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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 375 **New Delhi,** **30 October 2019**

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Mumbai Port Trust (MBPT) for fixation of license fee for allotment of water area for setting up a Floating Storage Regasification Unit (FSRU) in Mumbai Harbour at Mumbai Port Trust, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/27/2019-MBPT

The Mumbai Port Trust **- - -** **Applicant**

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Rajat Sachar, Member (Economic)

O R D E R
(Passed on this 10th day of October 2019)

This case relates to a proposal received from Mumbai Port Trust (MBPT) for fixation of license fee for allotment of water area for setting up a Floating Storage Regasification Unit (FSRU) in Mumbai Harbour at MBPT.

2.1. The main points made by the MBPT in its proposal dated 3 June 2019 are summarized below:

(i). The Mumbai Port Trust has decided to undertake the project of "Set-up, Operate and Maintain Floating Storage and Regasification Unit in Mumbai Harbour on Land License model" (the "Project") of 5 MMTPA capacity. The entire scope of work as broadly stated below shall be the responsibility of the Successful Bidder (Licensee): -

(a). Construction of Berth
(b). Laying of Submarine Pipeline and connecting to the National Grid of GAIL thereof.
(c). Providing Floating Storage Regasification Unit (FSRU) with or without Floating Storage Unit(s)
(d). Capital Dredging Catering to 12.5m draft vessels

(ii). The MBPT will provide only water area for operating the facilities and shall provide the pilotage services during project period at the notified charges prevailing in the MBPT Scale of Rates from time to time.

(iii). It is proposed to lease out the water area admeasuring 84,000 sq.m for setting up of Floating Storage Regasification Unit (FSRU) in Mumbai Harbour.

(iv). The Ministry of Shipping (MOS) vide its letter No. PD-13/18/2018-PPP Cell dated 07.03.2019 has released the guidelines. The relevant provisions i.e. 4.1 (iii) & (iv) are reproduced below:-

*"**4.1 License fee for Water Area***

(iii) Port shall thereafter carry out transparent competitive bidding process as per Para 11.2(d) and 13 of PGLM. The project model will be Land License Model and the project entity shall be owner of the project assets and entitled to take away the same wherever feasible free of cost on expiry of lease period.

(iv) Water Area, Land area and any other facility / permission such as ROW for pipelines shall be provided by the port at applicable charges. License Fee for Water Area at rate equal to 50% of License Fee of abutting land (with escalation) is to be paid by the operator to Port for the water area occupied by FSRU unit and shall be the reserve price for the bids to be invited."

In view of the above, it is necessary to fix the License fee for the water area to be occupied by the FSRU. As per the project feasibility report, concrete dolphin structure has been proposed for the berthing of the FSRU vessel and the LNG vessels on either side of the dolphins. The dolphin structure occupies the area of about 70 m x360 m. The two basins of width 70 m x 400m each for berthing of FSRU and LNG vessels.

(v). In addition, wayleave charges for the subsea pipeline will be charged. The length of subsea pipeline is 5 km approx. and 1 mtr. width (area of 5000 sq.m.).

(vi). **Relevant provision of the Land Policy :-**

Para 13 of the Land Policy outlines the procedure to be adopted by the Land Allotment Committee (LAC) for determining the market value of land. The same is reproduced below:-

"13. __Market Value of Land and SoR__

(a). Land Allotment Committee may normally take into account the highest of the factors mentioned herein below to determine the latest market value of Port land. In case the land allotment committee is not choosing the highest factor, the reasons for the same have to be recorded in writing.

(i). State Government's ready reckoner of land values in the area, if available for similar classification / activities.

(ii). Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board.

(iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board.

(iv). Rate arrived at by an approved valuer appointed for the purpose by the Port.

(v). Any other relevant factor as may be identified by the Port.

(b). The LAC shall, while recommending the latest Market Value for any land would normally take into account the highest of the factors mentioned in Para 13 above. Reserve Price in terms of the annual lease rent would be latest SoR determined in accordance with Para 13(a) and 13(c) and would in no case be less than 6% of the latest market value recommended by the Port Trust.

(c) The Port Trust would make a proposal as outlined in Para 13(a) to TAMP for fixing the latest SoR of the land. The TAMP would notify the latest SoR of the land after following due process of consultation with stakeholders within 45 days of the receipt of the proposal. The Port Trust Board will fix a rate of annual escalation which would not be less than 2%. SoR would be refixed once in every 5 years by TAMP.

(d) __Reserve Price for Auction__

The reserve price should be the latest SoR with due escalation for all leases within and outside the Custom Bonded Area."

(vii). **__Determination of values__**

The Valuer appointed for the valuation has submitted the report on 18.03.2019 for the proposed land/water area. The valuation of land arrived by the valuer based on the data collected from various sources is as follows :-

Sr. No.	Description	License fee (in ₹)
1	Govt. Ready Reckoner Value rate of Rs.3,700/- per sq.m. for land in Nagaon village near subject property/basin for floating storage and regasification unit is adopted and reduced by 50 % to arrive at basin rate. Considering presence of water body all around it is proposed that RRV or value of basin to be Rs.92,50,000/- only or lease rent Rs.111/- per sq.m. per Annum or Rs.9.25 per SQ.M. per Month.(₹3700/2 x 6%)	**111 per sq.m. per Annum**
2	Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board.	No such transaction took place.
3	Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board.	No such transaction took place.

4	As per sale instances flat rate = Rs.40,100/- at Sector 14 Dronagiri node, Uran Taluk which is at a distance of 9 kms. from the nearest abutting land or 14.3 kms. from FSRU location. Considering construction cost as -Rs.30,000/- per sq.m. land cost = Rs.10,100/- X 0.70 = Rs.7,070/-per Sq.m.for land or Rs,3,535/- per sq.m. for water area for floating storage and regasification unit Hence considering 6 % return on investment per Annum , Rental value of basin is Rs.212.10 per Annum or Say Rs.17.67 per month per SQ.M. exclusive of all taxes levies etc.	**212.10 per sq.m. per Annum**
5	Any other relevant factor as may be identified by the Port. • *JNPT – SEZ. The rate arrived and approved by TAMP is Rs.266/- per sqm/annum. 50% has been considered for water area which comes to around Rs.133/- per sqm/annum.* • *Considering similar nature of activities – The off-shore container project was awarded on PPP mode. The rate for water area at the time of signing license agreement was 134 /sqm/annum and the present rate as per the agreement is Rs.162.14 / sqm / annum. The approximate distance is 5.9 km from the proposed FSRU berth.* Valuer recommended Value Rs.162.14 per Annum or Say Rs.13.51 per month per SQ.M. exclusive of all taxes levies etc.	**162.14 per sq.m. per Annum**
6	Any Other Factor.- ***Resetting the water rate Correlating THE WAREHOUSING RATE AT LAND AS ON 3.12.2007 AND TODAY'S RATE*** • Rate for water area for OCT fixed at the time of signing of license agreement i.e. on 03.12.2007 was Rs.134 per Sqm per annum. • The license fee for storage / warehousing (prevailing for the period from 31.12.2006 to 31.3.2009) at land is Rs. 20/sq.m./month ie., 240/sqm/ annum • Present License Fee for storage/ warehousing is Rs.34/sqm/month ie., Rs.408/ sqm/annum. • % increase in License Fee for storage – 70%. • Resetting the license fee of water area fixed for OCT by increasing it by 70% comes to Rs.227.80 (say Rs.228 per Sq. Mtr. per annum)	**Rs.227.8 per Sqm per annum Say 228**

(viii). Of all the options considered, the Land Allotment Committee has recommended the rate arrived at Sr. No. 6 above, i.e., ₹.228 per Sq. Mtr. per annum. The upfront payment, considering 7.69% discounting factor (30 years G Sec 2049 interest is 7.69%), 4% annual escalation, works out to ₹.33,66,65,627.48 (rounded off to ₹.33.70 crore). This will be Base upfront license fee (Reserve Price). The bidder offering the highest premium over this Reserve Price will be declared successful bidder.

(ix). In addition, the operator shall pay the annual way leave charges for the area for laying subsea pipeline below seabed level. The rate for this area is considered @50% of the License Fee of Land area adopted above i.e. ₹.228 per sq.m. p.a. This is to be escalated by 4% every year.

(x). In terms of para 11.2(d) of PGLM, the operator will be liable to pay nominal licence fee of Re.1 per Sq. Mtr. per annum.

(xi). Board vide TR No. 18 of 03.05.2019 has approved LAC's recommendations.

2.2. The MBPT vide its e-mail dated 17 June 2019 has submitted the copy of the LAC Report.

3. In accordance with the consultative procedure prescribed, a copy of the MBPT proposal was forwarded to the concerned users/ user organizations / prospective bidders (as suggested by MBPT) vide our letter dated 25 June 2019 seeking their comments. In response, Bharat Petroleum Corporation Limited (BPCL) vide its e-mail dated 04 July 2019, IMC Limited vide its e-mail dated 05 July 2019 and M/s. Adani Ports and Special Economic Zone Limited vide its e-mail dated 05 July 2019 have furnished their comments which were forwarded to MBPT as feedback information. The MBPT vide its letter dated 29 July 2019 has furnished its comments on the submissions made by the users.

4. A joint hearing on the case in reference was held on 17 July 2019 at the office of this Authority in Mumbai. At the joint hearing, the MBPT made a brief power point presentation on the proposal. The users/ user organisations/ prospective bidders and the MBPT have made their submissions at the joint hearing.

5. Based on a preliminary scrutiny of the proposal, the MBPT was requested vide letter dated 15 July 2019 to furnish information/ clarification. After reminders, the MBPT has responded vide its letters dated 29 July 2019 and 03 September 2019. The information/ clarification sought and the response of MBPT thereon is tabulated below:

<table>
<tr><th>Sl. No.</th><th>Information/ Clarification sought by us</th><th>Response of MBPT</th></tr>
<tr><td>(i).</td><td>MBPT to furnish the draft Scale of Rates prescribing the lease rentals as well as the conditionalities governing the levy of the lease rent.</td><td>The Scale of Rates, as furnished by MBPT is as follows:
<table>
<tr><th>Sr. No.</th><th>Location</th><th>Lease Rental per sq.mtr. per annum (in ₹.)</th></tr>
<tr><td>1.</td><td>Water area</td><td>228</td></tr>
</table>

<u>Note</u>:
All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.</td></tr>
<tr><td>(ii).</td><td>The lease rent of ₹ 228/- per sq.m per annum as proposed by the MBPT for the FSRU project is seen to be based on the license fee for water area at ₹ 134/- per sq.m per annum as considered for the OCT project at the time of signing the Licence Agreement in December 2007. Considering that the present licence fee prescribed in the Scale of Rates of MBPT has increased by 70% over the period from the year 2006, the MBPT has applied the 70% increase over the license fee for the OCT project at ₹.134/- per sq.m per annum, and has arrived at the proposed lease rent for the FSRU project at ₹.228/- per sq.m per annum.

In this regard, MBPT to furnish the reason to consider the license fee for water front area required for construction of OCT berth and associated facility, as base for the subject proposal.</td><td>License fee in the proposal was worked out on the basis of Land Policy of Major Ports. The reference of the rates fixed for the water area in the OCT project which is 5.9 kms away from the present FSRU project. The license fee for the water area is fixed on the similar use basis. The only difference is the different type of commodity to be handled. The reset of license fee fixed for OCT in 2007 has been done considering the increase granted by the TAMP i.e. 70% during this period.</td></tr>
</table>

6. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

7. With reference to the totality of the information collected during the processing of this case, the following position emerges:

(i). The Mumbai Port Trust (MBPT) has decided to undertake the project of Setting up, Operating and Maintaining of Floating Storage and Regasification Unit in Mumbai Harbour on Land License model. In this connection, MBPT intends to provide water area to the Operator for operating the facilities. Accordingly, the MBPT has come up with a proposal for fixation of lease rent for the water area based on the provisions of the amended Land Policy Guidelines, 2014.

(ii). The MBPT has filed its proposal in June 2019. The said proposal alongwith the information/ clarification furnished by MBPT during the processing of the case, is considered in this analysis.

(iii). This Authority is mandated to follow the Land Policy Guidelines issued by the Government from time to time for the purpose of determining License fee/ lease rentals for the lands belonging to the Port Trusts. The Ministry of Shipping in the Government of India has announced Land Policy Guidelines for Major Ports, 2014 in January 2014 which has come into effect from 2 January 2014. Subsequently, the Ministry of Shipping has issued amended Land Policy Guidelines, 2014 under Section 111 of the MPT Act, 1963 for implementation with effect from 17 July 2015. The MBPT has, come up with this proposal for fixing Scale of Rates (SOR) for allotment of water area for the purpose of setting up of FSRU facility, based on the provisions of the Land Policy Guidelines for Major Port Trusts, 2014, as amended in July 2015. The proposal of MBPT has the approval of its Board of Trustees

(iv). As per clause 13(a) read with clause 11.2(e) of the Land Policy Guidelines 2014, a Land Allotment Committee (LAC) constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic shall determine the market value of land as per the methodology prescribed in clause 13(a). Accordingly, the MBPT has reported about constitution of a Land Allotment Committee (LAC) headed by the Dy. Chairman of the Port and the Heads of Departments of Finance, Traffic and Estate and Chief Engineer being the other members.

(v). (a). Para 13(a) of the Land policy guidelines of July 2015 prescribes the methodology for determination of market value of the land based on the five factors as prescribed therein. In terms of the said para of the amended Land policy guidelines of 2014, the Land Allotment Committee may normally take into account the highest of the factors mentioned therein, viz. (i). State Government ready reckoner of land values in the area if available for similar classification/ activities, (ii). Highest rate of actual relevant transactions registered in the last three years in the Port's vicinity with an appropriate annual escalation rate to be approved the Port Trust Board, (iii). Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board, (iv). Rate arrived at by an approved valuer appointed for the purpose by the Port and (v). Any other relevant factor as is identified by the Port. The amended Land Policy guidelines of 2014 also stipulates that in case the LAC is not choosing the highest factor, the reasons for the same have to be recorded.

(b). In this connection, the LAC has observed that there are no actual relevant transactions and tenders in the past three years in the vicinity of the area under reference.

(c). Further, as per Clause 12 (A) (I) of the amended Land Policy Guidelines, Licence fee for water area would be 50% of licence fee of abutting land. Also, Clause 13(b) of the guidelines stipulates that Reserve Price in terms of annual lease rent would be arrived, as a percentage of latest market value of land determined based on the five factors in accordance with para 13(a) and that the percentage should not be less than 6% which is to be fixed by the Port Trust Board.

The value of the land as reflected in the Stamp Duty Ready Reckoner 2018-19 is reported at ₹ 3700/- per sq.m. The MBPT has worked out 50% of the land area as applicable for the water area, which works out to ₹ 1850/- per sq.m. The lease rent on the said value of the water area has been arrived at 6% of the market value of the land area, which works out to ₹ 111/- per sq.m per annum.

(d). Also, under 'any other relevant factor identified by the port', the market value of the water area has been assessed based on two other methods, as discussed below:

(i). Under the 1st method, the flat sale transactions at Sector 14, Dronagiri Node, Uran Taluka, which is at a distance of 14.3 kms from the FSRU location has been considered at ₹ 40100/- per sq.m. From this value, the construction cost to the tune of ₹ 30000/- per sq.m has been reduced to arrive at the value of the land at ₹ 10100/- per sq.m. Thereafter, after applying a discount of 30% on the said land value, the land value has been arrived at ₹ 7070/-. The MBPT has worked out 50% of the land area as applicable for the water area, which works out to ₹ 3535/- per sq.m. The lease rent on the said value of the water area has been arrived at 6% of the market value of the land area, which works out to ₹ 212/- per sq.m per annum.

(ii). (a). Under the second method, the license fee for water area as considered for the OCT project at the time of signing the LicenceAgreement in December 2007 was ₹ 134/- per sq.m per annum and the present rate is ₹ 162.14 per sq.m per annum.

(b). Considering that the present licence fee prescribed in the Scale of Rates of MBPT for Storage / Ware housing has increased by 70% over the period from the year 2006, the MBPT has applied the 70% increase over the license fee for the OCT project at ₹.134/- per sq.m per annum, and has arrived at the proposed lease rent for the FSRU project at ₹.228/- per sq.m per annum.

(vi). Thus, based on the lease rentals for the water area as determined under various factors as discussed below, the LAC has recommended the highest amongst all the lease rent determined, at ₹ 228/- per sq.m per annum, as the lease rent for the water area for the FSRU project.

(vii). With regard to a specific request made to MBPT to furnish the reason to consider the license fee for water front area required for construction of OCT berth and associated facility, as base for the subject proposal, it is seen from the response that the water area in the OCT project is 5.9 kms away from the present FSRU project. Also, the port has stated that except for the different types of commodity handled/ to be handled at OCT/ FSRU, the water area will have similar uses.

(viii). Based on the justification furnished by the port regarding the similar use of the water area between OCT project and the FSRU project except the commodity to be handled and considering that the recommendation of the LAC has the approval of the Board of Trustees of MBPT, this Authority is inclined to prescribe the Lease Rent for the water area for the FSRU project at ₹ 228/- per sq.m per annum, as proposed by the MBPT.

(ix). The MBPT is seen to have proposed a note to the effect that that the rates shall automatically be escalated by 4% per annum after expiry of one year. Since, it is the policy of MBPT for 4% escalation, the MBPT has not accepted the suggestion of the IMC limited for 2% annual escalation. In this regard, it is relevant here to mention that Clause 13(c) of the Land Policy Guidelines of 2014 gives flexibility to the ports to fix annual escalation which would not be less than 2%. Since the annual escalation rate of 4% is as per the provision of the Land Policy Guidelines of 2014, the proposed rate of 4% annual escalation is approved.

(x). The annual lease rent shall come into effect after expiry of 30 days from the date of notification of the Order passed in the Gazette of India. Clause 13 (C) of the amended Land Policy Guidelines, 2014 stipulates that the rates will be revised once in every five years by this Authority. Accordingly, a note is prescribed in the Rent Schedule that the annual lease rentals would remain in force for a period of **five years.**

8.1. In the result, and for the reasons given above, and based on the collective application of mind, the Schedule of lease rental, for allotment of water area for the FSRU project, attached as **Annex,** is approved.

8.2. The Schedule of Lease Rentals shall come into force after expiry of 30 days from the date of notification of the Order passed in the Gazette of India and shall remain in force for a period of five years. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

Annex.

Schedule of Lease Rental for the Water area for the Floating Storage Regasification Unit.

Sl. No.	Location	Lease Rentals per Sq. Mt. per annum in ₹
1.	Water area	228/-

Note:-

1. All the rates provided in the above schedule shall get automatically escalated by 4% per annum after expiry of one year.

2. The lease rentals shall remain in force for a period of five years from the date of effect of this schedule.

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SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

TAMP/27/2019-MBPT	**:**	**Proposal received from Mumbai Port Trust (MBPT) for fixation of license fee for allotment of water area for setting up a Floating Storage Regasification Unit (FSRU) in Mumbai Harbour at Mumbai Port Trust,**

A summary of the comments received from the users/ user organizations / prospective bidders and reply furnished by MBPT thereon is tabulated below:

<table>
<tr><th>Sr. No.</th><th>Comments received from users</th><th>Response of MBPT</th></tr>
<tr><td>1.</td><td colspan="2">Bharat Petroleum Corporation Limited</td></tr>
<tr><td>(i).</td><td>The land rate worked out for reserve price and way leave charges are on higher side and this would increase the project cost and re-gasification charges. The higher Regasification charges would have direct impact on the gas pricing.</td><td>The rates considered are reasonable and based on PGLM guidelines, 2014.</td></tr>
<tr><td>(ii).</td><td>The reserve price to be worked out for land rate and way leave charges should be based on the minimum of abutting land rate instead of the highest in the area.</td><td>The reserve price has been fixed after considering highest of 5 factors of calculation of land valuation, out of which abutting land rate is only one of the factors.</td></tr>
<tr><td>(iii).</td><td>The water area of 84,000 sq.m considered for leasing out is on higher size, the actual area required for Jetty and vessel may be considered for calculating the required water area.</td><td>The break up of the area is as follows:
<table>
<tr><th>S. No.</th><th>Item</th><th>B x L (m)</th><th>Area (Sq.m)</th></tr>
<tr><td>1</td><td>Berth pocket for LNG vessel</td><td>70m x 400m</td><td>28000</td></tr>
<tr><td>2</td><td>Berthing structure</td><td>70m x 400m</td><td>28000</td></tr>
<tr><td>3</td><td>Berth pocket for FSRU</td><td>70m x 400m</td><td>28000</td></tr>
<tr><td colspan="3">Total</td><td>84000</td></tr>
</table></td></tr>
<tr><td>2.</td><td colspan="2">IMC Limited</td></tr>
<tr><td>(i).</td><td>In accordance with provision of 4.1 (IV) of PGLM 2014, the waterfront License Fee shall be at 50 Percent of the License Fee of abutting land (with escalation) shall be applicable and shall be the reserve price for the bid.
Under S. No. 4 (Determination of Values) of the proposal (Page-4), the present License Fee for the storage / warehousing facility in the abutting is specified as ₹ 408 per sq. m per annum. As per the PGLM guidelines, the waterfront area must therefore, be subject to 50 percent of the land License Fee, i.e. 204 per sq.m per annum. However, the proposal recommends the rate to be considered at ₹ 228 per sq.m per annum.</td><td>The license fee for storage/ warehousing of ₹.408 per sq.m. per annum is considered to arrive at the rate of increase in the license fee from 2007 to 2019. It is only for reference and is not linked with the actual calculation of license fee.</td></tr>
</table>

<table>
<tr><td>(ii).</td><td>The escalation rate for License Fee in PPP projects with long term Concession / License period is 2 percent per annum whereas in this case the escalation factor is considered at 4 percent per annum. We request clarification on the basis of the same and request that the escalation factor be reduced to 2 percent per annum</td><td>This is as per MBPT policy</td></tr>
<tr><td>3.</td><td colspan="2">M/s. Adani Ports and Special Economic Zone Limited</td></tr>
<tr><td>1.</td><td>The proposal refers the area of 84000 Sqm. However, there is no specific calculation mentioned which reconciles this total area of 84000 Sqm. The proposed project comprises of development of a dolphin structure of 70 m x 360 m (=25200 sqm) and on each side of this structure, two basins of 70 m x 400 m (=28000x2-56000 sqm) are proposed to be allotted for berthing of FSRU and LNG vessels each on one side. Hence, the total area of the structure and basins reconciles to 81200 sqm. (i.e. 25200 + 56000). So, in view of this, reconciliation is sought on the calculation of area of 84000 sq.m which is being considered to set up the Reserve Price for the tender.</td><td>The break up of the area is as follows:
<table>
<tr><th>S. No.</th><th>Item</th><th>B x L (m)</th><th>Area (Sq.m)</th></tr>
<tr><td>1</td><td>Berth pocket for LNG vessel</td><td>70m x 400m</td><td>28000</td></tr>
<tr><td>2</td><td>Berthing structure</td><td>70m x 400m</td><td>28000</td></tr>
<tr><td>3</td><td>Berth pocket for FSRU</td><td>70m x 400m</td><td>28000</td></tr>
<tr><td colspan="3">Total</td><td>84000</td></tr>
</table></td></tr>
<tr><td>2</td><td>The proposal has provided the determination of License fee based on the Land Policy for Major Ports. Land Policy provides to pick up the highest rate amongst the choices described in para 13 (a) (i) to (v). We refer that various rates have been worked out as guided under these provisions. License Fees is proposed to be fixed based on rate determined under Sr. 6 of the tabular format presenting the possible rate for License Fees. This rate is being fixed based on the rate which was considered for Offshore Container Terminal at Mumbai Port in the year 2017.

We are of the view that reference of rates fixed for OCT does not seem to be appropriate or comparable for proposed project. There are three reasons for this:
1. Purpose of use of Area being Allotted
2. Tenure for which the Area is being allotted
3. Rate is for incomplete transaction

Purpose of proposed project is to develop and LNG import and regasification terminal while OCT was project relate to container handling project. The business viability of both the projects are not comparable. Further, as such any PPP Project may not be correct to refer because in PPP project, the License Fee is not the bid variable. Revenue share quote can cross subsidize the license fee rate which may be much</td><td>(i). License fee in the proposal was worked out on the basis of Land Policy of Major Ports. The reference of the rates fixed for the water area in the OCT project which is 5.9 kms away from the present FSRU project.

(ii). Although the purpose of OCT project was container handling, but the rates of water area are considered for working of License fee for FSRU, which is readily available for us.

(iii). Both the projects (i.e. OCT and RSRU) are of similar type, however, they are different in commodities handled only.</td></tr>
</table>

	higher or much lower than the fair market rates. Secondly, the rate referred is for short term purpose because it is considering the rate applicable for regular warehousing and storage activities as part of port operations. Against this, proposed project will utilize the allotted water area on long term basis. Further, the transaction to develop OCT as referred above, has also not materialized. Se we, cannot say that is completed transaction. So, the land rate proposed under Sr. 6 of the tabular format presenting the possible rates should not be considered for fixation of the License fee for the Project. Rate worked out in Sr. no 5 also is based on OCT agreement only. Hence, the same may not be an appropriate one. Rate which is worked out at Sr. No. 4 is based on the stand – alone transaction in totally a different area i.e. Dronagiri node which is a much more developed (with road / bridges connectivity to JNPT, etc) and distant (9km from abutting land) Hence we are left with only the license fee rate (under Sr. No. 1) which is worked out based on the ready reckoner rate of the abutting land falling in the village Nagoan which is close to FSRU land Fall Point. It is requested to consider the same for the purpose of fixation of appropriate value for License Fee.	

2. A joint hearing on the case in reference was held on 17 July 2019 at the office of the Authority in Mumbai. At the joint hearing, the MBPT made a brief power point presentation on the proposal. At the joint hearing, the users/ user organisations/ prospective bidders and the MBPT have made the following submissions:

Mumbai Port Trust (MBPT)

(i). MBPT has taken up a project of setting up of FSRU with an estimated project cost of ₹.900 crores on Land Lease Model following Ministry of Shipping (MOS) guidelines. As per MOS guidelines, the FSRU project has to be taken on Land Lease model with license fee as a bidding parameter, entire investment to be made by the operator, License fee to be paid the operator upfront arrived as per the Land Policy guidelines. Normal Port charges like Port Dues, Pilotage, Wharfage and berth hire applicable as per prevailing SOR are also to be paid by the Operator.

(ii). The present proposal to TAMP is for fixation of license fee for allotment of water area for setting up of FSRU. The valuation of Water area and license fee has been done in accordance with Land Policy Guidelines 2014.

(iii). The license fee for water area as per

- Govt. Reckoner Value near to the project - ₹111 per sqm per annum,

- Sale instances at Dronagiri, Uran which is 9 kms from the nearest abutting land - ₹.212.10 per sqm per annum,

- JNPT- SEZ transaction – ₹162.14 per sqm per annum

- Resetting the licence fee of water area fixed for OCT project by increasing 70% - ₹ 227.80 per sqm per annum.

  We have considered the highest amongst all factors i.e. the license fee as per OCT project which works out to ₹228/- per Sq.m. per annum for the FSRU facility.

TAMP

(i). The bidding parameter of upfront license fee is arrived by applying the discount factor of the prevailing G-Sec ratio. However, TAMP will approve the license fee per sqm per annum for the water area of the project. The MBPT may apply the appropriate G-Sec ratio as per the Government Guidelines.

Indian Molasses Company (IMC)

(i). The escalation rate for the license fee in PPP projects is 2% percent. MBPT has considered at 4%. The escalation rate may be considered at 2%.

Adani Ports

(i). Considering the license fee fixed for OCT project for the FSRU project is not correct as the end use/purpose of area allotted is not the same. There is no similarity in the use of water area for the OCT project and FSRU. The rate of Ready Reckoner of the land falling in the village, which is close to FSRU land will be more comparable.

(ii). MBPT is quoting ₹131 per tonne as Wharfage based on approval of TAMP for an earlier proposal of MBPT for setting up FSRU on PPP basis.

TAMP

(i). Proposal before TAMP now is for approval of license fee and not Wharfage.

MBPT

(i). We have considered ₹131 per tonne Wharfage rate from earlier TAMP order as base only for the purpose of reference. The Wharfage rate will undergo change every year based on annual escalation at 60% of WPI for the entire project period.

(ii). The license fee proposed by MBPT is reasonable.

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