder be extended for any duration up until the Effective Date, such extension to be at the discretion of the relevant Prospective Bidder.

### 6.2 Costs

Each Prospective Bidder shall bear its own costs and expenses in respect of the preparation and submission of its Bid.

In addition, the expenses associated with the cost of the Bidding Procedure in relation to the preparation of documentation and specialised consulting in the amount of \$1,750,000

USD (one million seven hundred and fifty thousand US dollars) shall be borne by the Selected Bidder and shall be paid directly to IFC in accordance with the provisions of the Concession Contract.

The Concessionaire shall also reimburse to the Contracting Authority costs related to the publication of the contract notification in the amount of EUR 20,000 (twenty thousand Euros) within 30 (thirty) calendar days of receiving the Winning Bidder Notification.

## **7. Conflict of interest**

### **7.1 Conflict of interest**

A conflict of interest means any issue, circumstance, interest or other action that affects the Prospective Bidder (including the Prospective Bidder's officers, employees, agents and sub-contractors), which may interfere with the Prospective Bidders capability to independently and transparently conclude the Concession Contract.

A conflict of interest may arise where:

- the Prospective Bidder or any of its officers, employees, agents or sub-contractors has a relationship (professional, commercial or personal) with any individual involved in the preparation of the Bidding Procedure or the evaluation of the Bids;
- the Prospective Bidder or any of its officers, employees, agents or sub-contractors has an arrangement or relationship with any organisation or individual that will affect the execution of the Concession Contract or any other agreement between the Prospective Bidder and the Contracting Authority with regard to the Project.

In the event that a Prospective Bidder becomes aware of any conflict of interest it shall immediately inform the Contracting Authority.

In the event of a conflict of interest arising, the Contracting Authority has the option to:

- exclude the Prospective Bidder from further participation in the Bidding Procedure;
- negotiate with the Prospective Bidder to settle the conflict of interest;
- undertake any other action deemed appropriate by the Contracting Authority.

### **7.2 Unlawful actions**

In accordance with the legislation on preventing conflicts of interest and on ethics in public administration, the Contracting Authority shall reject any Bid submitted by a Prospective Bidder that has:

- given or is intending to give to any present or former employee of the Contracting Authority a gift in cash or any other form as an inducement to affect an action or decision during the Bidding Procedure;
- has an unresolved conflict of interest or dispute in relation to the Bidding Procedure.

No Prospective Bidder (including its agents and representatives) shall contact or attempt to contact any member of the Contracting Authority, any member of the Bid Evaluation Commission, or any member or employee of the Government of Albania or its departments, ministries, agencies or local executive bodies, in relation to the Bidding Procedure, except per the procedures set forth in this Bidding Procedure Document and the Due Diligence Memorandum.

The Contracting Authority will inform any Prospective Bidder and any other Government of Albania institution in writing with respect to any unlawful action and will include any notifications in the report on the Bidding Procedure.

## **8. Limitation**

### **8.1 Right to suspend the Bidding Procedure**

The Contracting Authority reserves the right to suspend the Bidding Procedure either temporarily or permanently at its sole discretion following any decision taken by the Contracting Authority, in the event of internal reorganisation or in any other unforeseen situation. Prospective Bidders will have no right to receive any compensation or costs or expenses in the event that the Bidding Procedure is suspended.

### **8.2 Right to declare the Bidding Procedure “unsuccessful”**

Pursuant to the Article 33 of the Decision of the Council of Ministers N. 634, dated 1/10/2014 "ON THE APPROVAL OF RULES FOR EVALUATING AND AWARDED OF CONCESSIONS / PUBLIC PRIVATE PARTNERSHIPS IN PUBLIC WORKS FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND REHABILITATION OF NATIONAL ROADS" as amended, the Contracting Authority will consider this Bidding Procedure unsuccessful if:

- no Prospective Bidder is a Prequalified Bidder;
- no Bids comply with the Bid Requirements;
- the Contracting Authority decides that the Project or Bids do not provide an economic or acceptable solution for the Project to the Contracting Authority;
- the Council of Ministers does not approve the Concession Contract.

It shall be deemed that by submitting the Bid, the Prospective Bidder agrees and releases the Contracting Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.

## **9. Additional information and modifications to the Bidding Procedure Documents**

### **9.1 Requirements for additional information**

Prospective Bidders may submit questions to the Contracting Authority in accordance with paragraph 2.2.3.

Prospective Bidders shall identify any information included in any question which is considered to be confidential and the reasons for its confidentiality. The Contracting Authority shall consider the confidentiality of any information prior to providing a response.

The Contracting Authority shall have discretion to answer questions submitted by Prospective Bidders and shall provide answers in accordance with the terms of the Bidding Procedure Documents without disclosing the source of the question or any confidential information relating to any Bid or any Prospective Bidder and without disclosing the source of the question except when the question itself reveals the identity of the source.

A Prospective Bidder shall immediately notify the Contracting Authority in the event that any Prospective Bidder considers that there is any non-compliance, mistake, uncertainty or discrepancy in the Bidding Procedure, the Bidding Procedure Documents or any information provided by the Contracting Authority in order that the Contracting Authority can make any readjustment it deems appropriate.

## **9.2 Modification of the Bidding Procedure Documents**

The Contracting Authority may modify the Bidding Procedure Documents at any time.

Any amendment shall form an integral part of the Bidding Procedure Documents.

## **10. Unintentional errors or mistakes in the Bid**

The Contracting Authority will not accept any modification or addition to a Bid following the Submission Deadline. The Contracting Authority shall not be responsible for any losses or consequences arising out of a bid containing an error, including in the financial model. If as a result of the audit the financial model of the Selected Bidder must be modified, such modifications shall have no impact on the Bid. If following the Submission Deadline a Prospective Bidder decides to withdraw its bid due to an error, the provisions of Paragraph 11 below shall apply and the Contracting Authority shall be entitled to call the Bid Security.

## **11. Bid Security**

Pursuant to the Decision of the Council of Ministers N. 634, dated 1/10/2014 "ON THE APPROVAL OF RULES FOR EVALUATING AND AWARDING OF CONCESSIONS / PUBLIC PRIVATE PARTNERSHIPS IN PUBLIC WORKS FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND REHABILITATION OF NATIONAL ROADS" as amended, each Prospective Bidder shall provide a Bid Security in the amount of €250,000.00 (two hundred fifty thousand Euros).

The Bid Security shall be a guarantee issued by a reputable bank with an investment rating of at least BBB- (S&P) or equivalent in the form set out in Annex 2. The Bid Security shall be valid until up to and including 240 (two hundred and forty) calendar days after the Submission Deadline.

The Contracting Authority reserves the right to require the extension of the validity of the Bid Security of the Successful Bidder in the event that this is reasonable and appropriate for a period of up to 210 (two hundred and ten) calendar days.

In the event that the Bid validity of an unsuccessful is extended pursuant to paragraph 6.1 the Bid Security of that Prospective Bidder shall be extended for the same duration.

Bid Security shall be submitted together with the Bid no later than the Submission Deadline. Bids submitted without a Bid Security will be rejected by the Bid Evaluation Committee and the Contracting Authority.

Bid Security covering a Bid submitted by a consortium shall be in respect of the consortium as a whole and in the name of each member of the consortium.

The Contracting Authority will return the Bid Security of unsuccessful Prospective Bidders as soon as possible but no later than 30 (thirty) calendar days after the expiry of the Bid Security's validity period in accordance with this paragraph 11.

The Contracting Authority will return the Bid Security of the Selected Bidder on receipt of the Contract Security.

Bid Security may be retained by the Contracting Authority only in the following circumstances:

- a Prospective Bidder withdraws its Bid during the Bid's validity period;
- the Selected Bidder does not provide the Contract Security and/or does not sign the Concession Contract within the terms specified in the Selected Bidder's Declaration Notice;
- a Prospective Bidder has offered or tried to offer any kind of recompense to employees of the Contracting Authority that are related to the Project;
- a Prospective Bidder has made false declarations in its Bid;
- the Selected Bidder does not make payments in accordance with paragraph 6.2 within the period established by the Contracting Authority.

## **12. Evaluation of Bids**

Prequalified Bidders shall have their Bids evaluated by the Bid Evaluation Committee.

Bids will be assessed in accordance with the criteria set out in paragraphs 16 and 17.

In the event that only one compliant bid is submitted, the Bid Evaluation Committee shall nevertheless have the right to reject or accept that Bid in accordance with these Bidding Procedure Documents.

In the event that two or more Prequalified Bidders, that each receive a pass in respect of their Technical Bids, are evaluated with identical scores in relation to the Financial Bid (the "Tied Bidders"), the Contracting Authority shall identify the Selected Bidder by inviting the Tied Bidders to submit their best and final offer. Such offer shall be submitted using the same forms as under the original Bid and must be received by the Contracting Authority within such a period as defined by the Contracting Authority. In the event that the Financial Bids of the Tied Bidders remain identical the Contracting Authority shall be entitled to repeat this process until the Financial Bids achieve different scores.

The Bid Evaluation Committee has been constituted upon the order of the Contracting Authority in accordance with Decision of the Council of Ministers N. 634, dated 1/10/2014 "ON THE APPROVAL OF RULES FOR EVALUATING AND AWARDED OF CONCESSIONS / PUBLIC PRIVATE PARTNERSHIPS IN PUBLIC WORKS FOR THE CONSTRUCTION,



OPERATION, MAINTENANCE AND REHABILITATION OF NATIONAL ROADS" as amended. The Bid Evaluation Committee will prepare a report for the Contracting Authority on its recommendations in respect of the Bids. The report of the Bid Evaluation Committee will be informative to the Contracting Authority with recommendations in respect of the Selected Bidder.

### **13. The role of other state institutions and experts**

The Contracting Authority or the Bid Evaluation Committee may ask for any assistance or advice from other state institutions or experts (including legal, financial or technical) during the Bid evaluation process.

The Bid Evaluation Committee will review any suggestions, assessment or advice provided by other state institutions or experts as a relevant part of the Bid evaluation process.

### **14. Security, integrity and other controls**

The Contracting Authority may perform any reasonable investigation or similar procedure that it deems necessary to examine the integrity and financing relating to a Bid or the Prequalified Bidder.

The Prequalified Bidder shall immediately provide any information or assistance required by the Contracting Authority in order that any necessary investigation can be made. The Contracting Authority is entitled to exclude any Bid from further assessment if a Prequalified Bidder does not provide the required information or reasonable assistance to the Contracting Authority.

The Bid Evaluation Committee shall be entitled to ask questions of the Prequalified Bidders independently regarding any issue considered relevant by it to the evaluation of Bids.

### **15. Work schedule**

The schedule for the Bidding Procedure is as indicated below:

1.	Issue of the draft Bidding Procedure Documents	8 February, 2016
2.	Issue of the draft Concession Contract	8 February, 2016
3.	Deadline for submission of initial requests for clarification and comments	22 February, 2016
4.	Prospective Bidders' Conference (Tirana)	29 February -4 March, 2016
5.	Deadline for submission of additional requests for clarifications and comments ahead of final draft release	14 March, 2016
6.	Issue of the final draft Bidding Procedure Documents	28 March, 2016
7.	Submission Deadline	9 May, 2016

The Contracting Authority is entitled to modify the schedule for the Bidding Procedure at its discretion pursuant to paragraph 5.2. All modifications to the schedule for the Bidding Procedure shall be notified to the Prospective Bidders through the Virtual Data Site and/or through e-mail.

## **16. Bid Documents and Bid Requirements**

### **16.1 Bid Documents**

The Bid Documents comprise:

- (a) Prequalification Application in accordance with the Request for Qualification
- (b) Legal Bid
- (c) Technical Bid
- (d) Financial Bid

### **16.2 Legal Bid**

- 16.2.1 Prospective Bidders shall provide a Bid Declaration Form (Annex 1), which includes, among other things, a statement confirming that they accept the terms of the Concession Contract (as amended in accordance with the Bidding Procedure Documents, if applicable) as drafted. In case the Prospective Bidder is a Consortium, Annex 1 – Bid Declaration Form must be signed by the authorized representative of each Consortium member.
- 16.2.2 Prospective Bidders shall provide certified copy(ies) of the board of directors, shareholders and/or applicable governing body(ies) resolution(s) of the Prospective Bidder (with appropriate notarisation and legalization/apostille) for the submission of the Bid and the approval of the Prospective Bidder entering into and performance of the Concession Contract. In the event of a Consortium, such resolution(s) shall be required from each Consortium member.
- 16.2.3 Prospective Bidders shall provide a power of attorney which shall be apostilled/legalised (if executed before a Public Authority) regularly as set out in Annex 7.
- 16.2.4 Prospective Bidders shall provide the Bid Security substantially in the form set out in Annex 2 herein.

### **16.3 Technical Bid**

Each Prospective Bidder shall provide a Proposal for the Construction Works and a Proposal for the Operation and Maintenance Services, as specified hereafter:

- 16.3.1 Proposal for the Construction Works, as a minimum, must include the following sections and contents:
  - (a) Initial Geotechnical Works: (i) the list of works to be carried out, which must conform to the list specified in Schedule 6 of the draft Concession

Contract, (ii) a short description of the methods and techniques to be used for detailed designs and execution of the works and of subcontractors and project management team experience with slope stabilization works, (iii) a timetable for implementation of the works which must comply with the construction completion deadlines set out in Clause 6.2.2 of Schedule 5 of the Concession Contract, and (iv) a Priced Bill of Quantities (which for the avoidance of doubt shall be used for both the Initial Geotechnical Works and the Kukes Bridge), in the format set forth in Annex 14 of the Bidding Procedure Document and subsequently in Schedule 7 of the draft Concession Contract.

- (b) Kukes Bridge: (i) a plan and a timetable to carry out engineering studies and detailed designs and subsequent construction works, which should comply with the technical specifications set forth in the draft Concession Contract, (ii) relevant experience records of the main subcontractors and project management team, (iii) a timetable for implementation of the works which must comply with the construction completion deadlines set out in Clause 6.2.2 of Schedule 5 of the Concession Contract, and (iv) a Priced Bill of Quantities in the format set forth in Schedule 7 of the draft Concession Contract (which for the avoidance of doubt shall be used both for the Kukes Bridge and the Initial Geotechnical Works).
- (c) Other Works: (i) a list and a short description of other works, including the toll plaza, O&M and administrative buildings, facilities and equipment, (ii) a plan and a timetable for their design, procurement and execution, and (iii) a plan and a timetable for the procurement of the project management team.

16.3.2 The Proposal for the Operation and Maintenance Services, as a minimum, must include the following sections and contents:

- (a) Organization: an organization chart of the concessionaire, including the main organizational units, a short description of key management and technical positions, the names and experience records of key personnel, and estimated total numbers of staff in the main organizational units.
- (b) Tolling: an outline plan to collect tolls, including short descriptions of the methods and technologies to be used, of the administrative, control and reporting systems to be established, and of the composition of the staff and supervision team.
- (c) Traffic Control: an outline plan for traffic control and assistance to users, including handling of emergencies and lane closures, estimates of staff and other resource requirements.
- (d) Routine Maintenance: outline plan for routine inspections and maintenance activities, including those for winter maintenance, including short descriptions of the methods and techniques to be used, planning, control and reporting systems, performance monitoring and evaluation, estimates of staff and other resource requirements.
- (e) Heavy Maintenance: a short description of the general approach to monitoring condition of assets and to planning and execution of heavy maintenance, particularly pavements, structures and the Thirra tunnel,

and estimates of staff and other resources to be allocated for these activities.

- (f) Quality Assurance: a description of the proposed approach to quality control, including procedures, methods, staff and other resources to ensure the quality of construction works and operations and maintenance services in accordance with the contractual requirements, including their environmental, health and safety aspects. It is expected that the proposed systems would meet relevant ISO standards, even if ISO certification is not a requirement.

16.3.3 The Priced Bill of Quantities referred to in sections 16.3.1 (a) and (b) shall be used for calculating the amounts of compensation payments related to future variation orders or eligible compensation events as set forth in the draft Concession Contract. All unit prices proposed by the Selected Bidder shall be priced in Euros and shall be subject to review by the Bid Evaluation Committee for the purpose of determining whether such unit prices are (i) consistent with the bidder's construction cost estimates included in its Financial Model; (ii) substantially consistent with the reference unit prices most recently published in the Construction Unit Price Manual; and (iii) substantially consistent with prevailing market unit prices. In the event that one or more unit prices offered by the Selected Bidder would be determined by the Bid Evaluation Committee not to have achieved any one or more of (i), (ii) or (iii) above, the Selected Bidder would be requested to present a revised Priced Bill of Quantities. If the revised Priced Bill of Quantities is again determined not to have achieved any one of (i), (ii) or (iii) above, the Bid Evaluation Committee may reject its bid.

## 16.4 Financial Bid

### 16.4.1 Contracting Authority Subsidy

Prospective Bidders shall submit the form set forth in Annex 10 of this Bidding Procedure Document, containing the amount of the Contracting Authority Subsidy requested by the Prospective Bidder for years three (3) through fifteen (15) of the Concession Period (inclusive). The Contracting Authority Subsidy shall be a fixed amount and shall not vary between years.

### 16.4.2 Financial Model

Prospective Bidders shall submit a financial model designed and built in accordance with generally accepted industry practices for toll road concessions financed on a project finance basis and requirements of Annex 11. The financial model of the Selected Bidder shall be audited and shall become the Reference Financial Model following review and approval of the Contracting Authority. A template spreadsheet has been provided through the Virtual Data Site which must form part of the Prospective Bidders' financial model. If the template spreadsheet, unaltered, is not part of a Prospective Bidder's financial model, then such Prospective Bidder's Bid will be invalid.

For the purposes of EUR / LEK conversion in their financial models, Prospective Bidders shall use the Official EUR / LEK Exchange Rate displayed on the web page of the National Bank of Albania at 15:00 CET on the date which falls 7 (seven) calendar days prior to the Submission Deadline.

Prospective Bidders shall use annual fixed rate Bid Euro swap equivalent of 6 month EURIBOR/LIBOR with tenor as per Prospective Bidders' preference, as published by ICAPEURO at 10am London/11am Frankfurt time 7 (seven) calendar days prior to the Submission Deadline as Base Rate assumptions in their Financial Models. The Contracting Authority shall confirm the list of Base Rates in writing to the Prospective Bidders and shall provide a printout of the relevant curves which can be used for the purpose of determining the Base Rates no later than 5 (five) calendar days prior to the Submission Deadline.

## **17. Evaluation**

### **17.1 Evaluation Criteria**

Bids will be evaluated on the extent to which they meet the requirements and objectives of the Contracting Authority for the Project set out in the Bidding Procedure Documents:

- **Legal Bid**

Legal Bids will be evaluated on a Pass / Fail basis. Legal Bids which provide all the documents specified in Section 16.2 above and are otherwise determined as satisfactory by the Bid Evaluation Committee will be assigned a Pass. Legal Bids with one or more missing or unsatisfactory document(s) will be assigned a Fail.

- **Technical Bid**

Technical Bids will be evaluated on a Pass / Fail basis. Technical Bids will be assigned a Pass if they provide all sections specified in Section 16.3 above, include all of the contents which are specified for each section, and are otherwise determined by the Bid Evaluation Committee to be substantially responsive to the Bidding Procedure Documents, including relevant Sections and Schedules of the draft Concession Contract. Technical Bids with one or more missing or unsatisfactory sections will be assigned a Fail.

- **Financial Bid**

Financial Bids will be evaluated on the basis of the Contracting Authority Subsidy requested.

Financial Bids will be ranked according to the Financial Criterion from lowest (best) to highest (worst).

The Bid Evaluation Committee will evaluate each Bid against each of these criteria and undertake a comparative evaluation of the Bids in order to make a recommendation to the Contracting Authority as to which Bid offers the best solution in accordance with the criteria set out in this paragraph.

### **17.2 Evaluation of Financial Bids**

The Bid Evaluation Committee shall not evaluate the Financial Bid unless a Prequalified Bidder has achieved a Pass for all elements of the Legal Bid and the Technical Bid.

The Bid Evaluation Committee shall evaluate the Financial Bids for all Prequalified Bidders which achieve a Pass for the Legal Bid and the Technical Bid. The ranking of Financial Bids

in accordance with paragraph 17.1 shall determine the final ranking of these Prequalified Bidders.

### 17.3 Process for evaluation

In performing the evaluation the Bid Evaluation Committee and / or the Contracting Authority:

- may consider information provided by a Prequalified Bidder in response to one criteria in the evaluation of another criteria;
- does not place any regard to the order of the evaluation criteria; and
- has the right to request clarifications and additional nonessential information from the Prequalified Bidders to the extent a Bid is unclear.

The Bid Evaluation Committee and the Contracting Authority reserve the right to exclude a Bid from evaluation if it finds that the Bid is incomplete or does not comply with the Bidding Procedure Requirements.

## 18. Appeal procedure

A Prequalified Bidder may request an administrative review of the evaluation process if it considers that an action taken by the Bid Evaluation Committee or the Contracting Authority is contrary to the provisions of the Concession Legislation or other applicable legislation.

Based on Article 32 of Decision of the Council of Ministers N. 634, dated 1/10/2014 "ON THE APPROVAL OF RULES FOR EVALUATING AND AWARDED OF CONCESSIONS / PUBLIC PRIVATE PARTNERSHIPS IN PUBLIC WORKS FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND REHABILITATION OF NATIONAL ROADS", as amended, a Prequalified Bidder may file a complaint at the Public Procurement Commission within 5 (five) calendar days of the date of publication of the Selected Bidder and of the ranking of Prequalified Bidders by the Contracting Authority.

On receipt of the claim the Public Procurement Commission makes a decision as to whether to suspend the Bidding Procedure and concession procedures in order to commence administrative investigation procedures and will notify the Contracting Authority within 7 (seven) calendar days.

The Public Procurement Commission will not suspend the Bidding Procedure and concession procedures if:

- a preliminary examination of the claim determines that it is not legally sound; or
- the suspension is contrary to the public interest.

Prior to the entry into the Concession Contract, the Public Procurement Commission is entitled to:

- abrogate in whole or in part the decisions or acts of the Contracting Authority;
- order the Contracting Authority to readjust the infringements before continuing with the Bidding Procedure and concession procedures.

During any administrative investigation, the Public Procurement Commission shall have all the competencies provided to it by Law but it shall conduct this process in accordance with the Albanian Legislation in force.

Any claim to the Public Procurement Commission shall be made in the appropriate form (Annex 6 attached herein) indicating the name and address of the claimant, the reference for the respective procedure, the legal basis and a description of the infringement.

Each claim shall be accompanied by an advance payment of 10% (ten percent) of the value of Bid Security. In the event that an advance payment is not provided the Public Procurement Commission will refuse to commence an administrative investigation. The advance payment shall be returned to the claimant if the claim is accepted. If a claim is unsuccessful the advance payment is retained by the Government of Albania.

The Public Procurement Commission shall make a decision within 30 (thirty) calendar days of receipt of a claim and notify the claimant and the Contracting Authority of the decision. The claimant may appeal the decision of the Public Procurement Commission at the competent court on administrative grounds within 30 (thirty) calendar days of notification of the decision.

## **19. Signature of the Concession Contract**

- 19.1 There shall be no negotiation between the Selected Bidder and the Contracting Authority in respect of any material terms of the Concession Contract, including but not limited to the main concession terms set out in paragraph 1.6, the pricing structure of the Project, the risk allocation and key commercial terms, and the Concession Contract shall be entered into materially in the form attached at Annex 8 of the Bidding Procedure Documents.
- 19.2 The Concession Contract shall be amended only so far as is required in order to: (i) reflect the Selected Bidder's Bid and amendments required to address subsequent changes, including, if applicable, changes which have been identified prior to the Submission Deadline in the response to questions document; (ii) fill in any gaps; (iii) correct errors and omissions.
- 19.3 Upon completion of the evaluation procedure and the announcement of the appointment of the Selected Bidder, the Contracting Authority sets a deadline for the execution of the Concession Contract that it is foreseen to be not later than 60 (sixty) calendar days from the issue of the said decision. This deadline may be extended at the discretion and by decision of the Contracting Authority.
- 19.4 The Selected Bidder shall be committed in submitting its Bid that in case it is appointed as Selected Bidder, it will incorporate a Special Purpose Vehicle ("SPV") in accordance with Albanian law to be approved by the Contracting Authority, for the implementation of the Project, which will enter into an agreement for the transfer of rights and obligations in accordance with Albanian law with the Selected Bidder in respect of the Concession Contract and acquire all rights and obligations of the Selected Bidder as if the SPV had initially been the Selected Bidder and entered into the Concession Contract.

## **20. Unsuccessful negotiations with first Selected Bidder**

- 20.1 In accordance with article 34 paragraph 4 of the Decision of Council of Ministers N.634, dated 1/10/2014, as amended, where the Contracting Authority determines that the negotiations with first Selected Bidder will not be concluded with the signing of the Concession Contract, then the Contracting Authority may invite in the negotiations the

second ranked Prequalified Bidder, and if failing to reach an agreement even with the second ranked Prequalified Bidder, will then invite the third ranked Prequalified Bidder and so on.

- 20.2 The Contracting Authority may in its absolute discretion refuse to enter into negotiations with any or all remaining Prequalified Bidders where negotiations break down with the first Selected Bidder and the first Selected Bidder does not execute the Concession Contract.



## **Annex 1**

### **Bid Declaration Form**

Ref: [ ]

Date: [ ]

To: Ministry of Transport and Infrastructure of the Republic of Albania

Procurement Procedure: []

Brief description of Project: Milot – Morine Highway PPP Project

Referring to the above mentioned Bidding Procedure, we, the undersigned declare that:

1. having examined the Bidding Procedure Documents, we accept without reservation the requirements, deadlines and conditions stated in the Bidding Procedure Documents;
2. we fulfil all legal, economic, financial and technical requirements stated in the Bidding Procedure Documents;
3. our Bid is valid for the period stated in the Bidding Procedure Documents;
4. if our bid is accepted we will provide Contract Security in accordance with the Bidding Procedure Documents;
5. we shall not participate as a Prospective Bidder in more than one Bid for this Project;
6. we authorise the Contracting Authority to verify the information and documents attached to this Bid;
7. we agree to sign the Concession Contract in the form of the draft Concession Contract (as adjusted in accordance with paragraph 19.2 of the Bidding Procedure Documents) if we are the Selected Bidder;
8. we understand that you may cancel the Bidding Process at any time, that you are not bound to accept any Bid that you may receive and that you invite the Prospective Bidders to Bid for the Project without incurring any liability to the Prospective Bidders, in accordance with paragraph 8 of the Bidding Procedure Documents. We agree and understand that the Bid is subject to the provisions of the Bidding Procedure Documents. In no case shall we have any claim or right of whatsoever nature if the Concession is not awarded to us.

Consortium Member:

Signature:

Seal:

## **Annex 2**

### **Form of Bid Security**

#### **Bank Guarantee**

No. ref. \_\_\_\_\_

Date [                      ]

Beneficiary:            Ministry of Transport and Infrastructure of the Republic of Albania

We have been informed that \_\_\_\_\_ (hereinafter called "the Bidder") has been requested by you to submit before the Contracting Authority the Bid Security in the amount of [amount in figures and words] as a condition for securing the Bid to Ministry of Transport and Infrastructure of the Republic of Albania in relation to the Milot – Morine Highway PPP Project.

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

The bank undertakes to transfer on account of Ministry of Transport and Infrastructure of the Republic of Albania this bank guarantee if:

- the Bidder withdraws its Bid during the Bid's validity period;
- the Bidder does not provide the Contract Security and/or does not sign the Concession Contract within the terms specified in the Selected Bidder's Declaration Notice;
- the Bidder has offered or tried to offer any kind of recompense to employees of the Contracting Authority that are related to the Project;
- the Bidder has made false declarations in its Bid;
- the Bidder does not make payments in accordance with paragraph 6.2 within the period established by the Contracting Authority

within 15 (fifteen) days from the submission of the first request in writing by the Contracting Authority, without demanding any explanations, provided that the request identifies non-fulfilment of one of the above conditions.

This guarantee shall remain in force up to and including January 4, 2017, and any demand in respect thereof should reach the Bank not later than the above date.

***Signature and stamp of the Bank***

### **Annex 3**

**Not Used.**

## Annex 4

### Form of Selected Bidder Notice

Date:\_\_\_\_\_

To: (Name and the address of the Prospective Bidder)

Short Description of the Procurement Procedure:

We hereby inform, that the following Prospective Bidders participated in the tender by offering respectively:

1. \_\_\_\_\_ Value (number and words)\_\_\_\_\_
2. \_\_\_\_\_ Value (number and words)\_\_\_\_\_
3. \_\_\_\_\_ Value (number and words)\_\_\_\_\_
- 4.....

The following Prospective Bidders are disqualified:

- 1.\_\_\_\_\_
- 2.\_\_\_\_\_

Reasons of Disqualification:\_\_\_\_\_

Referring to the abovementioned procedure, the Ministry of Transport and Infrastructure of the Republic of Albania notifies [*name and address of Selected Bidder*] that the Bid submitted on [*date*] in respect of the Milot – Morine Highway PPP Project has been accepted.

Within [] days the Bidder [*name*] is asked to submit to the Ministry of Transport and Infrastructure of the Republic of Albania:

- A signed copy of the Selected Bidder Notice.
- Contract Security in accordance with the Concession Contract.
- To make payment in accordance with paragraph 6.2 of the Bidding Procedure Documents to bank account no. 2000192003476 at WELLS FARGO BANK, N.A. (formerly known as WACHOVIA) or at such other bank in such place as IFC may from time to time designate.

In the event that the Bidder does not wish to sign the Concession Contract, you shall notify the Ministry of Transport and Infrastructure of the Republic of Albania in writing. In this case the Bid Security shall be called by the Contracting Authority.

***Contracting Authority***

[*name, signature and stamp*]

## **Annex 5**

### **Form of Standard Notice for Disqualified Bidder**

[Location and date]

[Name and address of contracting authority]

[Bidder's address]

Honorable Mr./Mrs. <name of contact person>

We thank you for the participation in the above-mentioned procedure, which is executed in compliance with the Decision of Council of Ministers N.634, dated 1/10/2014 as amended.

Your bid was accurately evaluated according to the criteria and requirements stipulated in the notice of contract and the bid's dossier.

We regretfully inform you that you have been [disqualified], due to the following reason (s) [mark the proper box]:

[your subject] [your executive manager]

participated in the compilation of the notice of contract, or the tender's file, or parts of it, that were used by the contracting authority

took illegal assistance in the compilation of the notice of contract, or the tender's file, or a part of it

[your subject]

Has been judged by a competent law court to have committed a criminal or civil violation, including corruptive practices, money laundering, criminal organization or other activities stipulated in the applicable Albanian laws or rules, or in virtue of the international agreements and conventions;

A competent law court has decided that it has committed a deceitful act or another deed equivalent to deception;

Has been sentenced by a competent law court for reasons relating to professional behavior;

Is under criminal prosecution for one of the criminal offences prescribed in the Legislation in force;

Has gone bankrupt and its activity is actually under the administration of law court, in compliance with the Decision of the Council of Ministers N.634, dated 1/10/2014 as amended;

Is in the procedure of bankruptcy declaration, in virtue of an order for obligatory liquidation or administration by the court, or according to an agreement with the creditors, or according to similar procedures, in compliance with Decision of the Council of Ministers N.634, dated 1/10/2014 as amended;

Has been sentenced by a final court decision for violations regarding professional behavior;

Has not paid the social insurance contributions, in compliance with the Albanian Legislation and the provisions in force in the country of origin;

Has not fulfilled the obligations regarding the payment of taxes, in compliance with the Albanian Legislation or the provisions in force in the country of origin;

You failed to submit:

Contracting Authority has determined that you have submitted documents containing false information or false documentation in order to be qualified;

Could not meet the requirements for bid security;

(any other reasons than those above)

#### JUSTIFICATION

[You are disqualified] [Your offer was rejected] because of these reasons, as follows:

[Enter the detailed reasons for disqualification or rejection of the offer in question]

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If you think that the Contracting Authority has violated the Decision of the Council of Ministers No. 634 dated 1/10/2014 as amended during the bidding procedure, then you are eligible to start a review procedure as provided therein. Although we could not use your services in this case, we hope that you will continue to be interested in our bidding initiatives.

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(CONTRACTING AUTHORITY)

## **Annex 6**

### **Bidding Procedure Complaint Form**

Complaint addressed to: Public Procurement Commission, pursuant to Decision of Council of Ministers N.634, dated 1/10/2014, as amended.

#### **SECTION I. Identification of the complainant**

*The complainant must be a bidder (e.g., an entity, partnership, in cooperation, or a consortium of companies).*

Full name of complainant (please type it):

Address:

City:

State:

Postal Code/ Zip Code:

Telephone no (including area code):

Fax. no. (including area code):

E-mail:

Name and position of the authorized officer who will fill in the complaint (please type it):

Signature of authorized officer:

Date (year/month/day):

Telephone no. (including area code):

Fax. no. (including area code):

#### **SECTION II. Information on the Procedure**

1. Identification no:

*Fill in the number of contract in the contract notice or bidding procedure documents, including the type of procedure used for the selected bidding (concession)*

2. Contracting Authority:

*Name of the contracting authority managing the bidding process.*

3. Bidding value:

*Calculation of the contract value (amount expressed in figures and words)*

4. Object of the Contract:

*Brief description.*

5. The deadline for the bid submission:

*The deadline of the bids submitted.*

Date (year/month/day)

6. Date of determining the winning contract:

Date (year/month/day) if applicable

### **SECTION III. Description of the complaint**

1. Legal Basis of Complaint

*(write down the legal violation, based on decisions, acts, documents, etc.)*

2. Detailed Statement of Facts and Arguments

*Give a detailed statement of facts and arguments that support your complaint. For any reason of the complaint, please specify the date on which you became aware of the facts related to the reasons of the complaint. Mention the relevant sections of the bidding procedure documents, if applicable. Use additional pages, if necessary.*

### **SECTION IV. Preliminary objection to the Contracting Authority**

*Objection is called a complaint addressed directly to the contracting authority. Attach a copy of any written complaint, including the answer, if there is one such.*

1. Have you presented any such complaint? If yes, then specify the mode of rejection (e.g., in writing, by fax, etc.).

Yes / No

2. The contracting authority where the complaint is made:

Name of contracting authority:

Name and position of the officer against whom the objection is made:

3. The nature of the Required Corrective Measure

What corrective measure did you ask for?

4. The list

*For a complaint to be considered as submitted, it must be complete. Attach a readable copy of all documents related to your complaint and a list of all these documents. The documents should normally include any notification published, all bidding procedure documents, with all amendments and annexes, your proposal, all correspondence and any written information relating to an objection that you have made. Determine which of the information is confidential, if any. Explain why the information is confidential, or submit a version of the relevant documents where confidential parts are removed and a summary of the content.*



Send the completed complaint form, all the necessary annexes and some extra copies, to: the appropriate authority under the Decision of Council of Ministers N.634, dated 1/10/2014, as amended.

Fax No. :

E-mail:

Signature and Stamp of the Complainant

## **Annex 7**

### **Form of Power of Attorney**

#### **Power of Attorney**

On this [ ] day of [ ]

Before me

The Notary in this office

The undersigned

Mr./Mrs. [ ]  
in his capacity as [ ]

Nationality: [ ]  
Holder of Passport or ID no.: [ ]  
Issued from: [ ]  
Dated: [ ]  
Residing at: [ ]

Hereby appoints Mr. / Mrs. [ ] in his capacity as [ ] to:

- execute under hand or under seal and deliver to the competent authorities all the documents listed in Schedule 1 attached hereto;
- deliver and receive any document or instrument in relation to the documents listed in Schedule 1 hereto; and
- do all things necessary and incidental in respect of the matters set out herein including to do, execute and perform any other deed or act ought to be done executed or performed to perfect or otherwise give effect to the documents listed in Schedule 1.

And is hereby authorised to appoint others for all or part of the powers delegated by the present Power of Attorney.

#### **Schedule 1**

DATED *[Insert date of execution]*

THE GRANTOR *[Insert name of the Prospective Bidder / Consortium member]*

THE ATTORNEY *[Insert name of the Lead Member representative]*

PLACE IN WHICH DOCUMENTS ARE TO BE EXECUTED AND DELIVERED

Ministry of Transport and Infrastructure, Sheshi "Skenderbej", No. 5 Tirana, Albania.

DOCUMENTS All documents in respect of the grantor's Bid in respect of the Milot – Morine Highway Concession

IN WITNESS WHEREOF the Grantor has executed this Power of Attorney [under seal] on the date set out above.

*[seal]*

*[name and title of grantor representative]*

*[Notary seal and signature]*

## **Annex 8**

### **Draft Concession Contract**

Provided separately.

## **Annex 9**

### **Initial Geotechnical Works**

The Geotechnical Tender Reports provide assessment of geotechnical and geological conditions of the Highway, as well as recommendations regarding needed geotechnical slope stabilization-hazard reduction measures. Initial Geotechnical Works shall be carried out in accordance with the assessment and requirements contained in the Geotechnical Tender Reports, and shall be defined in detail in the Concessionaire's Initial Geotechnical Plan.

Geotechnical Tender Reports and associated Plans<sup>1</sup> (October 2011, July & August 2015) contain a list of locations where slope stabilization measures are required. Initial Geotechnical Works, as defined and amended in the Concessionaire's Initial Geotechnical Plan, shall set out works on all locations identified in Table 1 below (top priority measures). The slopes where 1<sup>st</sup> and 2<sup>nd</sup> priority Geotechnical Works are proposed are also described in the Geotechnical Tender Reports and Plans. These slopes and the associated works shall be updated (by including also any additional identified motorway slopes requiring stabilization) and incorporated, as required, in the Geotechnical Works Management Plan of the Subsequent Geotechnical Works and Plans (Clause 32A.2 of the Concession Agreement).

The number of slope locations identified in Table 1 is the minimum number of slopes to be included in the Initial Geotechnical Works plan. The Concessionaire must do his own geotechnical evaluation of all slopes of the motorway taking into account their latest geotechnical conditions. Depending on the outcome of this evaluation, the Concessionaire may add in terms of Initial Geotechnical Plan update other slopes identified as requiring urgent intervention. The additional cost of carrying out such works shall not be reimbursed by the Contracting Authority. Such works shall be completed as per the provisions of Clause 32A.1 of the Concession Agreement for Initial Geotechnical Works.

Furthermore, Initial Geotechnical Works may deviate from the measures proposed by the Geotechnical Tender Reports at any of the locations identified in Table 1. In such cases, alternative measures shall have at least equivalent positive effect as the measures recommended in the Geotechnical Tender Reports and any changes in pricing as a result shall be made by reference to the Priced Bill of Quantities set out at Schedule 7 to this Agreement. In all cases the geotechnical measures must stabilize the slopes and reduce the long-term hazard. The Independent Engineer shall provide consent to any such variations in the works by means of approving the Initial Geotechnical Plan and any amendments thereto and shall verify that the overall scope and cost of the works remains materially the same.

The Initial Geotechnical Plan shall be prepared, and amended as needed, in accordance with Clause 32A.1 of the Concession Agreement and shall provide at a minimum the following information regarding Initial Geotechnical Works: type, extent, dimensions, technical details, specifications, typical and/or detailed drawings and design calculations, and a schedule in compliance with the overall time schedule of the Project.

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<sup>1</sup> a) Geological / Geotechnical Report on Sections Milot – Rreshen and Kukes – Morine (Egnatia Odos S.A. – Planet S.A., 10/2011).

b) Engineering Geological /Geotechnical Report and Engineering Geological Mapping and Hazard Ranking Layout Plans, (Egnatia Odos S.A. – Planet S.A., 10/2011).

c) Phase I Technical Report (on updated Hazard Ranking and Hazard Reduction/Stabilization Measures) and updated Engineering Geological Mapping and Hazard Ranking Layout Plans, (Egnatia Odos S.A. – Planet S.A., 07/2015).

d) Phase II Technical Report (on updated Hazard Ranking and Hazard Reduction/Stabilization Measures) (Egnatia Odos S.A. – Planet S.A., 08/2015).

Preparation and any amendment of the Initial Geotechnical Plan shall be carried out by a specialized geotechnical team made up of, as a minimum, an engineering geologist, a geotechnical engineer and a structural engineer, each of whom shall (i) be certified or registered in an accredited relevant chamber either in Albania, or in European or any other respective chamber that is acceptable to the Independent Engineer; (ii) have a minimum 12 years of experience in similar projects to the Projects; and (iii) have specific experience of (a) Engineering geological mapping for infrastructure projects including projects of similar nature and size to the Project; and (b) Design of slope stabilization works, earthworks and foundations for infrastructure projects including projects of similar nature to the Project.

The geotechnical team shall visit all motorway slopes and particularly all locations where slope stabilization - hazard reduction measures or any other action are proposed by the Geotechnical Tender Reports and collect any information necessary to make sound and justified assessment and recommendations.

**Table 1: Summary of locations and types of proposed top priority measures, Initial Geotechnical Works**

Initial Geotechnical Works				
a \ a	Unified Chainage (R: Right, L: Left) (Section's as built chainage) -The chainage of the road parts is approximate-	Hazard class June 2015	Assum ed priorit y	Proposed Measures June 2015
1	21+250 - 21+900 L (Cutting)	5	top	Clear rock trap along cutting. Gabion gravity wall at the toe from ch. 21+450 to ch. 21+650 for protection against rockfall and debris
2	22+300 - 22+550 L (Cutting)	5	top	Scaling and debris clear up. Clear rock trap. Extend wall longitudinally and in height. Rockfall protection fence. Apply shotcrete, rockbolts and drainage holes on cutting's surface.
3	27+630 - 27+900 L/R (1+710 - 1+960) (Cutting)	7 (can be 1-2 if movement s are detected)	top	Culvert exit (deep erosion and undercutting) training works at ch. 27+680 left (ch. 140+140 of interchange's right access): Gabion wall and protection against erosion of the slope with a riprap blanket. Debris clear up from culvert ch. 27+900 and from left lined ditch. Construction of riprap blanket on left cut slope at deep erosion channels. Regular monitoring and inspection (survey points – inclinometers).
4	35+330 - 35+940 L (9+390 - 10+000) (Cutting)	4	top	Concrete lining the five (5) lowermost benches from ch. 35+500 to ch. 35+940.

Initial Geotechnical Works				
a\ a	Unified Chainage (R: Right, L: Left) (Section's as built chainage) -The chainage of the road parts is approximate-	Hazard class June 2015	Assum ed priorit y	Proposed Measures June 2015
				Bolted net (1 <sup>st</sup> & 2 <sup>nd</sup> ) tier, rock fall protection fence, scaling and debris clear up. Apply shotcrete, rockbolts and drainage holes on cutting's surface at fault and failure zones. Regular monitoring and inspection. <b>Alternative:</b> Construct a twin shelter.
5	36+570 - 36+730 L (10+660 - 10+780) (Cutting)	4	top	Concrete lining the four (4) lowermost benches. Rock bolts (1 <sup>st</sup> ) berm, debris clear up, scaling, rock fall protection fence. Apply shotcrete, rockbolts and drainage holes on cutting's surface at fault and failure zones.
6	41+430 - 41+760 L/R (15+500-15+830) (Cutting)	5 (can be 1-2 if movement s continue)	top	Ground investigation boreholes. Rotational landslide stabilization design. Concrete lining cut off ditch. Tied back pile wall, toe berm and long drainage holes. Toe berm-scour protection at the river (~200m), concrete lining of the cut off ditch. Regular monitoring and inspection (survey points, inclinometer). Debris clear up, reshape left slope, riprap blanket on slope from ch. 41+340 to 41+480.
7	50+790 - 51+050 R (5+960-6+320) (Cutting)	1-2	top	Ground investigation boreholes. Landslide stabilization design. Cut back. Concrete lining new benches. Lime-cement sealing of fault zone and tension cracks. Shotcrete, rockbolts and drainage holes. Gabion wall (backfilled) toe berm. Regular monitoring and inspection (survey points, inclinometer).  <b>Alternative:</b> Construct a twin shelter ~100m - 150m long backfilled at either side (fill 10m-15m on top of the concrete slab).
8	57+280 - 57+440 R 12+350-12+600 (Cutting)	2-3	top	Cascade, debris clear up, vegetation, toe berm (size to be determined after ground investigation boreholes and design). Clear rock trap, unblock transversal drainage pipe at 57+360. Drainage holes.
9	64+260- 64+390 R 19+420-19+550 (Cutting)	5	top	Concrete lining the three (3) lowermost benches. Apply shotcrete, rockbolts and drainage holes on cutting's surface at fault and failure zones.

Initial Geotechnical Works				
a\ a	Unified Chainage (R: Right, L: Left) (Section's as built chainage) -The chainage of the road parts is approximate-	Hazard class June 2015	Assum ed priorit y	Proposed Measures June 2015
10	65+180 - 65+260 R 20+340-20+420	5	top	Concrete lining the three (3) lowermost benches. Apply shotcrete, rockbolts and drainage holes on cutting's surface at fault and failure zones.
11	67+740 - 67+840R 22+900-23+000 (Cutting)	5	top	Concrete lining the three (3) lowermost benches. Apply shotcrete, rockbolts and drainage holes on cutting's surface at fault and failure zones. Removal of slide material.
12	69+840 – 69+940 R 25+000-25+080 (Cutting)	4-5	top	Cascade at 1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> tier, vegetation (with hydroseeding), tree planting on weathered mantle, sealing of tension cracks with lime-cement. Concrete lining of the two lowermost benches. Regular monitoring, inspection.
13	79+670 - 79+780 R 8+570 -8+690 (Cutting)	4-5		Debris clear up, scaling, masonry wall (1 <sup>st</sup> tier) from ch. 8+590-8+680, rock bolts (8+580-8+640), drainage holes (8+590-8+680), rock fall protection fence (8+600 – 8+640). Concrete lining of benches. Apply shotcrete, rockbolts and drainage holes. <b>Alternatively</b> (at higher cost) re-excavate slope.
14	86+900 – 87+020 L (Cutting)	4	top	Re-excavation. Concrete lining new benches.
15	87+020 – 87+520 L (Cutting)	4	top	Scaling, debris clear-up. Bolted net (1 <sup>st</sup> tier), rock fall protection fence. Concrete lining the three lowermost benches. Apply shotcrete, rockbolts and drainage holes on cutting's surface at fault and failure zones.
16	87+520 – 87+920 L (Cutting)	4	Top	Scaling, debris clear up, bolted net, rock fall protection fence. Concrete lining the three (3) lowermost benches. Apply shotcrete, rockbolts and drainage holes on cutting's surface at fault and failure zones from ch. 87+670 to ch. 87+715 & from ch. 87+860 to ch. 87+900.
17	87+920 - 88+530 L (Cutting)	5	top	Scaling, debris clear up. Concrete lining the two (2) lowermost benches. Apply shotcrete and drainage holes on the two (2) lowermost tiers. Debris clear up, concrete lining existing track (at ch. 88+000-88+260), cascade (at ch. 88+260). Debris clear up, rock



Initial Geotechnical Works				
a \ a	Unified Chainage (R: Right, L: Left) (Section's as built chainage) -The chainage of the road parts is approximate-	Hazard class June 2015	Assumed priority	Proposed Measures June 2015
				fall protection fence on curb (from ch. 88+460 – 88+520).
18	88+740 – 88+900 L (Cutting)	5-6	top	Debris clear up, scaling, rock fall protection fence on curb & 1 <sup>st</sup> bench. Apply shotcrete and drainage holes on the two (2) lowermost tiers. Rock bolts (ch. ~88+740-88+900 at two lowermost tiers). Concrete lining the three (3) lowermost benches.
19	88+900 – 89+080 L (Cutting)	5	top	Scaling, debris clear up, Concrete lining of the three (3) lowermost benches. Apply shotcrete and drainage holes on the two (2) lowermost tiers. Regular monitoring and inspection (inclinometers and survey points).
20	89+350 – 89+630 R (Cutting)	3	top	Scaling, debris clear up. Concrete lining all benches. Apply shotcrete, rockbolts and drainage holes at failure.
21	91+150 – 91+320 R (Cutting)	5	top	Concrete lining cut off ditch. Resurface and flatten landslide material at its present location. Gabion toe berm. Concrete lining all benches of the cut.
22	93+100– 93+300 R (Cutting)	5	top	Construct masonry wall under the pole.
23	094+150 - 094+550 L (Cutting)	5	top	Draped net, Scaling, Debris clear up, Masonry revetment, Toe wall. Concrete line parts of the cut benches.
24	101+690 - 101+950 L (Embankment)	4	top	Monitoring, gravity wall at toe, vegetation, design.

## **Annex 10**

### **Financial Bid Form**

Ref: [ ]

Date: [ ]

To: Ministry of Transport and Infrastructure of the Republic of Albania

Procurement Procedure: [ ]

Brief description of Project: Milot – Morine Highway PPP Project

Referring to the above mentioned Bidding Procedure, we, the undersigned declare that:

After having carefully examined the Bid Documents, we request as part of our Financial Proposal the amount of [*insert proposed subsidy in words*] (*insert proposed subsidy in figures*) to form the Contracting Authority Subsidy payable in two equal instalments each year (which for the avoidance of doubt shall total the amount stated above in aggregate across the year) starting from the third (3<sup>rd</sup>) Contract Year up to and including the fifteenth (15<sup>th</sup>) Contract Year.

Consortium Member:

Signature:

Seal:

## **Annex 11**

### **Financial Model Requirements**

#### **MODEL STRUCTURE**

Clearly structured sheets or sections which must contain at a minimum:

- Data input and assumptions
- Capital expenditure for the various construction phases over concession lifetime, with accurate modelling of IDC and other applicable fees
- Major insurance items
- Applicable taxes
- Depreciation
- Traffic revenue, with detailed modelling of tariff structure and applicable expansion triggers
- Regular operation and maintenance expenditure
- Major maintenance capital expenditure
- Senior debt financing (and refinancing, if applicable) for the various construction phases over concession lifetime
- Senior debt coverage ratios and applicable dividend tests
- Retained earnings, cash balances and applicable dividend tests
- Income statement (yearly summary)
- Balance sheet (yearly summary)
- Cash flow waterfall, with fund movements allocated according to seniority (yearly summary)
- Returns to project, based on accurately modelled project cash flows, including cost of capital used, (discounted at WACC calculated using standard CAPM), and where project cash flows in each year are calculated as:
  - Earnings before interest and tax (EBIT)
  - Less taxes
  - Plus depreciation and amortization
  - Less initial or ongoing capital expenditure
  - Less change in working capital
- Returns to equity, based on accurately modelled equity cash flows, including cost of capital used (discounted at cost of equity calculated using standard CAPM), and where equity cash flows in each year are calculated as:
  - Net income
  - Plus depreciation and amortization times (1 – debt rate)
  - Less initial or ongoing equity capital expenditure times (1 – debt rate)
  - Less change in working capital times (1 – debt rate)

### MODEL FORMATTING

- Input and assumption cells should clearly be distinguishable from calculation and other cells
- Distinctive headers for sheet sections and sub-sections
- Coherent overall formatting of the various data groups
- Consistent timeline (same column range) on all sheets, except where required otherwise (e.g. construction phase, debt calculations)
- Summary page with key assumptions and results

### MODEL CALCULATIONS

- Overall logical flow of calculations within sheets from top to bottom and left to right
- Breakdown of calculation formulas that are complex (e.g. multiple nested logic or referrals) or long (exceeding the standard length of excel's formula bar) into several, auditable lines
- Limited usage of "volatile" functions such as "OFFSET", "VLOOKUP" or "HLOOKUP"
- No undocumented hard coding in formulas
- Avoidance of untested and undocumented circular logic
- VBA macro code, if used, must be commented and explained in line
- An easy-to-use scenario manager for sensitizing input assumptions



## **Annex 12**

### **List of Confidential Information**

[Appendix to be filled out by the Prospective Bidder]

(Note down the information you wish to remain confidential)

Type, nature of information to be kept confidential	Number of pages and points in the TD you wish to remain confidential	Reasons for keeping this information confidential	Time limit for keeping this information confidential

## Annex 13

### Notification of Contract Signature Publication Form

*[Appendix to be completed by the Contracting Authority]*

#### Section I Contracting Authority

##### I.1 Name and address of contracting authority:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Tel/Fax \_\_\_\_\_  
E-mail \_\_\_\_\_  
Website \_\_\_\_\_

##### I.2 Type of the contracting authority and its main activity (activities)

Central institution

#### Section II Scope of Contract

##### II.1 Type of contract

Concession/PPP

##### II.2 Short description of contract

1. Form of Contract;
2. Scope of Contract

##### II.3 Duration of the contract or time limit for completion:

Duration in **months**                      or **days**

or

starting on    /    /    ending on    /    /

##### II.4 Place where the Contract will be executed

#### Section III Procedure

**III.1 Type of procedure:**

Open      Restricted

**III.2 Award criteria:**

**III.3 Number of submitted bids:**

Number of regular bids:

**III.4. During the procurement procedure the STD prepared by the AKPP are adopted.**

Yes

No

**Section IV Information about the contract**

**IV.1 Contract number:** \_\_\_\_\_ **Contract date**   /   /

**IV.2 Name and address of the contractor**

Name \_\_\_\_\_

Address \_\_\_\_\_

Tel/Fax \_\_\_\_\_

E-mail \_\_\_\_\_

Website \_\_\_\_\_

**IV.3 Final total value of the contract** *(including the lots and options):*

Value                \_\_\_\_\_ *(without VAT)*                Currency                \_\_\_\_\_

Value                \_\_\_\_\_ *(with VAT)*                Currency                \_\_\_\_\_

**IV.4 Additional Information**

\_\_\_\_\_

Date of delivery of this notification   /   /



## **Annex 14**

### **Priced Bill of Quantities applicable to both the Initial Geotechnical Works and the Kukes Bridge**

Provided separately – please see dataroom folder “Tender Documents” > “Concession Agreement” > “Schedules” > “RfP Annex 14 – BoQ”