

Corrected Draft by NMC

Deed of Memorandum of Understanding (MoU)

Between

Maharashtra State Infrastructure Development Corporation Limited

And

Nagpur Municipal Corporation, Nagpur

For the work of

Joint Development of Markets with NMC in Nagpur City

Deed of Memorandum of Understanding

This Deed of MoU is made on thisday of 2023 at Nagpur.

Between

The Nagpur Municipal Corporation, having its Head Office at Civil Lines Nagpur – 440001, hereinafter referred to as "NMC" which expression shall, unless repugnant to the context or meaning thereof includes its administrators, successors and assigns of the One part, represented through Municipal Commissioner, Nagpur Municipal Corporation, authorized through NMC Resolution dated _____ to do all acts on behalf of NMC.

And

Maharashtra State Infrastructure Development Corporation Ltd., a company registered under the companies Act 2013, having its registered office at 11 Administrative Barracks, Hazarimal Somani Road CSMT, Bazargate, Mumbai – 400001, hereinafter referred to as MSIDC which expression shall, unless repugnant to the context or meaning thereof includes its administrators, successors and assigns of the Second part; represented through, Managing Director, MSIDC authorised through Company Board Resolution dated 2.11.2023 to do all acts on behalf of the company.

Whereas;

Nagpur Municipal Corporation and Maharashtra State Infrastructure Development Corporation Limited (MSIDC) acting as implementing agency on behalf of NMC have decided to develop the commercial projects on the various land parcels belonging to the Nagpur Municipal Corporation and state government land leased to NMC in Nagpur City, wherein Nagpur Municipal Corporation shall assume the role of the land owner and Maharashtra State Infrastructure Development Corporation Limited shall assume the role of **Implementing agency on behalf of NMC.**

1. Preamble:

A. It is agreed to re-develop and exploit the commercial potential of various land parcels belonging to NMC, on PPP mode. The various land parcels (sites) being planned to be redeveloped are as follows:

Sr. No	Name of Area	Area (Sqm)
i.	Dahi Bazar	Indicative Area 1,669 sqm
ii.	Six Markets Combined (Loha, Poha, Bhazi, Anaaz, Hariganga Building, Hariganga Premises Extra Shops)	Indicative Area 14,407 sqm
iii.	Dik Dawakhana	Indicative Area 3,800 sqm
iv.	Cotton Market (Phule Market)	Indicative Area 47,997 sqm
v.	Santra Market	Indicative Area 12,895 sqm
vi.	Netaji Market	Indicative Area 9,393 sqm

Note:

1. The areas of sites are indicative and shall be reviewed as per available land records jointly by NMC and MSIDC
2. The list of sites is non-exhaustive. Additional sites may be appended to the list at a later dates, if agreed between NMC and MSIDC

This Deed of MoU is witnessed the terms of agreement as under:

B. The main conditions of the Memorandum of Understanding (MoU) include:

1 (a) In case of land owned by Municipal Corporation, projects shall be developed on Design Build Finance Operate and Sale (DBFOS) basis.

(b) In case of land is handed over to NMC by the State Govt. or other Govt. authority, necessary permissions from State Govt. or other Govt. authorities would be obtained. Lease will be given for 30 years with the approval of State Govt. and may be extended further for two terms of 30 years with the approval of State Government.

2. Land ownership shall **always remain with** NMC under the Head of owner.

3. Maharashtra State Infrastructure Development Corporation Limited shall assume the role of the **Implementing Agency** for all projects, i.e. within specified area designated by NMC.

4. This is an initial MoU prescribing terms and conditions of consensus between the parties, however subsequent agreements may be executed on project to project basis as decided by the parties. If specific terms and conditions for specific project need to be finalize, that can be decided mutually.

5. The responsibilities of MSIDC shall be as under:

5.1 MSIDC shall conduct initial surveys and investigations including topographical and geotechnical surveys to facilitate the design process.

5.2 a) MSIDC **with the prior approval of NMC** shall finalize RFP comprising of necessary designs, architectural plans, cost estimates.

b.) After acceptance of bid by NMC, concessionaire will be finalized. Any important policy decision having substantial impact on the project under consideration will be taken jointly in High Power Committee as per section 7.3.

5.3 That the NMC shall reserve the right to approve the premium /share/royalty of whatever nature towards the project, on project to project basis as per its policy.

5.4 MSIDC shall make sure that the architectural and structural designs should be in conformity with the applicable Development control Rules and Regulations, Act, Byelaws, Building codes for Nagpur city DCR of Nagpur city.

5.5 Requisite Statutory approvals from NMC and/or any other authority shall be taken as per the requirement.

5.6 MSIDC shall appoint a concept architect for each project site. The concept architect fees shall be paid by MSIDC.

5.7 In case other consultants / agencies need to be appointed for the project, the fees for the same shall be paid by MSIDC.

5.8 MSIDC shall be responsible for the quality control, project management deciding and conformity to codes and bylaws during construction and shall ensure timely execution of work.

5.9 MSIDC shall make sure that the cumulative built-up area for tenements/shops/units/blocks for the licensed shopkeepers to be rehabilitated is constructed and is suitably handed over to NMC for further allotment to the licensed shopkeepers as per its Policy and Regulations.

5.10 MSIDC shall be responsible for taking all necessary decisions for the timely and successful completion of the projects within its scope of work.

5.11 MSIDC shall nominate two senior officials as member of steering committee, who shall be responsible for project co-ordination and taking necessary decisions in consonance with NMC.

C 6. The responsibilities of NMC shall be as under:

6.1 NMC shall **take measures** for change of land use for each project site, as per the requirements for project.

6.2 NMC shall handover the encumbrance free and encroachment free land in **phase wise manner** with clear title for construction. The handover of land shall be done well in time and by execution of required deed for that purpose as per the provisions of law.

6.3 In case temporary relocation of the existing leaseholders is required outside the project site, NMC shall make available land for such temporary relocation.

6.4 NMC shall prepare the updated list of licensed shopkeepers which shall include layout plans showing existing shops/otta/sheds for all sites along with their cumulative built-up area.

6.5 NMC shall arrange for permission for cutting and shredding of trees, if required for the project.

6.6 NMC shall give necessary approvals for statutory building plan sanctions, issuing of occupancy certificates and give requisite NOCs etc. regarding the project/s subject to the statutory fees paid by the concessionaire as per prevailing Regulations of UDCPR 2020 and MRTTP act 1966.

6.7 NMC shall also assist for obtaining all other necessary approvals including Fire NOC, Environmental clearance, Ground water excavation NOC, AAI clearance and all other necessary approvals for execution of the project.

6.8 NMC shall be responsible for allotment of all the newly constructed shops / blocks to the existing licensed shopkeepers in the project by way of lottery system. The asset proposed to

be allotted to existing licensed shopkeepers shall be allotted at value not less than the cost of construction as determined by the **Steering Committee** so formed. The lottery system shall be adopted for fair and transparent allotment.

6.9 NMC shall provide necessary support for interconnection of various utility services for the projects.

6.10 NMC shall nominate two senior officials as member of steering committee, who shall be responsible for project co-ordination and taking necessary decisions.

7. Methodology of Execution

7.1 A roadmap for each of the projects shall be jointly prepared by NMC and MSIDC which shall deal with the details of planning and execution aspects for each of the projects to ensure timely and successful completion of the projects in time bound manner.

7.2 A Steering Committee shall be formed comprising of two officials each from MSIDC and NMC. Steering Committee will be chaired by the officer not below the rank of Additional Commissioner, to ensure speedy and successful completion of project in all aspects within a period of 30 days from the date of execution of this MoU. The scope of work of committee shall include:

- i. Framing of policy for allotment of tenements/ shops/ units/blocks to shop keepers/ vendors/ occupants presently operating on the project site/s and fixation of cost of tenements/shops/units/blocks to be allotted to shopkeepers/vendors/occupants along with payment schedule.
- ii. Taking all important and policy decisions for and during the project.
- iii. Deciding the quantum of premium/ share / Royalty to NMC for each project based on financial models which will require approval of High Power Committee/NMC.
- iv. Co-ordination for obtaining speedy clearances and statutory approvals required for the project.
- v. All the important policy decisions taken by Steering Committee requires approval of High Power Committee.
- vi. Identify and suggest locations for temporary re-location of existing occupants of the project site, if feasible.
- vii. Coordinate for shifting of utility services such as storm water drain, drainage system, water pipelines, electrical cables etc. within the site/project area.
- viii. Coordinate for speedy disposal of ongoing/pending/future legal disputes, if any.
- ix. Suggest means and methods for speedy completion of projects.
- x. Conduct periodic coordination meetings to take decisions and to resolve issues at hand.
- xi. Liaise with other departments / public offices in the interest of the projects if required.

7.3 A High Power Committee shall be formed comprising of MD, MSIDC and Municipal Commissioner, NMC for strategic decision making and resolution of differences, conflicts, disputes and hurdles, if any, which cannot be resolved at the level of steering committee within a period of 45 days from the date of execution of this agreement. The scope of work of the High Power Committee shall include:

- i. Conduct periodic review meetings to assess the progress of projects.
- ii. Identify and resolve key bottlenecks which could pose an impediment in successful and timely completion of projects.
- iii. Take all strategic decisions in the interest of the projects.
- iv. Spot verification and visit for ensuring quality and standard of construction quality by appointed Agency or Contractor.

8. General terms and conditions

8.1 Land in project area shall remain in exclusively ownership of NMC and the same shall be made available for execution of project as per deed executed for the said purpose. Land cost shall be computed based on Latest Annual Statement of Rates (ASR) which shall become part of the project cost.

8.2 NMC after implementation of this MoU, shall not assign transfer, alienate in any manner whatsoever its rights, responsibilities and interest in this project, either in part or full, without intimating MSIDC.

8.3 The built-up area of rehabilitation and resettlement shall not be more than the existing cumulative built-up area of all shops/otta/sheds owned by all the License shopkeepers, mandatorily.

8.4 Any change in the applicable Acts, Rules and Regulations, Legislation and Policies of Government shall be binding on both parties. Any additional cost arising due to such changes or due to exceptional situation, shall be chargeable to project cost and that will be decided by the high power committee.

8.5 Both the parties shall maintain strict confidentiality of the document and drawing of the project.

9. This understanding shall come into force on and from the date of execution of this MoU. This MoU though executed in duplicate but the copies shall be treated as original and one. One copy shall be retained by NMC and the other copy shall remain with MSIDC.



10. Fees for MSIDC:

10.1 Fees for MSIDC shall be fixed for 5 % of the project cost for each project.

10.2 The fee for MSIDC shall be paid by the selected concessionaire / developers and the provision for same shall be kept in respective concession / license agreements.

10.3 The fees to MSIDC, for each project, shall be payable as per the table below.

Sr. No.	Stage	Fees (as %age of project cost)	Payable
1	At the time of Issue of Letter of Acceptance (LOA) to Developer / concessionaire	1.0 %	From concessionaire to MSIDC
2	On start of construction	0.75 %	From concessionaire to MSIDC
3	Upon construction of plinth level	1%	From concessionaire to MSIDC
4	Upon casting of last structural slab	1%	From concessionaire to MSIDC
5	Upon completion of finishing works	0.75 %	From concessionaire to MSIDC
6	Upon overall completion of the project	0.50 %	From concessionaire to MSIDC
	TOTAL	5.0 %	

Any payment to concessionaire to MSIDC will be with due intimation to NMC.

10.4 If the occasion so arise to take aid/services/opinion etc. from any third party/expert for the purpose of the project, the necessary charges to be paid to such third party/expert or cost of whatsoever nature shall be borne by MSIDC.

10.5 Fees payments to MSIDC shall be honored with 30 days of receiving the intimation from MSIDC. Delay of payment beyond 30 days shall be deemed to be breach of this MoU.

11. Indemnity:

11.1 Beyond all the contractual obligations, the parties undertake to indemnify and hold

harmless each other's representative, directors, officers, regular employees, and outsourced staff against any and all losses, liabilities, claims, demands, actions and damages occurred/caused / suffered by them directly or indirectly due to any action, litigations or legal action taken by any third party in relation / connection / execution of the project.

11.2 In case of any mishap / accident or uncalled incident during execution of the project, NMC and MSIDC shall not be responsible for any compensation, or any liability attached thereto. The responsibility of such liability shall be of the concessionaire / contractor who is the executing agency of the work as may be identified by NMC as per the applicable provisions of law.

11.3 It shall be duty of concessionaire / contractor to take all safety measures at the time of project work till its completion, mandatorily.

12. Force Majeure Event:

Any act or event that prevents the affected Party from performing its obligation in accordance with the agreement, if such act or event is beyond the reasonable control of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, "Force Majeure Event" shall include without limitation the following acts or events:

- i) Natural phenomena, such as storms, hurricanes, floods, lightening, volcanic eruptions and earthquakes;
- ii) Explosions or fires arising from lightening or other causes unrelated to the acts or omissions of the party seeking to be excused from performance;
- iii) Acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts or rebellion;

The cost escalation due to force majeure event shall form part of project cost and shall be borne by the concessionaire through suitable clauses of concession agreement. No liability or claim will be maintainable against NMC or MSIDC in any manner and same shall be incorporated in terms and conditions in any agreement with concessionaire / developer / contractor by NMC or MSIDC.

13. Conciliation:

13.1 Except where otherwise provided for in the MoU, all questions and disputes arising between the parties pertaining or relating to the MoU directly or indirectly connected with the MoU shall be in the first place be resolved mutually by NMC and MSIDC through The Steering



Committee. The Steering Committee shall try to settle dispute amicably and inked the consented terms of settlement.

13.2 Notwithstanding the existence of a dispute, the Parties shall continue to perform and act in accordance with all their respective obligations under the agreement.

14. Adjudication:

14.1 In an event where the efforts to resolve all or any of the disputes through this conciliation fail, then such disputes shall be referred within 30 days to the High Power Committee for adjudication. The decision of the High Power Committee comprising of the MD, MSIDC and The Commissioner, NMC shall be binding on the parties alongwith the concessionaire / contractor of project accordingly the undertaking shall be taken of concessionaire / contractor by MSIDC.

15. Arbitration and Jurisdiction:

15.1 In an event where the efforts to resolve all or any of the disputes through this adjudication fail, then such disputes shall be referred within another 30 days to the Arbitrator, mutually agreed between MD, MSIDC and The Commissioner, Nagpur Municipal Corporation, Nagpur. The Arbitration Award of the Arbitrator mutually appointed by MD, MSIDC and The Commissioner, NMC shall be binding to all the parties concerned.

15.2 The provision of this agreement shall be governed by and construed in accordance with applicable Indian Laws and any dispute, controversy or claims arising out of or relating to this agreement shall be settled by arbitration in accordance with the Indian Arbitration and Conciliation Act 1996.

15.3 Arbitration proceedings shall be held at Nagpur and the language of the proceedings shall be English. Subject to the provision for arbitration above. This MoU shall be subject to the jurisdiction of the courts at Nagpur.

15.4 The arbitration fees, if any, shall be charged to both parties equally.

16. Termination:

Either party hereto may terminate this Agreement for any reason, without cause at any time, upon at least ninety (90) days written notice. The written notice shall clearly state the reasons for termination.

17. Notices:

Any notice or intimation required to be given or made under this agreement shall be in writing. Such notice or intimation shall be deemed to have been duly given or made when it shall have been delivered by hand or by mail, telegram, fax or email to the party to which it is required or permitted to be given or made at such party's address herein before specified or at such other address as such party shall have designated by notice to the party giving such notice or intimations. Addresses of the parties are as under:

Address of NMC:


Nagpur Municipal Corporation
Civil Lines
Nagpur - 440001

Address of MSIDC:


Maharashtra State Infrastructure
Development Corporation Limited
11 Administrative Barracks, Bazargate,
Mumbai – 400001

IN WITNESS WHEREOF, the Parties hereto have caused this memorandum of understanding to be signed in their respective names as of the day and year first above written.

FOR AND ON BEHALF OF
(Nagpur Municipal Corporation)


(Dr. Abhijeet Chaudhari)
Municipal Commissioner
Nagpur Municipal Corporation
Civil Lines, Nagpur - 440001

FOR AND ON BEHALF OF
(Maharashtra State Infrastructure
Development Corporation limited)


(Dr. Brijesh Dixit)
Managing Director
Maharashtra State Infrastructure
Development Corporation Limited
11 Administrative Barracks, Bazargate,
Mumbai - 400001

Witness: