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ORDINANCE NO. VIII OF 2020

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ORDINANCE

*to amend the Public Private Partnership Authority Act (VIII of 2017)*

WHEREAS it is expedient to amend the Public Private Partnership Authority Act, 2017 (VIII of 2017) for the purposes hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE in exercise of his powers conferred by clause (1) of the Article 89 of the Constitution of Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance shall be called the Public Private Partnership Authority (Amendment) Ordinance, 2020.

(2) It shall come into force at once.

2. **Substitution of long title and preamble, Act VIII of 2017.**—In the Public Private Partnership Authority Act, 2017 (VIII of 2017), hereinafter called as the said Act, for the long title and the preamble the following shall be substituted, namely:—

*“An Act to create an enabling environment for private sector participation in development projects and in the provision of public infrastructure and related services in Pakistan through public private partnership projects.*

WHEREAS it is expedient to establish a regulatory framework to execute public private partnerships in Pakistan so as to promote domestic and foreign private investment in development projects to increase the availability of public infrastructure and service delivery and improve their reliability and quality for accelerating economic growth and achieving the social objectives of the government, to mobilize private sector resources for financing, construction, operations and maintenance of development projects, to improve efficiency of management, operation and maintenance of development projects in the public sector by introduction of modern technologies and management techniques, to reduce transaction costs, ensure appropriate regulatory controls and promote transparency and accountability in carrying out development projects.”;

3. **Amendment of section 2, Act VIII of 2017.**—In the said act, for section 2, the following shall be substituted, namely:—

“2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Authority” or “P3A” means the Public Private Partnership Authority established under section 3;

- (b) "Board" means the Board constituted in accordance with section 6;
- (c) "CDWP" means the central development working party.
- (d) "company" or "IPDF" means infrastructure project development facility a corporate entity registered and operating under the provisions of the Companies Act, 2017 (XIX of 2017);
- (e) "dispute" means any monetary claim or contractual dispute between a private party and an implementing agency under an agreement;
- (f) "ECNEC" means the executive committee of the National Economic Council;
- (g) "implementing agency" means any of the line ministries, divisions, attached departments, executive departments, sub-ordinate offices, body corporate, autonomous body of the Federal Government or any organization or corporation owned or controlled by the Federal Government;
- (h) "lender" means a financial institution that provides loan to a private party for implementation of a project;
- (i) "P3A fund" means the fund established under section 10;
- (j) "P3WP" means the public private partnership working party established under section 13A;
- (k) "person" includes an individual, a company, a statutory body corporate, an association of persons whether incorporated or not, a trust and a partnership;
- (l) "prescribed" means prescribed by rules or regulations made under this Act;
- (m) "private party" means a person who is eligible to bid for a project with an implementing agency in accordance with the rules and regulations prescribed under this Act and shall exclude such companies, institutions or corporate bodies in which the Federal Government holds a controlling equity interest, either directly or indirectly;

- (n) "project" means a development project, provision of related services or both, under a public private partnership arrangement;
- (o) "project qualification proposal", in each case, in the form and in the manner and meeting such requirements as are prescribed from time to time, means—
- (i) a proposal received by the Authority from an implementing agency for a qualified project;
  - (ii) a proposal received by the Authority from an implementing agency for a qualified project that is prepared and submitted on the basis of a proposal from a private party for a project on an un-solicited basis; or
  - (iii) a proposal forwarded to the Authority from CDWP for a qualified project;
- (p) "project concept proposal", in each case, in the form and in the manner and meeting such requirements as are prescribed from time to time, means a conceptual proposal—
- (i) received by the Authority from an implementing agency for a qualified project;
  - (ii) received by the Authority from a private party for a qualified project on an un-solicited basis; or
  - (iii) forwarded to the Authority from CDWP for a qualified project;
- (q) "project development facility" means the facility established under section 12;
- (r) "project proposal" shall mean the detailed proposal submitted by the implementing agency to the Authority after it has received approval of the project qualification proposal prepared in respect of a qualified project, to be submitted in the form and in the manner and meeting such requirements as are prescribed from time to time;
- (s) "project support" means the financial or non-financial support for the project that may include the following, namely:—

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