

IN THE FOURTH SESSION OF THE SEVENTH PARLIAMENT OF
THE FOURTH REPUBLIC OF GHANA

REPORT OF THE COMMITTEE ON ROADS AND TRANSPORT

ON THE

SUPPLEMENTARY AGREEMENTS TO THE ENGINEERING, PROCUREMENT AND CONSTRUCTION (EPC) AGREEMENTS BETWEEN THE REPUBLIC OF GHANA (REPRESENTED BY THE MINISTRY OF ROADS AND HIGHWAYS) AND SYNOHYDRO CORPORATION LIMITED IN RESPECT OF THE FOLLOWING ROAD PROJECTS CONSTITUTING PHASE 1 PROJECTS UNDER THE MASTER PROJECT SUPPORT AGREEMENTS (MPSA): (I) ACCRA INNER-CITY ROADS (II) KUMASI INNER-CITY ROADS (III) TAMALE INTERCHANGE PROJECT (IV) PTC ROUNDABOUT INTERCHANGE PROJECT, TAKORADI (V) ADENTA-DODOWA DUAL CARRIAGEWAY (VI) SUNYANI INNER-CITY ROADS (VII) WESTERN REGION AND CAPE COAST INNER-CITY ROADS (VIII) UPGRADING OF SELECTED FEEDER ROADS IN ASHANTI AND WESTERN REGIONS (IX) REHABILITATION OF AKIM ODA TO OFOASE ROAD (X) HOHOE-JASIKAN-DODI-PEPESU

22 DECEMBER, 2020

REPORT OF THE COMMITTEE ON ROADS AND TRANSPORT ON THE SUPPLEMENTARY AGREEMENTS TO THE ENGINEERING, PROCUREMENT AND CONSTRUCTION (EPC) AGREEMENTS BETWEEN THE REPUBLIC OF GHANA (REPRESENTED BY THE MINISTRY OF ROADS AND HIGHWAYS) AND SYNOHYDRO CORPORATION LIMITED IN RESPECT OF THE FOLLOWING ROAD PROJECTS CONSTITUTING PHASE 1 PROJECTS UNDER THE MASTER PROJECT SUPPORT AGREEMENTS (MPSA): (I) ACCRA INNER-CITY ROADS (II) KUMASI INNER-CITY ROADS (III) TAMALE INTERCHANGE PROJECT (IV) PTC ROUNDABOUT INTERCHANGE PROJECT, TAKORADI (V) ADENTA-DODOWA DUAL CARRIAGEWAY (VI) SUNYANI INNER-CITY ROADS (VII) WESTERN REGION AND CAPE COAST INNER-CITY ROADS (VIII) UPGRADING OF SELECTED FEEDER ROADS IN ASHANTI AND WESTERN REGIONS (IX) REHABILITATION OF AKIM ODA TO OFOASE ROAD (X) HOHOE-JASIKAN-DODI-PEPESU

1. INTRODUCTION

On Friday, 18th December, 2020, the Supplementary Agreements (2no) to the Engineering, Procurement and Construction (EPC) Agreements between the Republic of Ghana (represented by the Ministry of Roads and Highways) and Synohydro Corporation Limited in respect of the following Road Projects constituting Phase 1 Projects under the Master Project Support Agreements (MPSA):

- (i) Accra Inner-City Roads
- (ii) Kumasi Inner-City Roads
- (iii) Tamale Interchange Project
- (iv) PTC Roundabout Interchange Project, Takoradi
- (v) Adenta-Dodowa Dual Carriageway
- (vi) Sunyani Inner-City Roads
- (vii) Western Region and Cape Coast Inner-City Roads
- (viii) Upgrading of Selected Feeder Roads in Ashanti and Western Regions
- (ix) Rehabilitation of Akim Oda to Ofoase Road
- (x) Jasikan-Dodi Pepesu

was presented to Parliament by the Minister responsible for Education, Dr. Matthew Opoku Prempeh on behalf of the Minister for Roads and Highways.

The Rt. Hon. Speaker referred the Agreement to the Committee on Roads and Transport for consideration and report in accordance with Article 181 of the 1992 Constitution and Order 189 of the Standing Orders of Parliament.

The Committee met with the Deputy Minister of Roads and Highways, Hon. Kwabena Owusu-Aduomi and Officials of the Sector Ministry and reports as follows.

2. REFERENCE DOCUMENTS

i. The 1992 Constitution

ii. The Standing Orders, and

iii. The Supplementary Agreements (2 no) to the Engineering, Procurement and Construction (EPC) Agreements between the Republic of Ghana (represented by the Ministry of Roads and Highways) and Synohydro Corporation Limited in respect of the following Road Projects constituting Phase 1 Projects under the Master Project Support Agreements (MPSA): (i) Accra Inner-City Roads (ii) Kumasi Inner-City Roads (iii) Tamale Interchange Project (iv) PTC Roundabout Interchange Project, Takoradi (v) Adenta-Dodowa Dual Carriageway (vi) Sunyani Inner-City Roads (vii) Western Region and Cape Coast Inner-City Roads (viii) Upgrading of Selected Feeder Roads in Ashanti and Western Regions (ix) Rehabilitation of Akim Oda to Ofoase Road (x) Hohoe-Jasikan-Dodi-Pepesu.

3. BACKGROUND

The Government of Ghana (GoG) in July 2018, signed a Master Support Agreement for the “Construction of Priority Infrastructure Projects” with Sinohydro. The Master Project Support Agreement (MPSA) covers an umbrella Facility amount of US\$2.00 Billion under which various agreements were executed to implement priority infrastructure projects.

Additionally, 10 Deferred Payment Agreement and 10 EPC contracts were signed by both parties to implement the project. These Deferred Payment Agreements constitute the first phase of 10 lots under the Master Project Agreement.

During the implementation of the projects, some few of modifications had to be made to the Agreements and some relevant provisions of the EPC Contract. These modifications sought to amend four (4) clauses of the particular conditions of contract (FIDIC) to facilitate smooth execution of the project and of which Parliament needs to be informed are approve.

The two (2) parties, the Ministry of Roads and Highways (MRH) representing the Employer and Sinohydro Corporation Limited, the Contractor, entered into Supplementary Agreements on 12th March 2019 and 23rd March 2020 to align the provisions relating to

- a. Access to the Site
- b. Amount retained on Retention
- c. Advance Payment; and
- d. Payment of Retention Money

As at November 2020 about US\$28.05 million has been disbursed under 4 of the lots, these are:

- Tamale Interchange
- Construction of Western and Cape Coast Inner Cities
- Upgrading of selected Feeder Roads in Ashanti and Western Regions
- Construction of Jasikan-Dodo Pepesu trunk road

4. OBJECT OF THE SUPPLEMENTARY AGREEMENT

The object of the Supplementary Agreements are for Parliament to consider the amendments made to the 10 EPC Contract Agreements related to the US\$2.00 billion Master Project Support Agreement (MPSA) signed between the Republic of Ghana and Synohydro Corporation Limited for the construction of priority infrastructure projects Phase 1 on 18th September, 2018. And it involves:

- a. Supplementary Agreement to the 10 EPC contract signed on 12th March 2019 between Ministry of Roads and Highways and Sinohydro, and
- b. Supplementary Agreement to the 10 EPC contracts signed on 23rd March 2020 between the Ministry of Roads and Highways and Sinohydro Corporation Limited.

5. OBSERVATIONS AND RECOMMENDATION

5.1 The Committee noted that under the MPSA programme the list of projects under Phase 1 are:

List of Projects under Phase 1

LIST OF PHASE -1 PROJECTS			
NOS.	LOTS	PROJECT TITTLE	REVISED EPC CONTRACT AMOUNT (US\$)
1	LOT-1	Accra Inner City Roads	94,150,334.30
2	LOT-2	Kumasi Inner City Roads	95,788,094.82
3	LOT-3	Tamale Interchange	46,403,732.51
4	LOT-4	PTC Interchange Takoradi	68,948,113.80
5	LOT-5	Construction of Adenta-Dodowa Dual Carriageway	84,083,028.92
6	LOT-6	Sunyani Inner City Roads	57,960,394.40
7	LOT-7	Construction of Western & Cape Coast Inner City Roads	46,978,061.00
8	LOT-8	Upgrading of Selected Feeder Roads in Ashanti & Western Regions	53,681,293.62
9	LOT-9	Rehabilitation of New Abirem-Ofoasekuma-Akim Oda Road	39,987,137.12
10	LOT-10	Construction of Jasikan-Dodo Pepesu Road	58,657,689.25
Total			646,637,879.74

5.2 The Committee was informed by the Ministry that as at November, 2020 an amount of about US\$28.05 had been disbursed under 4 of the lots. The disbursement and projects are as listed in table 2.

Table 2 - Disbursement

LOT	PROJECT TITTLE	DISBURSEMENTS (US\$)
Lot 3	Tamale Interchange	11,848,545.33
Lot 7	Construction of Western & Cape Coast Inner City Roads	4,407,933.88
Lot 8	Upgrading of Selected Feeder Roads in Ashanti & Western Regions	3,065,751.78
Lot 10	Construction of Hohoe-Jasikan Dodo Pepesu Road	8,731,561.15
Total		28,053,792.14

5.3 The Committee was apprised with the information that during the implementation of the projects a number of modifications were made to the agreements, to ensure project validity and enforceability of all project

documents, financing and insuring parties to the deferred payment agreements it has become imperative therefore for the agreements to be scrutinised and approved by Parliament as condition precedent for approving of the remaining Lots.

5.4 Amendment EPC Contract

The Committee was briefed on the amendment made to the EPC contract as outlined.

Provisions in Supplementary Agreements

(i) Sub-Clause 2.1 (Right of Access to the Site) Particular Conditions

Amendments proposed

The following paragraph was added at the end of Sub-Clause 2.1. *the Employer shall be responsible for land acquisition if required and facilitate the process for payment of compensation to eligible project affected persons.*

The Clause 2.1 of General Condition of contract put the Employer as the party responsible to give the contractor right of access to and possession of the site.

In view of this, the Particular Conditions indicate that *“The Employer shall give to the Contractor temporary right of access to the Site to undertake site investigation and geological survey upon signing of the Contract”*

(ii) Sub-Clause 14.3 (Application for Interim Payments) Particular Conditions

Amendments proposed

Sub-Clause 14.3 (c) was deleted and replaced with the following: *“An amount to be deducted for retention calculated by applying ten percent (10%) of the payments made under Sub-Clause 14.6 (Interim Payments) until the amount so retained by the Employer reaches the limit of Retention Money of three percent (3%) of the Revised EPC Contract Price”*

The following was also inserted at the end of Sub-Clause 14.3 of the original EPC Contract:

“In lieu of deduction of retention, the Contractor shall submit a valid Retention Money Bank Guarantee amounting to three (3%) percent of the Revised EPC

Contract Price in form and substance acceptable to the Employer as provided in Annex D to the Particular Conditions of the EPC Contract. The Guarantee must be obtained from a Bank which is acceptable to the Employer. A foreign bank providing the Retention Money Bank Guarantee shall have a correspondent bank located in Ghana”

The original Particular Conditions states that *“an amount to be deducted for retention calculation by applying ten percent (10%) of the payments made under Sub-Clause 14.6 (Interim Payments) until the amount so retained by the Employer reaches the limit of Retention Money of 5% of the Contract Price”*

(iii) Sub-Clause 14.7 (Timing of Payments) Particular Conditions

Amendments proposed

Sub-Clause 14.7 (a) was deleted and substitute with the following: *“The first instalment of 50% of the advance payment within 28 days after the Contract has come into full force and effect in accordance with Clause 5 of the EPC Contract and the second instalment of 50% of the advance payment within six (6) months from the date of payment of the first instalment; upon receipt of the Contractor’s invoice and request for payment. The Employer shall effect all payments under each IPC in accordance with the Deferred Payment Agreement.”*

The original Particular Condition states that *“The timing of payments indicated in the Contract means the period for processing of the payment certificates by the Employer up to the point when the Bank receives the payment certificates for payment.”*

(iv) Sub-Clause 14.9 (Payment of Retention Money) Particular Conditions

Amendments proposed

The following paragraph was inserted at the end of Sub-Clause 14.9: *“Where Retention Money Bank Guarantee has been provided in lieu of Retention Money, the following shall apply:*

- i. When the Taking-Over Certificate has been issued for the Works and the Works have passed all specified tests (including the test after

completion, if any) the employer shall reduce the amount of the Retention Guarantee by half. If a Taking-Over Certificate is issued for a section of the Works, the relevant percentage of half of the Retention Guarantee shall be reduced when the section passes all tests.

- ii. The contractor shall ensure that the Guarantee is valid and enforceable until the expiry of the Defects Notification Period.
- iii. Within 28 days after the latest of the expiry dates of the Defects Notification Periods and the issuance of the Performance Certificate by the Employer, the contractor shall notify the Employer to release the Retention Money Guarantee. The Employer shall release the Retention Money Guarantee to the contractor within 28 days of such notification”.

The original Particular Conditions states that *“Provided always that the Employer’s Representative shall certify in each interim certificate issued pursuant to Sub-Clause 14.6 (Issue of Interim Payment Certificates), the Employer shall make payment of the Retention Money if he obtains a guarantee in a form and provided by a bank approved by the Employer, in amounts and currencies equal to the payment.*

When the Taking-Over Certificate pursuant to Sub-Clause 10.1 (Taking Over of the Works and Sections) has been issued, the value of the retention money guarantee shall be reduced to one-half (50%) of the limit of Retention Money.

The Contractor shall ensure that the guarantee is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects, as specified for the Performance Security in Sub-Clause 4.2 (Performance Security) and shall be returned to the Contractor accordingly.”

6. CONCLUSION

The Committee dutifully considered the Supplementary Agreements to the Engineering Procurement and Construction (EPC) Contract Agreement between the Republic of Ghana (represented by the Ministry of Roads and Highways) and Sinohydro Corporation Limited in respect of the 10 Phase 1 projects and scrutinised the amendments to the agreement between the Republic of Ghana and Sinohydro Corporation Limited on Supplementary Agreements to the 10 EPC

contract signed on 1st September 2018, between Ministry of Roads and Highways and Sinohydro Corporation Limited.

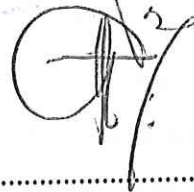
Respectfully submitted.



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HON. SAMUEL AYEH-PAYE
CHAIRMAN, COMMITTEE ON ROADS
TRANSPORT

PARLIAMENT OF GHANA LIBRARY



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CLERK, COMMITTEE ON &
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