



Due Diligence Report

November 2013

PAK: National Trade Corridor Highway Investment Program

Due Diligence Review of NTCHIP Tranche 2
Hassanabdal - Havelian Expressway, E 35, Package II

Prepared by National Highway Authority, Ministry of Communication, Islamic Republic of Pakistan for the Asian Development Bank (ADB).

This due diligence report is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

Asian Development Bank

CURRENCY EQUIVALENTS

(as of 13 November 2013)

Currency Unit – Pakistan rupee/s (PRs)

PRs1.00 = \$0.00929

\$1.00 = PRs 107.54

ABBREVIATIONS

| | | |
|--------|---|--|
| ADB | – | Asian Development Bank |
| APs | – | Affected persons |
| BOR | – | Board of Revenue |
| CAP | – | Corrective Action Plan |
| DDR | – | Due Diligence Review |
| DPAC | – | District Price Assessment Committee |
| EA | – | Executing Agency |
| GRM | – | Grievance Redress Mechanism |
| IVSC | – | International Valuation Standards Committee |
| IVS | – | International Valuation Standards |
| IRP | – | ADB's Involuntary Resettlement Policy |
| IR | – | Involuntary Resettlement |
| LAR | – | Land Acquisition and Resettlement |
| LAA | – | Land Acquisition Act 1894 |
| LAC | – | Land Acquisition Collector |
| LARP | – | Land Acquisition and Resettlement Process |
| LARF | – | Land Acquisition and resettlement Framework |
| MFF | – | Multi-tranche Financing Facility |
| NTCHIP | – | National Trade Corridor Highway Investment Program |
| NHA | – | National Highway Authority |
| RC | – | Replacement Cost |
| RICS | – | Royal Institute of Chartered Surveyor |

A. Introduction

1. **Project background:** The National Trade Corridor Highway Investment Program (NTCHIP) of the Government of Pakistan is funded by the Asian Development Bank (ADB) through a Multi-tranche Financing Facility (MFF). The MFF consists of several tranches, each covering several subprojects. The on-going tranche 1 of the MFF comprises section 1¹ of Faisalabad to Khanewal Motorway Project (M4) in the Punjab province of Pakistan. The Hassanabdal–Havelian Expressway (E 35) is a new project proposed by National Highway Authority (NHA-the project executing agency-EA) for ADB's financing as tranche 2 of the MFF. The project is located in Khyber Pakhtunkhawah (KPK) province. The land acquisition and resettlement (LAR) impacts of the project have been rated "significant" for Involuntary Resettlement Policy (IRP) while no impacts have been recorded on Indigenous Peoples (IPs). Accordingly the project has been rated as category A for Involuntary Resettlement and C for Indigenous Peoples Policy (IPP) more details in LARPs of E 35, package II.

2. In anticipation of ADB's financing of the Project, the National Highway Authority acquired about 412 acres of agriculture land in 2010-11 NHA also prepared a land acquisition and resettlement plan (LARP) in accordance with updated land acquisition and resettlement framework (LARF), Pakistan's Land Acquisition Act of 1894 (LAA) and the ADB's Safeguard Policy Statement 2009 (SPS). The land awards were announced in 2011 and payments went underway in 2011-12. More than 90% displaced persons have been compensated for land, structures, trees and crops so far. The LARP contains a comprehensive entitlement matrix (annex 1) covering all the LAR impacts with full replacement cost to be paid as compensation including the LAA based market rate plus 15 solatium, and SPS's full replacement cost including the rehabilitation and resettlement support and allowances to the displaced persons (DPs) including the poor and vulnerable people The LARP is under review and full scale compensation (LAA and SPS) will be provided to the DPs upon approval of LARP by ADB. See more details in LARP in executive summary of LARP and chapter 2.

B. Purpose of Due Diligence Report (DDR)

3. This DDR of social safeguards has been undertaken for tranche 2 (E 35) to ascertain whether (i) land acquired for both projects using the LAA methodology (LAA procedures and mechanisms adopted by Punjab and KP Boards of Revenue (BOR) conform to the ADB's SPS for Involuntary Resettlement IR Policy) and compensation criterion of full replacement cost as compensation for all affected assets; (ii) the updated LARF of NTCHIP The critical aspect of this DDR is to examine whether (i) LAA compensation meets the ADB's requirement of "Replacement Cost-RC". The DDR also draws a comparison of the 2 methodologies (annex 2), and identifies any gaps in compensation at full replacement cost and recommends measures to address any price differential to be paid and implemented through a corrective action plan (CAP) to achieve compliance with ADB's SPS. As required under SPS 2009, an independent land valuation study was also conducted to analyze the land acquired and compensation offered under the LAA/BOR methodology meet the full replacement cost criterion.

¹ Section 1 of M4 consists of (a) 58 km long carriageway/motorway and (b) 4 interchanges at different locations with 58 km section.

C. Need for land valuation study

4. The tranche 1 of the MFF was processed based on ADB's Involuntary Resettlement Policy of 1995 (IRP), which has been updated to form a new document called Safeguard Policy Statement (SPS) 2009. The SPS, which became effective June 2010, requires that all the projects processed after the SPS became applicable follow the SPS principles and delivery mechanism during planning and implementing the resettlement plans. The SPS also requires that full replacement cost is paid to the displaced persons as compensation for all affected assets. The SPS defines full replacement cost as "replacement cost consists of the following: (i) fair market value; (ii) transaction costs; (iii) interest accrued; (iv) transitional and restoration costs; and (v) other applicable payments, if any. Where market conditions are absent or in a formative stage, full replacement cost will be determined by consultation with the displaced persons and host populations to obtain adequate information about recent land transactions, land value by types, land titles, land use, cropping patterns and crop production, availability of land in the project area and region and other related information. The SPS also requires that the borrower/client will also collect baseline data on housing, house types, and construction materials. Importantly, the SPS requires that qualified and experienced experts are required to undertake valuation of acquired assets and that in doing so, depreciation of structures and assets should not be taken into account.

5. In order to meet this requirement of SPS, ADB and NHA engaged an international valuation firm; Colliers Int'l in April 2013 to undertake the valuation. The Colliers team undertook the study with logistic support provided by NHA.

6. The purpose of the land valuation study was to determine how replacement cost should be appraised using international appraisal standards in Pakistan for involuntary resettlement (IR). To ensure compliance with ADB's safeguard policies, a central part of the study was to determine how the value of land and other assets could be assessed to meet ADB's policy requirements and also satisfy the legal requirements of Pakistan.

D. Scope of valuation study

7. The study undertook valuation of land properties of all types on a sample basis in all the 14 villages affected by the project. The valuation covered only the land (all types) parcels, while non-land assets including structures, trees and crops were excluded from the scope due to the government methodology and prices already approximating replacement cost. These villages were grouped into 4 clusters; cluster 1 & 4 included 4 villages each, while cluster 1 & 3 comprised of 3 villages each. Sampling was carried out on random sampling. The rationale for cluster based sampling to make the sampling representative of all the 14 affected villages including location of properties; on and off road, proximity to villages and different types of land and usage. Thus a 5% sample of affected land properties (150 properties) was selected from 14 villages.

8. **Study limitations:** The independent study has been undertaken first time ever in Pakistan to determine the replacement cost (RC) of rural land acquired for the project. Except for international valuation standards, RICS and SPS guidelines on RC, no secondary data or a good reference point was available to the study for cross reference. The study methodology, therefore, evolved out of a consultation process held with key stakeholders including the key government agencies and ADB such as (i) provincial Boards of Revenue and District Revenue Officials who acquire land for public purpose projects, (ii) Ministry of Communication and National Highway Authority (NHA-Project Executing Agency), (iii) Federal Agencies including the

National Planning Commission-NPC, Economic Affairs Division-EAD; counterpart agency in signing of ADB's loan and project agreements, (iv) the Central and West Asia Transport and Communications Division, (v) representatives of displaced persons and complainants, and (iv) ADB's corporate compliance department. All sampled land parcels were visited and on-site discussions/consultations were held with local people as they gathered around the valuation sites. Table 1 provides valuation outcome and a comparison of BOR and Colliers prices.

9. The methodology the study adopted encountered limitations in accessing conclusive information controlled by BOR, district revenue office and land management offices of district courts. Written information was not available with revenue department to validate high price differential in some cases, which both parties (BOR/NHA and Colliers) thought were misleading and unwarranted. Other limitations included district bureaucracy and security conditions poor land record management and lack of cooperation by officials of district courts in making the so-called "privileged or sensitive information" available to the study team for analysis purpose. The study therefore suggests that a complete access to computerized revenue records, land types with present use that can be validated with reasons for any variations, land transactions deeds on land sales and purchase, digital and manual land maps (cadastral), etc and a documented methodology used to assess and fix land prices is ensured for more reliable results. Nevertheless the valuation study used a rigorous methodology that provided a far more informed, transparent and consultative body of analytical work valuation that can be used as a basis conclude replacement cost of acquired assets and based on that a way forward for land acquisition and replacement cost for all present and future projects.

E. Study methodology

10. **Data collection and source of information:** The necessary investigations have been conducted independently in the field and without influence from any third parties in any way. The information provided in this report has been collected after detailed consultations with relevant stakeholders including National Highway Authority, the relevant Bureau of Revenue, District Collectors, affected people and local villagers. For E35 project, the Colliers team comprising Mr. Naeem Shaikh (Team Leader), and Mr. Faheem Anwar (Deputy Team Leader), Mr. Raja Touseef, Mr. Hammad Khan & Mr. Farrukh Ashfaq as members visited E35 package II from 21 to 29 June 2013. Mr. Fazal Ahmed (Project Manager) supervised the team and provided on site quality control guidance.

11. It is confirmed that Colliers made relevant enquiries with BOR, NHA and LAR consultants, officials of district revenue office; Land Acquisition Collector (LAC), and land management staff including local *Patwari and girdawars* who keep cadastral maps and land records. Colliers reviewed the land awards announced in 2011, the registered land transactions 2009-10, and held independent discussions with DPs and revenue staff. The Colliers teams asked questions about how the land prices were fixed, and cross checked it in the field with DPs and revenue officials whether real worth of land sale purchase was notified/registered. Colliers were able to get to such information proving that registered transactions did show real value/price of land on transaction papers. However Colliers was unable to collect evidence either from revenue officials or from DPs as such information is generally not made available due to the sensitivities around it (see table 1 for more details on land prices; BOR price and Colliers price as RC).

12. **Rigor and consistency:** The study used a rigorous methodology to examine the land acquisition process and fixation of land prices by BOR. The study followed best international

practices in land valuation; including the International Valuation Standards (IVS)² and the Professional Standards set by the Royal Institute of Chartered Surveyors (RICS) in the United Kingdom and ADB's replacement cost guidelines, which helped in ascertaining whether BOR prices approximate replacement cost or there any gaps to be addressed by toping up the BOR price to achieve compliance with replacement cost.

13. **Basis of valuation:** The land prices fixed under LAA were examined using the following investigation methodology:

- LAA market rate based on registered land transactions;
- Physical aspects: Area: location of affected land parcel, and accessibility;
- Land use and quality: Quality of Land, Cultivation pattern and sources of water;
- The value of agricultural land was assessed in an open market considering the following aspects: land use, cropping patterns, yield, irrigation pattern, location, and topography;
- Construction costs of all types of construction material used;
- Amenities, distance from the population/nearest town;
- Other considerations which may have had a material impact on the prices paid.

14. **Valuation Comparators used:** Keeping in view the IVS, RICS, ADB's guidelines (SPS) about replacement cost, the valuation comparators used in the study included property description, site; area, dimensions, soil type, aspect, elevation, etc, location and attributes; distance from the nearest town centre locality and surrounding development, access and exposure services and amenities including water supply, public transport etc, public services such as shops, schools, mosques, clinics etc, any statutory valuations – BoR etc, date of inspection and valuation, registered owner/occupier, title description, formal or informal easements or encumbrances, land categorization and current use/land category, improvements (type, size and value of structures, features, water supply etc), valuation considerations (approach to valuation – capitalization or direct comparison etc), a valuation figure, which, in the opinion of study team approximates full replacement cost, as defined in SPS.

15. **Project location and land types studied:** The E-35 Expressway (Package 1) starts from M-1 near Burhan interchange and end at Havelian. Package 2 located in Tehsil Harripur of the District Harripur and its total length is 19.2 km. It starts from Jari and ends at Maqsooda interchange near Sarai Saleh. The project area is mainly rural with 14 villages lying in the way; the list of land types studied is given below:

- Chari Aabi/Nul Chahi: Leveled land with fully canal irrigation system. This land is A-class land.
- Kund: Leveled land with partly canal irrigation system and partly from rain water.
- Maira: Leveled land with rain water system.
- Rakkar: Unleveled land with rain water system
- Banjar Qadeem: Land which remained unsown for eight successive harvests.
- Banjar Jadeed: Land which remained unsown for four successive harvests.
- Ghair Mumkin: A type of land on which harvesting arrangements are difficult to move.

²<http://www.rics.org/Global/International%20Valuation%20Standards.pdf>: The IVS, RICS and RC guidelines provide the globally accepted principles and definitions in all types of valuation, valuation processes and reporting disclosures, highest educational and professional standards, and a strict code of ethics undertake and provide impartial advice, analysis and guidance on the valuation of assets.

16. **Site visits stakeholders consultations:** All sample land parcels in package II of E-35 were physically examined in the field and the BOR methodology of price assessment/fixation was fully analyzed side-by-side best international practices in land valuation and ADB's requirement of replacement cost as in SPS 2009.

17. **Stakeholders consultations:** Independent field investigations were conducted in the field from 17 - 27 June 2013 for collection of information relevant to land valuation in the area under package II of E-35, and detailed discussions were held with relevant stakeholders including National Highway Authority project staff, (General Manager and Project Director E-35 and his team dealing with land acquisition matters), key officials of Board of Revenue and District Collectors and their staff, Project Staff (Engineering & land staff including LAC of the project), the APs as well as local community in the locality of each sampled land parcel were consulted for enquiries and to collect relevant information.

F. Key findings and recommendations

18. Key findings of the study and DDR are as below:

F.I Timing of study and effects of Colliers valuation on BOR prices:

- a) **Timing of land awards and study:** The BOR announced the land awards in 2011 for package II of the project. The acquisition process for packages 1 & III is still under way. The valuation study by Colliers was undertaken in June – August 2013.
- b) **Time lag and price differential:** The valuation done by Colliers is based on 2013 prices, while the BOR awarded the prices in 2011. The BOR prices are believed to have been increased by at least 20% during the 2 years' time period since the BOR prices of 2011. This is supported by consistent inflation in Pakistan (5%-20% plus) which, among other things, also affected the real estate properties in Pakistan.
- c) **Need to off-set the effects of time lag:** The effects of the study timing and use of current prices (2013) by Colliers to logically determine whether BOR prices (of 2011) met the replacement cost, the time lag of 2 years needs to be dispensed with to assess or arrive at what should have been the replacement cost in the 2011. In this sense, the Colliers price differential of 1% - 20% is considered to be irrelevant and therefore should be ignored. Discounting 1% - 20% price differential leaves the BOR prices as approximating the replacement cost, and therefore no top up is required in all such cases.
- d) **Disbursement of payments:** Over 90% payments have already been made to the displaced persons to date. As informed during consultation meetings and continuing field visits, the DPs already paid and those remaining 10% are fully aware about how and where to receive compensation. The field based LAR unit of NHA is not only in close contact with these DPs but also assists them in completing their land particulars for submission to the land acquisition collector, local *Patwari* and (district civil court – only in cases where DPs have to prove their ownership of land to the court) in resolving their land disputes. Issuance of ownership and succession certificates are expected to be issued by the court in next few months. This is a legal requirement for all the DPs who have ownership disputes which are to be decided by the competent authority.

F.II Price differential with reasons

- e) Of total 14 villages, 11 have been found having 0-10% price differential, followed by 1 village with 20% differential. In the remaining 2 villages (table 1, serial # 13, 14) Colliers valuation for village Sarae Saleh is 30% above the BOR price, while in village Bandi Seria Colliers' valuation is surprisingly 40% below the BOR price. Price differential in both these cases has been concluded as "unwarranted", as this could not be substantiated due to unavailability of BOR record pertaining to the land types, usage, and land sales/purchase deeds in the area. Colliers also recognized this limitation and agreed that no top up could be logically recommended at this stage unless the missing information is made available and further investigation made to either accept or reject the variation.

The price differential of 1% – 20% due to the 2 years' time lag which has been discounted and therefore this differential is considered to irrelevant. No top up is required in this case, as the BOR price is considered to be approximating the replacement cost.

19. The Table 1 below provides details about BOR and Colliers prices, the differential in 2 set of prices with reasons why top up is not required in any of 14 villages.

Table 1: Comparison of BOR Price and Colliers Price

| Serial # | Village | BOR Price | Colliers value | Differen tial | Remarks |
|---|--------------------|------------|----------------|----------------------|---|
| A. Zero or Nil Price Differential | | | | | |
| 1 | Dhedan | 42,701,535 | 42,802,000 | 1% | Almost Nil. No top up required. Prices already approximate replacement cost. |
| 2 | Chechian | 4,027,727 | 4,054,250 | Nil | No top up required. Prices already approximate replacement cost |
| 3 | Mirpur | 15,013,784 | 15,569,500 | Nil | Almost Nil. No top up required. Prices already approximate replacement cost. |
| 4 | Chak Shah Muhammad | 21,574,852 | 2,181,000 | Nil | No top up required. Prices already approximate replacement cost |
| B. 1% - 20% Differential in Prices | | | | | |
| 5 | Ganja Kamala | 16,044,765 | 17,628,400 | Colliers up by 10% | Differential is due to the time lag since BOR awarded prices in 2011. Colliers prices are based on 2013 prices. Discounting 2 years' time lag leaves BOR prices approximating replacement cost. No top up required in these cases. |
| 6 | Kot Najibullah | 58,841,884 | 55,863,000 | Colliers down by 10% | Differential is due to the time lag, and unavailability of records/evidence in some cases, failed to justify this differential. No top up recommended. |
| 7 | Seria | 14,769,535 | 17,629,500 | Colliers up by 20% | Differential is due to the time lag and unavailability of records/evidence in some cases, failed to justify this differential. No top up recommended. |

| Serial # | Village | BOR Price | Colliers value | Differential | Remarks |
|---------------------------------|----------------|------------|----------------|----------------------|--|
| 8 | Doyian Khushki | 15,143,800 | 1,5397,000 | Colliers up by 2% | Almost Nil. No top up required. Prices already approximate replacement cost |
| 9 | Muradabad | 4,603,770 | 5,020,400 | Colliers up by 8% | Differential is due to the time lag, and unavailability of records/evidence in some cases, failed to justify this differential. No top up recommended. |
| 10 | Darwesh | 11,202,633 | 12,176,430 | Colliers up by 8% | As above |
| 11 | Ali Khan | 10,840,921 | 11,375,000 | Colliers up by 5% | Differential is due to the time lag, and unavailability of records/evidence in some cases, failed to justify this differential. No top up recommended. |
| 12 | Monan | 1,333,036 | 1,509,750 | Colliers up by 13% | Differential is due to the time lag, and unavailability of records/evidence in some cases, failed to justify this differential. No top up recommended. |
| C. Unwarranted variation | | | | | |
| 13 | Sarae Saleh | 1,981,873 | 2,717,500 | Colliers up by 30% | Unavailability of records in few cases and lack of evidence failed to justify this differential. More work is required in this regard. No top up recommended. |
| 14 | Bandi Seria | 27,818,610 | 16,211,500 | Colliers down by 40% | Unavailability of records in few cases and lack of evidence failed to justify this differential. More work is required in this regard. No top up recommended |

G. Complaints Resolution

20. A group of DPs (about 7 families; all relatives) complained to the ADB's Office of Special Project Facilitator (OSPF) about low land prices, and ADB's Safeguards Policy (SPS 2009) not followed during the preparation of LARP and acquisition of land. (Source: email to OSPF by complainants Oct 2012. The OSPF, after reviewing the complaint and meeting with complainants, declared the complaint as "ineligible" Nevertheless, ADB and NHA continued to engage with the complaints, held on-site fresh consultations and took them to the project sites to explain different design options considered with comparative analysis of social, land acquisition and resettlement impacts, the basis and justification for final design of expressway and land acquisition procedures used and application of current land prices as compensation by the land acquisition collector. NHA also assured to the DPs that the support available under ADB's SPS 2009 will also be provided after the LARP is approved by ADB. This would include rehabilitation and resettlement support, cash allowances to poor and vulnerable DPs including income restoration, shifting/ relocation and transitional allowances to all eligible DPs. The complainants, after meeting with NHA, face to face, and receiving final response from NHA, stopped pursuing the complaint any further. The project grievance redress system and LAA grievance mechanism are well in place and the DPs aggrieved with land related issues are

having their concerns addressed by the court of law under LAA. There remains no outstanding complaint in E-35 project as far as OSPF is concerned. Annex 2 and 2A provides evidence on the complaint resolution or close down,

H. LARP implementation

21. Draft LARP of package II has been prepared fully in accordance with the requirements of SPS 2009. Market rate plus 15% solatium with all payments and allowances payable under SPS at full replacement costs have been clearly mentioned in the LARP. NHA has agreed to pay any price differential if BOR prices were found below replacement costs. Ad hoc LARP implementation arrangements (LAR unit comprising LAC, resettlement specialist of LAR consultants and social and resettlement staff of NHA at PIU) are in place and more than 90 % payments have been made to the DPs. These payments include compensation for land, structures, trees and crops. Other payments and allowances under SPS have been notified in the entitlement matrix agreed by NHA but will be paid after the LARP is approved by ADB. NHA is also in the process of hiring a social safeguards management consultant firm (SSMC-expected hiring in February 2014) which will strengthen the LAR unit at PIU and assist NHA in implementation and internal monitoring of LARP.

22. F.III E 35 Readiness Aspects

- a) **Safeguards** The NHA's safeguards unit, Environment, Afforestation, Land and Social (EALS) has been notified to manage the social safeguard issues on project site with the mandate to implement the LARP, redress grievances filed by the public, including project-affected people and nongovernment organizations. A Social Safeguards Management Consultant Firm (SSMC) will also be engaged by NHA to provide additional technical support to EALS in Project Management Unit (PMU) at NHA Headquarters in Islamabad and the Land Acquisition & Resettlement Unit at Project Implementation Unit (PIU) to assist EALS and LAR unit implementation of LARPs and internal monitoring of LARPs to ensure compliance with ADB's Safeguards Policy Statement 2009 (SPS). An external monitoring agency will be recruited to undertake external monitoring validate the implementation of LARP.
- b) **The land acquisition** for package II is complete with more than 90% of displaced persons (DPs) already compensated for land and non-land assets, except for additional payments to be provided under ADB's SPS 2009. These payments have been clearly reflected in the entitlement matrix of updated LARF and LARP of package II, but will be made upon approval of LARP by ADB. Land Acquisition for remaining 2 packages (I & II) is at an advances stage with about 30% and 80% payment of land compensation already made in package 1 and III respectively. NHA is confident that the land acquisition and resettlement will be completed before contractors mobilize in June 2014.
- c) **Advance contracting:** ADB has approved the NHA's request for advance contracting for both civil works and consultancy service in September 2013, and NHA has initiated advance procurement for both civil works and consultant selection. NHA has submitted draft bidding document for ADB review, and initiated recruitment of construction supervision consultant. The Government was advised that ADB's approval of advance contracting does not commit ADB to finance any ensuing project from the MFF.
- d) **Retroactive financing** requested for the eligible expenditures, not exceeding the amount of up to 20% of total ADB loan, incurred before loan effectiveness, but not earlier than 12 months before the signing of the loan agreement.

- e) **Land Acquisition and Resettlement** Project 2 entails acquisition of private agriculture land and assets including residential, commercial and agriculture related assets. Based on the three draft LARPs prepared, up to 9000 households will be affected by the project. The impacts vary from household to household however primarily involve the acquisition of portions of agricultural land. Some residential lands will be affected however all households will be able to relocate either on remaining land, or land within close proximity to the affected lands.
- f) **The land acquisition and resettlement framework (LARF)** has been updated, endorsed by NHA, cleared by ADB and has been disclosed/uploaded to the ADB and NHA websites. Three LARPs have been prepared in accordance with the approved updated LARF, the Land Acquisition Act of 1894 and SPS 2009. The resettlement planning was informed by a detailed independent land assessment study to ensure prices proposed for compensation approximate full replacement cost as required by SPS 2009. The LARPs have been disclosed to displaced persons and uploaded to the ADB and NHA websites. Some of the subject land has already been acquired. To satisfy SPS requirements, a due diligence review of land acquisition process has also been carried out to identify deviation from SPS requirements. Corrective actions (annex 1) have been proposed to ensure SPS requirements will be satisfied.
- g) **Need to implement a Corrective Action Plan:** The DDR concludes that the compensation paid to more than 90% DPs thus far; only covers the land and non-land items. The rehabilitation and resettlement provision and livelihood restoration support is yet to be paid to all the DPs. NHA needs to:
 - i. Obtain approval of LARP from ADB
 - ii. Hire social safeguards management consultant firm (SSMC) to assist NHA in implementation of the approved LARP and provide monitoring reports to ADB.
 - iii. Disburse to all the DPs compensation at full replacement cost as in the entitlement matrix: cash compensation for land and non-land items and income restoration support and R&R provisions
 - iv. Confirm that no civil works will commence before the LARP is fully implemented, especially payments for lost assets and allowances related to resettlement & rehabilitation/relocation and livelihood restoration.
 - v.
 - vi. Maintain a well-functioning grievance redress mechanism both in the field and at project level to facilitate DPs in resolution of their concerns.
 - vii. Hire external monitor to provide independent monitoring reports to ADB and NHA and confirm LARP implementation.

23. Prior to startup of any civil works activities in the right of way and acquired land, all the above activities and actions proposed in the CAP below (annex 1) will be fully implemented and validated by external monitoring agency or monitoring agent. The CAP will also be the subject of ongoing monitoring both internally and externally.

**CORRECTION ACTION PLAN (CAP)
Package-II, E-35**

I. Background and Purpose of Cap

1. This corrective Action Plan (CAP) covers the involuntary resettlement impacts associated with the acquisition of land for package II of Hassanabdal – Havelian Expressway project in district Haripur of Khyber Pakhtunkhwa. This project is part of tranche 2 of a multi-tranche financing facility (MFF), the Asian Development Bank funded for National Highway Authority (NHA-project executing agency-EA) to implement the National Trade Corridor Highway Investment Program (NTCHIP).
2. The acquisition of land for the project commenced 2010 in accordance with Pakistan's land acquisition act of 1894 (LAA). The objective of this CAP is to ensure that land acquisition and compensation and rehabilitation and resettlement provisions and allowances provided fully comply with ADB's SPS as well as Pakistan's LAA, and where there are gaps in compensation, adequate provisions for supplementary compensation, assistance and other gap filling measures have been made to ensure compliance with SPS's requirement of full replacement cost for all assets acquired for the project. The CAP, in SPS context, is a document that has the same status and standing as a Land Acquisition & Resettlement Plan. It is a document owned and endorsed by the executing agency (NHA) and requiring ADB concurrence.
3. The CAP is to be considered as an Addendum to the LARP with policies principles and entitlements to apply as set out in the LARP. NHA will be responsible to fully disclose the CAP with the LARP on ADB and project websites, with relevant information disclosed to the DPs in consultation meetings prior to implementation.. NHA will also be responsible for full implementation of CAP before startup of any civil works activities. Full disclosure of CAP will be subject to validation by internal and external monitoring personnel.
4. The land NHA acquired for E 35 project was in anticipation of ADB's financing of the project. The SPS delivery mechanism requires that due diligence is undertaken to examine and whether land acquisition procedure and compensation is in line with Pakistan's legal framework and requirements of ADB's Safeguard Policy Statement (SPS 2009). In this respect, an independent land valuation study was undertaken by Colliers International in 2013 (detailed findings in the DDR attached to the LARP). Colliers findings concluded that the government compensation rates (prices fixed by Provincial Board of revenue) were generally consistent with SPS's requirement of replacement cost, and no top up was considered applicable in E 35, package II project.
5. This corrective action plan summarizes the findings of the DDR and provides a set of mitigation measures to be implemented in order to fill the gaps between the land prices fixed as compensation by the Board of Revenue (BOR) and the ADB's requirement of replacement cost, as in SPS. The recommendations provided in this document are established as Corrective

Action Plan-CAP that need to be carried out by NHA in full compliance with ADB SPS before project site could be handed over for civil works.

II. Scope of project

6. The Package-II (E-35) includes the construction of new 7.3 meter wide 4 lane dual carriageway (19.2km) with New Jersey barrier as median, 2 interchanges, 3 flyovers, 10 underpasses, 1 bridge over railway crossing, and service area at one location. The design for all project components has been finalized and the land already fully acquired for package II. The carriageway will include paved shoulders at inner and outer sides. The expressway will be fenced from both sides and six (6) feet service road will be provided on both sides. The Right of Way (RoW) of the Expressway is 80 m.

III. Land acquisition and resettlement impacts

7. The project will require 412 acres of agriculture land on permanent basis in 14 villages of Tehsil Haripur. Of these, 409 acres are privately owned and 3 acres are government land. The acquisition process for private land has already been completed by NHA. Awards have been announced by the Land Acquisition Collector (LAC) for all the 14 villages and payment of compensation to the DPs/ as per acquaintance roll is under progress. Over 90% payments have been made to about 2,578 DPs (91% of the total 2819 land owners).

8. The latest revenue record of 2011 was used to assess the permanent acquisition of land. The village-wise detail of the affected land along with the ownership is given in Table 1 below:

Table 1: Detail of Affected Land and Owners by Villages

| Sr. No | Village | Total land (acres) | Affected Land (acres) | No. of DPs |
|--------------|----------------|--------------------|-----------------------|-------------|
| 1 | Dhedar | 49 | 18.13 | 187 |
| 2 | Seria | 177.875 | 52.88 | 201 |
| 3 | Bandi Seria | 69.5 | 14.5 | 58 |
| 4 | Dhoian Khushki | 111.875 | 32 | 260 |
| 5 | Derwesh | 22.75 | 9.5 | 159 |
| 6 | Mirpur | 180.5 | 36.25 | 493 |
| 7 | Muradabad | 364.75 | 12.75 | 68 |
| 8 | Shah Muhammad | 343.75 | 52.63 | 96 |
| 9 | Monan | 38.375 | 6.5 | 55 |
| 10 | Ali Khan | 48.625 | 16.38 | 175 |
| 11 | Chechian | 34.25 | 5.25 | 59 |
| 12 | Kot Najibullah | 226.5 | 80.88 | 266 |
| 13 | Ganja Kamala | 99.25 | 45 | 377 |
| 14 | Sarai Saleh | 138.375 | 29.38 | 305 |
| Total | | 1905.38 | *412 | 2759 |

**Based on the acquaintance roll issued by Revenue Office. The number of land owners is expected to increase if a succession certificate is issued by the court in response to request by next of kin of any deceased land owner.*

a. Impact on Cropped Area

9. The land revenue record and consultants data show that the project has impact on 338 acres of cropped area. A village-wise summary of the final affected cropped area is given in Table 2 below.

Table 2: Village-wise Affected Crop Area

| Sr. No. | Mouza | Affected Cropped Area (Kanal) |
|----------------|----------------|--------------------------------------|
| 1 | Dhedar | 138.89 |
| 2 | Seria | 400.84 |
| 3 | Bandi Seria | 40.05 |
| 4 | Derwesh | 65.36 |
| 5 | Dhoian Khushki | 246.96 |
| 6 | Mirpur | 186.53 |
| 7 | Monan | 50.04 |
| 8 | Shah Muhammad | 404.42 |
| 9 | Muradabad | 75.45 |
| 10 | Ali Khan | 79.22 |
| 11 | Chechian | 41.67 |
| 12 | Kot Najibullah | 605.24 |
| 13 | Sarai Saleh | 148.33 |
| 14 | Ganja Kamala | 221.07 |
| | Total | 2704.07 |

b. Impact on trees

10. The project has impact on the fruit and non-fruit trees which will ultimately be removed from the ROW. According to field assessment, total numbers of trees are 988, out of these 359 are fruit trees and 629 are non-fruit trees. In addition, firewood weighing 5244 mounds (One mound=40 kgs) will also be removed. The trees have been included in the Awards announced by the Collector for the respective Mouzas. The Mouza-wise information of trees in respect of number and ownership are summarized in Table 3.

Table 3: Trees to be removed from the ROW

| Sr. No. | Name of Mouza | Affected Non-fruit Trees | | | Affected Fruit Trees | |
|--------------|----------------|--------------------------|--------------|----------------|----------------------|--------------|
| | | No. of APs | No. of Trees | Firewood (Mds) | No. of APs | No. of Trees |
| 1 | Seria | 14 | 99 | 265 | 4 | 48 |
| 2 | Ali Khan | 9 | 95 | 600 | 6 | 60 |
| 3 | Monan | 4 | 11 | 135 | 2 | 2 |
| 4 | Sarai Saleh | 15 | 103 | 1310 | 2 | 43 |
| 5 | Bandi Seria | 2 | 19 | 11 | 0 | 0 |
| 6 | Shah Mohammad | 4 | 46 | 440 | 1 | 120 |
| 7 | Muradabad | 3 | 14 | 260 | 0 | 0 |
| 8 | Derwesh | 4 | 15 | 32 | 0 | 0 |
| 9 | Chechian | 4 | 51 | 50 | 1 | 32 |
| 10 | Dhoian Khushki | 15 | 39 | 529 | 2 | 10 |
| 11 | Mirpur | 14 | 40 | 644 | 0 | 0 |
| 12 | Dhedar | 9 | 41 | 273 | 1 | 4 |
| 13 | Ganja Kamala | 9 | 10 | 311 | 0 | 0 |
| 14 | Kot Najibullah | 15 | 46 | 384 | 3 | 40 |
| Total | | 121 | 629 | 5244 | 22 | 359 |

Source: Census Survey of Affected Persons by NHA on March 2012

c. Impact on structures

The census identified that the project has impact on 104 structures that include 78 houses, 13 commercial and 13 miscellaneous structures. These affected structures are categorized as Pacca, Semia Pacca and Kacha structures. These structures are scattered and located along the entire stretch therefore no mass relocation is required. The project will need to make appropriate arrangements and provide sufficient funds to relocate these structures. The support provided under this resettlement plan will need to include the funds for the re-establishment of these structures and income generating activities as needed.

IV. Main findings

11. Main professions: People have multiple occupations, but the dominant economic activity is off-farm. About 77% people are involved in off-farm activities such as operating small business, government and private employment, drivers and labor work and remittance. Only 23% people are engaged in farming activities, mostly for household purposes. The average

land holding comes to around half an acre of agriculture land. Nevertheless only less than 1% DPs fully depends on farming. The farming activity is generally limited to only household needs. People are engaged in multiple income generating work (primary being off-farm activities, small businesses, government or private employment, work as drivers and laborers, remittances and farming comes at lowest levels) to support their livelihoods.

12. Vulnerable DPs: There are 169 vulnerable DPs including 137 land owners, 16 employees and 6 house owners of the project area were identified as vulnerable as their monthly incomes were recorded as below the poverty line.

13. The DDR shows that payments made so far cover compensation for land, structures and trees. But the payments covered under SPS e.g. resettlement and rehabilitation assistance and allowances to support DPs relocation and livelihood are yet to be paid. Table below provides current status of payments:

Table 4: Summary of Payments Made

| Summary of DPs paid | | | | | | |
|---------------------|-------------|-------------|------------|----------------------|--------------------|---------------|
| Impact Type | Total DPs | DPs Paid | Unpaid DPs | Payable Amount (Rs.) | Amount Paid (Rs.) | % Amount Paid |
| Land | 2759 | 2578 | 181 | 778,313,767 | 654,289,148 | 84.06 |
| Structures | 92 | 92 | 0 | 122,384,287 | 122,384,287 | 100.00 |
| Fruit Trees | 22 | 12 | 10 | 6,538,800 | 6,066,745 | 92.78 |
| Non-Fruit Tress | 121 | 26 | 95 | 2,736,535 | 865,813 | 31.64 |
| Total | 2994 | 2708 | 286 | 909,973,389 | 783,605,993 | 86.11 |

V. Corrective Actions for implementation

| Serial # | Corrective Actions | Responsible agency | Timeframe | Remakrs |
|-------------------------------------|---|-------------------------------------|--------------------------------------|---|
| Land compensation | | | | |
| 1 | Pay Rs. 124 million as land compensation to 181 unpaid DPs of land. | NHA/LARU/Land Acquisition Collector | Before startup of construction work. | This will be monitored and validated by external monitoring agency. |
| 2 | Pay Rs. 1.8 million as compensation of non-fruit trees to DPs | NHA/LARU/Land Acquisition Collector | December 2013 | As above |
| 3 | Pay Rs. 0.47 as compensation of fruit trees to million to 95 DPs | NHA/LARU/Land Acquisition Collector | December 2013 | As above. |
| Allowances payable under SPS | | | | |

| Serial # | Corrective Actions | Responsible agency | Timeframe | Remarks |
|--------------------------|---|---------------------------|------------------|---------------------------|
| 4 | Pay Rs. 3.0 million as livelihood allowance to 79 DPs of residential structures. | NHA/LARU | 30 Feb 2014 | As above |
| 5 | Pay Rs. 1.0 million to 13 DPs as business allowance. | NHA/LARU | 30 Feb 2014 | As above |
| 6 | Pay Rs. 2.8 million as temporary rent to 79 DPs of residential structures | NHA/LARU | 30 Feb 2014 | As above |
| 7 | Pay Rs. 1.0 million as employment loss allowance to 26 Dps | NHA/LARU | 30 Feb 2014 | As above |
| 8. | Pay Rs. 1.4 million as shifting/transportation allowance to 92 DPs of different types of structures | NHA/LARU | 30 Feb 2014 | As above |
| 9 | Pay Rs. 3.7 million as utility/electricity allowance to 92 DPs of different types of structures | NHA/LARU | 30 Feb 2014 | As above |
| 10 | Pay Rs. 19.5 million as vulnerability allowance to 169 vulnerable DPs. | NHA/LARU | 30 Feb 2014 | As above |
| Other key actions | | | | |
| 11 | All above actions to be implemented before startup of civil works | NHA/EALS/LARU/SSMC/LAC | April 2014 | As above |
| 12 | Recruit and mobilize SSMC | NHA/GM/PD E35 | Feb 2014 | |
| 13 | Recruit and mobilize external monitoring agency | NHA/EALS/GM/PD E35 | Jan 2014 | |
| 14 | Undertake sample independent land valuation study for packages I & III | NHA/EALS/GM/PD E35 | March 2014 | |
| 15 | Pay price differential in cases where BOR price falls below replacement cost | NHA/EALS/GM/PD E35 | March 2014 | Upon finalization of LARP |
| | | | | |

**NTCHIP: E 35, Hassanabdal to Havelian Expressway, Package II Jari Kas to Sarai Saleh.
NHA's Response to the Complaint**

| Subject: Complaint lodged to OSPF on 5 October 2012 about Road Alignment and Land Prices in E 35 Complainants: Brig (R) Sardar Sohrab Alam and Affectees of E 35 (list attached). | | | |
|---|--|---|---|
| Issues highlighted in the complaint | NHA's Response | Gaps in Response | Actions Taken |
| <p>1. Issues related to road alignment</p> <p>i. Present alignment increases distance between Mansehra to Rawalpindi by over 30 km due to faulty design/alignment.</p> | <p>ii. The E-35 is already designed and ready for construction.</p> <ul style="list-style-type: none"> Proposed alignment/route will reduce 6 km travel distance towards south Islamabad/ Rawalpindi and increase of travel distance by 32 km towards north (KPK). | <p>i. No information about alternative options, studied before selecting the present road alignment.</p> | <ul style="list-style-type: none"> NHA provided to the complainants a comparative analysis of present and proposed alignments covering the engineering, economic, financial and social and environmental dimensions. |
| <p>iii. The bulk of traffic from China and northern areas is south bound passing through Islamabad/ Rawalpindi, so the E-35 should emanate from M-1 between Bahatar and Fatehjang interchanges connecting Taxila and Haripur which will accrue advantages as below:</p> <ul style="list-style-type: none"> This option reduces distance over 30 km with reduced, travel time and operating cost. | <p>ii. E-35 is connected to the motorway. Due to following constraints, the alignment proposed by the complainant cannot be considered:</p> <ul style="list-style-type: none"> Due to Margalla Hills, a long loop around the hill will be required. Tentative length of proposed alignment from Chichian to M1 at Brahama Interchange is 42 Km. <p>From Burhan interchange M1 to Chichian length of E35 (based on original alignment) is 29km and due to new proposed route connecting M1 at Brahama interchange length of E-35 will increase by 13km.</p> | <p>ii. Justification in favor of present alignment with sound comparative analysis of engineering, economic, environmental and social dimensions.</p> <ul style="list-style-type: none"> No cost benefit analysis for travel time and operating costs is provided. | <ul style="list-style-type: none"> Same as above |

| | | | |
|--|--|---|--|
| <ul style="list-style-type: none"> Land costs will be much less as this part of land is far cheaper between Taxila and Haripur compared to rich fertile/commercial land between Hasanabadal -Haripur. | <ul style="list-style-type: none"> Acquisition of new right of way (100 m ROW) is very difficult to acquire between Nicolson Monument (Taxila) and Khanpur. Moreover, due to heavy industries and future potential for factories as well as presence of large orchards of best quality oranges, cost of land acquisition and compensation will increase manifold. | <ul style="list-style-type: none"> Comparative analysis of land impacts and costs not provided either for present alignment or for the alignment proposed by the complainant. No information about what efforts were made to minimize the land acquisition and resettlement (LAR) impacts. | <ul style="list-style-type: none"> NHA gave the complainant a comparative analysis of LAR impacts of both alignments detailing loss of land, structures, business and number of displaced persons with corresponding LAR costs and reasons for adopting the E-35 alignment. |
| <ul style="list-style-type: none"> This option will suit heavy traffic of industrial complexes between Taxila and Haripur. | <ul style="list-style-type: none"> NHA is fully cognizant with the need to develop the network and NOC from Punjab Government is on final stage and NHA will very soon embark the up gradation of exiting Taxila Khanpur road is on NHA's priority. | <ul style="list-style-type: none"> Time line is not given for upgrading the existing Taxila- Khanpur road to facilitate communities. | <ul style="list-style-type: none"> NHA provided time lines for start of upgrading works of existing road from Taxila to Khanpur |
| <ul style="list-style-type: none"> Due to the meandering alignment, there are a number of unnecessary interchanges, | <ul style="list-style-type: none"> Present alignment is best linking major towns like Hassanabadal, Hattar industrial state, Kot Najibullah, Haripur, Khanpur, Sarai Saleh and Havelian. These towns are connected with interchanges at appropriate locations. | <ul style="list-style-type: none"> Clarity and justification of the alignment and interchanges missing. | <ul style="list-style-type: none"> NHA provided a comparative justification of interchanges. |

| | | | |
|--|--|--|---|
| <p>2. Violation of Involuntary Resettlement Safeguard Policy</p> <p>iii. Since project is funded by ADB, following ADB policy guidelines is mandatory. Policy requires a process of consultation with locals.</p> | <p>iii. NHA remained involved in consultations since August 2010 through its consultants M/s NESPAK accompanied by NHA officers. Consultations were also made during January and April 2012, and during consultations the project impacts and components with compensation entitlement matrix was shared with the APs.</p> | <p>iii. Response lacks record of consultations with minutes held since August 2010.</p> | <ul style="list-style-type: none"> NHA provided to complainant the consultation record as referred in response. |
| <ul style="list-style-type: none"> It requires compensation based on current market value taking into account full replacement costs and rehabilitation of displaced persons. | <ul style="list-style-type: none"> The NHA is committed to pay, ADB allowances, besides the compensation of affected properties. Payment of structures is made on replacement costs without salvage deduction. | <ul style="list-style-type: none"> Land prices do not reflect current market price. No information how/whether resettlement allowances match replacement value. | <ul style="list-style-type: none"> NHA provided a detailed analysis of land prices, and justify why awarded prices should be considered as being the current market value, compared with the prices in valuation table as a reference point. Provided measures to top up the prices and allowances in case these are found below the market rate. |
| <p>3. Anomalies in Land Acquisition Process.</p> <p>iv. Due to design and land issues, a phased and piecemeal payment of land compensation will make design inflexible.</p> | <p>iv. No response from NHA</p> | <p>iv. No information about how payments are being made to the DPs, and reasons for delayed or piecemeal payments.</p> | <ul style="list-style-type: none"> Detailed response from NHA provided to the complainant covering the payment process, its transparency and facilitation (if any) provided to the DPs in the payment process. |

| | | | |
|---|---|--|---|
| <p>v. Assessment of land prices is not consistent with ADB Involuntary Resettlement Safeguards and country laws.</p> | <p>v. The land awards are based on the last one year average prices as per provisions of LAA 1894, which is the transparent method to calculate the market prices. 15% compulsory land acquisition charges are also given in awards.</p> | <p>v. The NHA's to clarify (i) how 2009/10 prices are considered to be the market price in 2011/12, and (ii) how land awards are consistent with section 23 of LAA and replacement cost as required under SPS (2009).</p> | <ul style="list-style-type: none"> • Provided to the complainant the information pertaining to the assessment of land prices; village-wise mutation prices, year of assessment and a rationale (i) how 2009/10 prices are considered to be the market price in 2011/12, and (ii) how land awards were announced keeping in view section 23 of LAA. |
| <p>vi. The land record is not updated and thus the compensation assessed as per outdated record is much lower than the actual category and value of land.</p> | <p>vi. The rate of different types of land is assessed on the basis of one yearly average and provided by the concerned Revenue and Estate Department. It is clarified to complainants that NHA has no prerogative to involve itself in the land acquisition process as beneficiary party while the DPs case has been referred to the District Officer Revenue Haripur.</p> | <p>vi. No information how the land records were updated, and no justification provided why the land types are different from the valuation table of 2011/12.</p> | <ul style="list-style-type: none"> • Provided information related to land classification. |
| <p>vii. Fertile and irrigated land is being acquired causing huge resettlement issues.</p> | <p>vii. The compensation for fertile land shall be given to the locals of the area. Besides, after construction of Expressway, the benefits shall be worth more than cost of land for locals of the area. However, NHA is committed to pay ADB allowances to the Project APs.</p> | <p>vii. No information provided whether compensation rates are based on replacement costs and include resettlement and rehabilitation allowances as in the SPS and how a closed entry fenced expressway will be beneficial for the locals?</p> | <ul style="list-style-type: none"> • NHA provided details how the awarded/ compensation rates are equivalent to market price and replacement values as in the SPS, and how the benefits are worth more than cost of land. |

| | | | |
|--|--|---|--|
| <p>viii. Due to fencing of road the land shall be divided on both sides of the road making it in accessible for approach and cultivation by the farmers.</p> | <p>viii. Under passes are given at every 3 Km.</p> | <p>viii. No information whether DPs were involved in selection of underpasses, and whether spatial distance of 3 km helps marginalized land owners to access and cultivate the divided land and whether they can retain the land under meaningful uses.</p> | <ul style="list-style-type: none"> • NHA provided detailed analysis with socioeconomic aspects of underpasses and a cost benefit analysis of access to and use of land on either sides of the expressway from the point of view of functional viability of remaining or divided land. |
| <p>ix. The area left inside the loop of interchanges and in their immediate proximity cannot be used for any meaningful purpose.</p> | <p>ix. Adequate passages are given to the land falling within loops.</p> | <p>ix. Response does not clarify what will be the economic viability of land left inside the loops.</p> | <ul style="list-style-type: none"> • NHA provided analysis how the area left in loops will retain its economic viability and clarify it to complainants. |

**NATIONAL HIGHWAY AUTHORITY
HASANABDAL – HAVELIAN- MANSEHRA EXPRESSWAY**

**RESPONSE TO COMPLAINT ON
DESIGN & LAND PRICES**

Background

1. The Govt of Pakistan has launched a National Trade Corridor Improvement Program (NTCIP) with the objective of reducing the cost of transport and trade logistics and bringing services' quality to international standards in order to reduce the cost of doing business in Pakistan, enhance the country's exports competitiveness, and accelerate its industrialization, thus contributing towards achievement of middle income country status expeditiously. Pakistan's traffic movements are primarily concentrated along the north-south 'National Trade Corridor' (NTC) – Peshawar-Lahore-Karachi – which serves domestic needs, and also links the main industrial centers in Punjab and neighboring countries in the north-west (Afghanistan) and north (China) with international markets through the southern Karachi area ports. Together the ports, road and railways in this corridor moves' Pakistan's external and internal trade which contribute 80 to 85 percent of GDP.

2. Pakistan's economy relies almost entirely on road transportation to carry the inland freight. Roads carry **96%** of the inland freight annually. National Highway Authority (NHA) main artery along the national trade corridor is the 1760 km long National Highway N-5 popularly known as the Grand Trunk (G. T.) Road. The NTC road sector investments are grouped into three components of (i) North-South Access-Controlled Motorway / Expressway System, to provide a high-speed, safe and reliable road transport corridor (ii) *Gwadar Port Linkages* and (iii) Up-gradation of KKH.

3. N-35 (popularly known as Karakoram Highway) links Hazara, Kohistan and Gilgit-Baltistan with the rest of the country and is the only overland trade route to China. The GOP envisions significant increase in trade/transit traffic from China both through sea and land after opening of the Gawadar port, with the Middle East, Africa and Central Asian Republics and has, therefore, decided to upgrade Karakoram Highway to expressway standards and link it to the National Trade Corridor, to improve connectivity with China.

4. The detailed engineering design for the E-35 project has been completed, the EIA has been conducted, LARP has been prepared and the land acquisition for the project is in advanced stage. The loan processing schedule has been agreed between NHA and ADB.

Complaint

5. A complaint was forwarded to Asian Development Bank by Brig Sohrab Alam representing a family of Kot Najeeb Ullah, expressing serious observations on the selected alignment with respect to its length and travel time to Islamabad. The complainant also issued a press release conveying observations on the viability of the selected alignment and proposed an alternative alignment along Haripur – Khanpur – Taxila to join M-1 at Fateh Jang Interchange. Beside the alignment the complaint expressed reservations on the land acquisition processes under the LAA-1894 and the basis for the price assessment, alleging that the land

compensation has not been assessed through a transparent process and are not based on actual market value.

Response: Regarding Selection of Alignment

6. During the feasibility study NHA evaluated more than one options of alignment including the dualization of N-35 along the existing alignment. Our consulting firm M/s NESPAK, which holds good reputation in construction and design in the South Asian region, recommended the option on which we are currently working. The option of dualization was discarded as it would have resulted into large scale displacement and resettlement of affected population mostly concentrating along the roadside. Similarly, other options were also discarded after a comparative feasibility study. Thereafter NHA decided to construct an expressway along a fresh alignment. The various options were considered keeping in view the following factors:

- a. *Shortest route to link N-35 with National Trade Corridor.*
- b. *Minimum resettlement by avoiding major towns.*
- c. *Most economical in construction.*

Note: The comparative study of options considered can be found in the attachment for further details tagged as Alignment Study Report 1 and Alternatives Study.

Anticipated Major Constraints while adopting proposal via Taxila:

- Any other option, including the one proposed by the complainant, would entail massive land acquisition creating big LAR issues requiring relocation and resettlement of big number of people of the area with their assets, environmental dimensions is another challenge the details of which have been highlighted here. Moreover, the archaeological issues arising because of this alignment would have magnified to the extent beyond NHA's control to manage.
- As the length of expressway via Taxila is about 13-km extra needs additional land (2100 kanals) and infrastructures to be acquired.
- As alignment has to pass in close vicinity of Heavy Industries Taxila (HIT) and PMO both areas controlled by Pak Army (about 5-km) needs

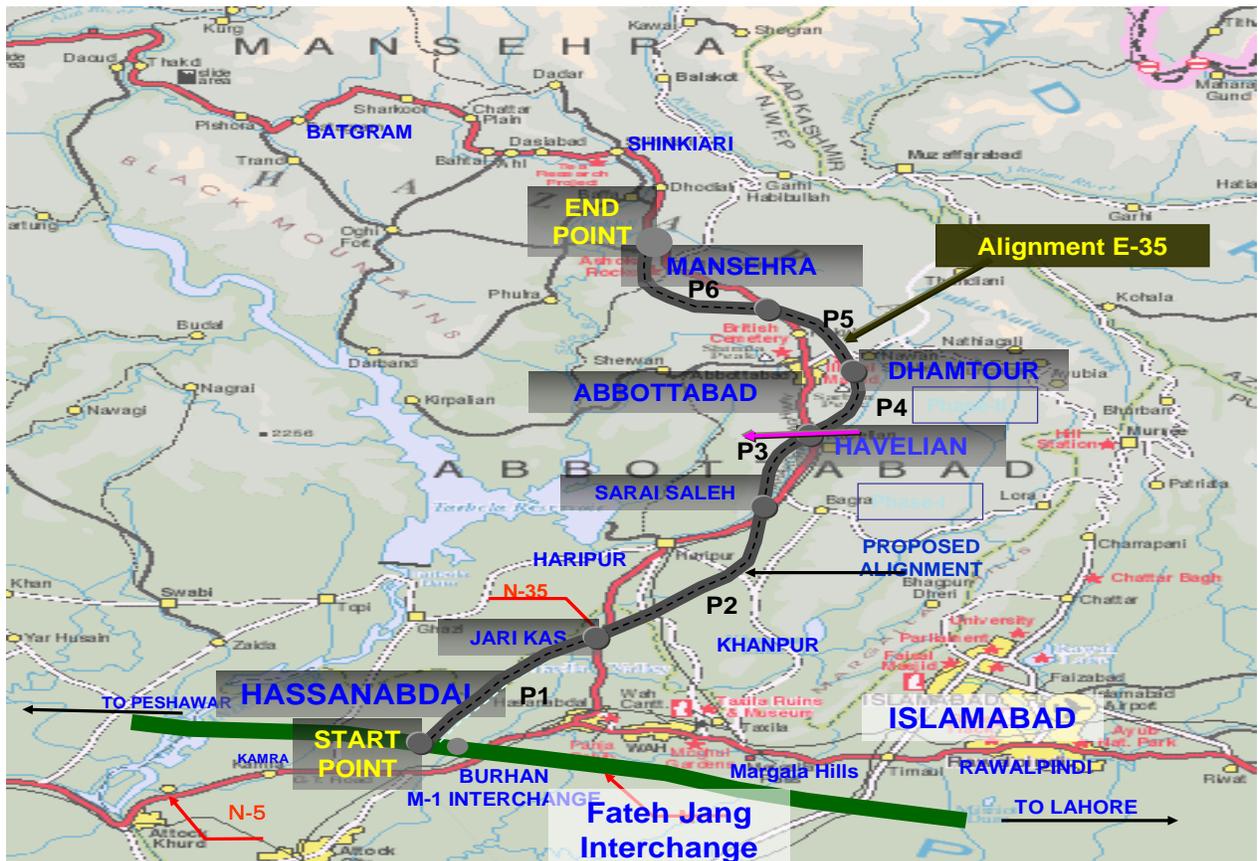
No Objection Certificate (NOC) from Pak Army, under prevailing circumstances it is IMPOSSIBLE.

- The proposed alignment passes through good agriculture/built up area between PMO to Haro river high cost land area where fruit gardens areas are also involved between Tofkian and Garhi Hayat Khan.
- Bridge over Haro River (300m in length) will be required whereas in original alignment Haro River is bypassed.
- Beyond Haro River, alignment has to pass SARRA Range (about 3-km), where design criteria of hilly terrain will be adopted and speed has to be reduced.

- Alignment between Kamalpur and Chechian (about 9-km) passes through extensive water-shed area where frequent drainage structures will be required along with additional protection works.
- Alignment around N-5 near Taxila Monument where land cost is also very high and may faced difficulties as resettlement issues.
- Alignment between M-1 to N-5 may pass through under-planning Housing schemes apparently not demarcated at ground.

Past Experience:

- NOC obtaining from Pak Army is bit difficult, e.g. case of NOC passing the alignment behind Kakul even after the lapsed of 4 years is still pending rather Army not ready to give NOC. Due to this major constraint, NHA divided the project in two phases and alignment of Phase-2 between Havelian ~ Mansehra could not be finalized yet.
- It is also observed that at numerous places where roads are exist, Army barricaded these roads and commuters are compelled to use other routes whereas in this case, NHA has no option except to adopt the original proposal being thickly populated area from Margalla hills (Nicolson Monument) to Hassanabdal.



7. Keeping in view the above factors the approved alignment along Burhan – Jarikas – Kot Najeeb Ullah – Khanpur - Sarai Saleh – Havelian – Abbottabad –Mansehra was selected after a comprehensive study and field validation to achieve the stated objective of the project.

8. It is pertinent to note that structured public consultations were carried out during the conduct of EIA and preparation of Land Acquisition and Resettlement Plan. The alignment and detailed engineering design were disclosed during these public consultations. Thus as an outcome of the hectic efforts made by NHA during this outreach program, majority of the stakeholders agreed with the alignment and the scope of project. The formal and informal consultations were also joined by the current as well as public representatives like eminent politicians of the area, former parliamentarians and local bodies' representatives. All of them expressed extreme satisfaction over the project with regards to alignment and land prices.

NHA's All-out Efforts to Redress the Complaint

9. On receiving the complaint under-consideration, NHA initiated its course of action for redressal of the complaint in diverse ways. Firstly, a number of meetings were held with the complainant by the head of the Design Wing (at GM level), the Project Director and NHA's design consultants at the project sites and NHA head office. During these sessions, the complainant was briefed on the concept of National Trade Corridor and was informed that the expressway is primarily being constructed to link Gilgit - Baltistan region and Hazara region with the National Trade Corridor. To elucidate further, it was explained that the purpose of this linkage was to improve connectivity by using traditional Silk Route (present Karakorum Highway-KKH) to minimize travel time between Chinese border at Khanjrab and the areas adjoining KKH, E-35 and M-1. This improved connectivity would have direct impact on development of the area through trade, transit trade and better communication. It was added in the information provided that the major beneficiary of this expressway (E-35) will be the Hattar Industrial Estate which will be connected with Motorways & National Highways Network.

10. Keeping the above socio-economic picture in view, it was briefed to the complainant that the alignment proposed in the complaint doesn't lead to the achievement of this national objective. It was clarified that although the proposed alignment may link Islamabad with Haripur through the shortest possible route, but it would not benefit the economy of the country. Moreover, the following disadvantages of the proposed alignment were also highlighted to the complainant:

- a. The proposed alignment would have to pass through Margalla Hills which is a reserved forest area. Passing through it would have severe environmental impacts in the form of cutting of trees and rock blasting etc. which are not likely to be cleared by the Environmental Protection Agency besides being a major threat to the weather and environment of the area;
- b. The proposed alignment envisages large scale re-location including industrial one as the alignment area consists of Wah Gardens Housing and Pakistan Ordinance Factory in the south, Taxila located in the north and residential area of Heavy Mechanical Complex & Heavy Rebuild Factory in the middle. All these are thickly populated areas and so the proposed project will result in large scale displacement of population.
- c. The UNESCO-protected archeological sites and museums are located at Taxila which will be constraining sites in the selection of detailed alignment.

- d. A number of security installations are located on the Northern foothills of Margalla which will further constrain the alignment and as experienced at Abbottabad the clearance from this installation will not be available.
 - e. Large orchards of Oranges of international quality at Khanpur will have to be cut which will not only involve huge compensation but will result in loss of very productive lands coupled with adverse environmental, agricultural and trade impacts in addition to impoverishing the people of the area.
 - f. Although the proposed alignment reduces distance of Havelian to Islamabad by 6 km but increases the distance to Peshawar (the provincial capital of Khyber Pakhtunkhwa) by 39 km and hence is not suitable. The current alignment has also been approved by the Provincial Govt. of Khyber Pakhtunkhwa.
 - g. The proposed alignment entails the construction of 13 Km longer length as compared to the selected alignment involving acquisition of additional land and affects larger population which will enhance the cost of the project manifold with accompanied adverse social impacts.
 - h. The cost of land in this commercialized area containing many housing societies coupled with cost of additional length will make the project economically un-viable.
 - i. Haripur – Khanpur - Taxila has already been federalized and planned for up-gradation which will provide good alternative between Islamabad and Haripur.
11. The Complainant was informed that the complaint is not based on socio-economic and environmental facts & figures and so the project may suffer delay due to this.

Land Acquisition And Compensation

12. **The Land Acquisition Act 1894.** The LAA of 1894 including successive amendments in the law govern the land acquisition proceedings in Pakistan. The law is applied throughout the country without discrimination and enables the federal and provincial governments to acquire private land for public purposes and for infrastructure-building entities like NHA, WAPDA, SNGPL etc. through the exercise of *the right of eminent jurisdiction of the state*. As per this law, land acquisition is carried out by the provincial governments for various acquiring agencies. To support LAA, each province has province-specific rules and regulations. The Complainant has termed the Land Acquisition Act-1894 as a British legacy and a draconian law totally ignoring the elasticity of the provisions of the Act. Moreover, it has also been ignored that NHA is strictly implementing the ADB's SPS 2009 in addition to the Act. It is pertinent to note that LAA 1894 is being adopted and followed in other countries of the sub-Continent as well.

Price Assessment Process

- a. As per the LA Act, land valuation is to be based on the latest 3-5 years average land prices as per the sales registered with the land management authorities of the provinces. However, to benefit the affectees in a more effective manner, the median rate over the past 1 year or even the current rates have been applied. Due to widespread complaints of land under-valuation by the land administration of the provinces, current market rates are now frequently applied with an added 15% Compulsory Acquisition Surcharge as provided in the LA Act 1894. The Act requires that following an impacts assessment /

valuation effort, land and crops are compensated in cash at market rate to the titled land-owners and registered land tenants / users respectively. These principles have been strictly adhered to in the land acquisition process for E-35 project by NHA.

- b. NHA remained involved in the public consultation with the Project affected persons through its consultants, M/S R2V and M/s NESPAK since August 2010. Fresh consultations were also made in Jan 2012 and most recently in April 2012. During the consultative sessions projects impacts, eligibility criterion, entitlement matrix and processes under the LAA were disclosed. The land prices for the expressway have been assessed on the basis of yearly averages authenticated from the mutations which have been attested during the last one year, after the issuance of Notification under section-4 of Land Acquisition Act, 1894. This method for calculating the Market Value is most transparent way of determining the prices as it involves a substantial amount of valid documentation (in the form of Mutations) available to substantiate the awarded amount.
- c. The complainant was informed that the assessed prices in the award for various types of land falling in village Kot Najibullah are much higher than the Board of Revenue Valuation Table of 2011-12 attached as (Annex-L). NHA being an acquiring department do not enjoy the jurisdiction of fixation / valuation of land rates, even if, any method is adopted to enhance the amount of compensation as it will neither have the statutory support with it, nor NHA can achieve the APs satisfaction.

ADB Involuntary Resettlement Policy.

13. The complainant has alleged that the ADB's policy has been violated. In principle, Pakistan Land Acquisition Act practices and ADB's Policy adhere both to the objective of AP compensation, and the objective of rehabilitation. However there are some differences specific for entitlements, eligibility and procedures between the act and the ADB policy which are bridged through the Land Acquisition & resettlement Framework. Although the LARF and LARP have not yet been approved by ADB but the principles of the ADB policy have been strictly adhered to during the land acquisition processes. ADB has conducted due diligence on these processes and have found these complying with the policy. The resettlement allowances under the policy will be disbursed on finalization of LARP. The ADB's policy has not been violated in any manner.

Conclusions and Recommendations

14. NHA conducted several meetings with the complainant to address the concerns raised in the complaint. The same may be observed in the complainant's letter of 31st May, 2012. During these meetings, the facts mentioned in the previous paras were elucidated in a logical and convincing manner. The complainants were informed that the LAC had applied his independent mind, while assessing prices. It was also informed that NHA has very limited role in the price assessment process as the same is carried out by provincial government as per the national law. However, the complainant seems to be dissatisfied with the elaboration. It is highly important to note while examining the complaint on merit that the list of names quoted in support of both the complaints is from one influential family only. It can easily be construed from the ground realities that the complainant might be having a different view of the project of reducing the distance between his hometown and Islamabad totally ignoring the objective of constructing the expressway in the broader context of National Trade Corridor. Keeping the all-out efforts of NHA to redress the complaint, the complaint may be considered as redressed for now and

forever since NHA has tried its level best to surface the factual position and provide all relevant information to the complainant.

15. Whether the complainant agrees with NHA's viewpoint or not is altogether a different question, however, NHA has shared all possible information with the complainant during fresh consultations with complainants in April-August 2013 and last meeting at NHA auditorium in which the complainant made a presentation. However after NHA's response, the complainant stopped pursuing his complaint any further. No one from the complaint group expressed desire to meet with NHA or BOR or NHA's field team based in Harripur and implementing the LARP in the project area. With this NHA believes that the complaint stands addressed and closed.