



# OFFICIAL GAZETTE OF THE STATE OF SÃO PAULO

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## DECREE No. 69,371, DATED AS OF FEBRUARY 21, 2025

Authorizes the opening of a bidding for the sponsored concession of public services of construction, operation, maintenance and making of the necessary investments to use the Interconnection System between the Municipalities of Santos and Guarujá, approves the respective regulations and makes related provisions.

**THE GOVERNMENT OF THE STATE OF SÃO PAULO**, using its legal powers and taking into account the approval of the sponsored concession model by the Steering Committee of the Public-Private Partnerships Program - CGPPP created by Law No. 11,688 dated May 19, 2004, at the 15th Meeting of the Program for Investment Partnerships of the State of São Paulo (PPI-SP), regarding the 51st Ordinary Joint Meeting of the Steering Committee of Public-Private Partnerships/CGPPP and the Steering Committee of the State Program for Privatization/CDPED, the minutes of which were published on the Official State Gazette on February 14, 2025.

### Orders:

Article 1 - The opening of a bidding process is authorized, in the form of an international bid, for the sponsored concession of the public services of construction, operation, maintenance and making of the necessary investments to use the Interconnection System between the Municipalities of Santos and Guarujá.

Sole paragraph - The undertaking referred to in the head provision of this article shall be composed of the set of an immersed tunnel, urban accesses, access buildings and other facilities intended to the system's operation.

Article 2 - The bidding referred to in article 1 hereof shall be carried out by the Secretariat for Investment Partnerships, as provided for in Decree No. 67,759 dated June 20, 2023, and shall obey the following parameters:

I - the concession object shall include the construction, operation, maintenance and making of the necessary investments to exploit the Interconnection System between the municipalities of Santos and Guarujá;

II - the concession term shall be thirty (30) years, counted as of the formalization of the initial instrument of transfer of the Interconnection System construction site to the concessionaire;

III - the concessionaire's compensation shall be composed of the toll fee, public consideration, public contribution and ancillary revenues earned throughout the concession, as defined in the sponsored concession agreement;

IV - the toll fee, as well as the criteria and frequency of its adjustment and the conditions for its review, will be established in the sponsored concession agreement, as per the fee policy defined by the Granting Authority, subject to the relevant legal and regulatory standards;

V - the criterion to award the contract shall be the greatest discount on the maximum public consideration and subsidiarily, the greatest discount on the total maximum public contribution, subject to the minimum amounts and payment methods established in the tender notice;

VI – requirement of submission of a proposal guarantee as a prior qualification requirement;

VII- acceptance of participation in the bidding of business companies, investment funds and other legal entities, whether Brazilian or foreign, individually or in consortia, provided that the nature and object outlined in their organizational documents are consistent with the obligations and activities related to the concession, in compliance with the laws and other applicable rules;

VIII - mandatory organization of Special Purpose Vehicle - SPV, in the form of a corporation according to the Brazilian laws, with the sole purpose of exploring the concession object;

IX - acceptance of the offer by the concessionaire of credits and revenues resulting from the contract to be entered into, and other assets and rights, as a guarantee of the financing obtained for the necessary investments, upon consent of Agência Reguladora dos Serviços Públicos Delegados de Transporte do Estado de São Paulo - ARTESP, under the provisions of articles 29 and 30 of Law No. 7,835 dated May 8, 1992, and the current laws on the subject;

X - acceptance of exploitation of associated projects consistent with the concession object, as a source of ancillary revenues, pursuant to a contract;

XI - possibility for the concessionaire to engage third parties, on its own account, to execute the construction, conservation and maintenance services, pursuant to paragraphs 2 and 3 of article 9 of Law No. 7,835 dated May 8, 1992.

Sole paragraph - The Tender Commission shall be composed of five (5) public agents appointed by the Public Administration, in compliance with the applicable laws and with a special character, having the duty to receive, analyze and adjudicate documents related to the bidding and the supporting procedures.

Article 3 - The Regulations of the Concession of Public Services of construction, operation and maintenance and making of the necessary investments for use of the Interconnection System between the Municipalities of Santos and Guarujá are approved according to the Sole Annex of this decree.

Article 4 - The guarantee related to the pecuniary obligations to be contracted by the Public Administration shall comply with the provisions of article 8 of Federal law No. 11,079 of December 30, 2004.

Article 5 - In addition to the total amount collected from traffic fines applied based on article 209-A of Federal Law No. 9,503 dated September 23, 1997, other mechanisms or revenues may be used to ensure the economic-financial rebalance of contracts that results from non-payment of the fees by the users, provided that these are duly identified by the concessionaires,

with the necessary information for issuance of the corresponding notice of violation.

Article 6 - This decree becomes effective on the date of its publication.

TARCÍSIO DE FREITAS

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## **SOLE ANNEX**

### **REGULATIONS OF THE CONCESSION OF PUBLIC SERVICES OF USE OF THE INTERCONNECTION SYSTEM BETWEEN THE MUNICIPALITIES OF SANTOS AND GUARUJÁ**

#### **CHAPTER I**

##### **Purpose**

Article 1 - These regulations are intended to govern the sponsored concession of the public services of construction, operation, maintenance and making of the necessary investments to use the Interconnection System between the Municipalities of Santos and Guarujá.

Article 2 - The Interconnection System object of the concession shall be composed of the set of immersed tunnel, urban accesses, access buildings and other facilities intended to the system's operation.

Article 3 - All constructions, improvements and investments to be performed and made during the concession period shall be incorporated into the Interconnection System.

#### **CHAPTER II**

##### **Services Provided in the Road System**

Article 4 - The services and other operating activities to be performed in the Interconnection System are classified as:

- I - delegated;
- II - non-delegated;
- III - complementary.

Article 5 - The following are delegated services, under the concessionaire's sole authority:

I - services corresponding to the construction and implementation functions of the Interconnection System, in particular:

- a) the preparation and obtainment of approval of all projects and documents necessary for the construction of the Interconnection System, including environmental licenses;
- b) construction of all works and their respective stages and phases necessary to build the immerse tunnel, including construction of the dry dock, trench dredging, floating and transportation of elements, immersion of the materials; among other elements;
- c) construction of all works and their respective stages and phases necessary to the implementation of urban accesses, access buildings, including excavation of the land, verification

and execution of the civil engineering works, drainage, signaling, among other elements;

d) balancing of interferences with existing and future infrastructure systems and public services, especially road and port systems and the establishment of access to transportation systems;

e) implementation and readjustment of facilities and equipment to be used in the operation of the integrated system of traffic supervision and control;

f) implementation of a structure for direct communication with the user, a monitoring system of one hundred per cent (100%) of the Interconnection System and emergency assistance system;

g) implementation of an electronic system for exchange of information with the user through a data network, as provided for in the tender notice; and

h) implementation of digital systems for project and work management and other digital systems specified in the respective concession agreement, sharing with Agência Reguladora de Serviços Públicos Delegados de Transporte do Estado de São Paulo – ARTESP data, information, and documents related to the concession object.

II - services corresponding to the operational functions of exploitation, management and conservation, including in particular:

a) operation of a traffic supervision and control integrated system;

b) operation of the free automatic toll collection system, including the collection of the fee;

c) collection of fees per gantry, including the vehicle traffic control and financial and accounting control of the amounts collected;

d) provision of support to the users, including, among others, first aid and medical assistance to victims of traffic accidents, with transport to hospitals; mechanical assistance to damaged vehicles, towing, clearance of lanes, monitoring of one hundred per cent (100%) of the Interconnection System with implementation of systems to identify emergencies, whether automatic or through telephone, guidance and user information service;

e) inspection of the road and other areas transferred for construction of the immersed tunnel, regular and emergency signs, and operating support to the other services;

f) preparation and implementation of operating plans and schemes for supporting emergency situations, such as fires, accidents with hazardous products, floods and others that may directly affect the flow and security of the users and the traffic, or that may cause environmental consequences;

g) monitoring of the traffic conditions in the tunnel and accesses;

h) provision of information for integration of ARTESP's Information Control Center, as well as implementation of the digital systems for management, monitoring and follow-up of the activities, ensuring that the generated data and information is available to ARTESP;

i) maintenance and operation of the electronic system for exchange of information with the user through a data network;

j) achievement of the service levels and performance indicators;

k) availability and maintenance of an ombudsman's office and systems and channels

for communication and relationship with the users; and

l) preparation and implementation, during the entire concession term, of actions to reduce or offset the emission or production of greenhouse gases in the operation services of the Interconnection System, as provided for in the concession agreement.

III - services corresponding to conservation functions, including in particular:

a) routine conservation of the elements that are part of the Interconnection System, including the structure of the tunnel and urban road accesses and access buildings, paving, drainage, special civil engineering structures, signaling, road security devices, vegetation, and other elements such as control and automation systems, telecommunication systems, building facilities, operational and supporting yards, power supply systems and lighting systems;

b) special conservation of all elements composing the Interconnection system aiming at the preservation of the original undertaking, including services for maintenance of the tunnel's and respective accesses' infrastructure, resurfacing of the lanes, recovery of the concrete paving, recovery of special civil engineering structures, replacement of vertical and horizontal signs, replacement of control, collection, communication, and automation equipment, renovation of facilities and other similar elements;

c) emergency conservation in order to immediately replace, rebuild or restore to normal conditions, a section or element of the Interconnection System as well as the facilities and equipment that have been blocked or damaged due to any cause.

Article 6 - Non-delegated services are those under the Government's exclusive authority, not included in the concession object, such as:

I - overt, preventive and repressive traffic policing;

II - inspection and issuance of notices of violation related to:

a) vehicles;

b) documentation;

c) drivers;

d) circulation, parking and stop rules;

e) excessive load; and

f) non-payment of the toll fee.

III - issuance of delegations under the law, regarding:

a) international, interstate and intermunicipal road collective transportation services;

b) urban, intermunicipal, suburban, metropolitan or municipal collective transportation services;

c) maritime transportation services, such as ferries;

d) service of transportation of rural workers or people in freight carriers;

e) exceptional cargo transportation services.

IV - declaration of public utility or social interest for purposes of expropriation and resettlement;

§1 - The occupancy of rights-of-way shall depend on ARTESP's or the Granting Authority's authorization, as the case may be, upon the concessionaire's request, in the form

regulated by the current rules, and subject to the characteristics and restrictions of the area to be expropriated.

§2 - The tender notice and the sponsored concession agreement may specify other activities that will depend on authorization from the Granting Authority or prior consent of ARTESP in order to be explored by the concessionaire.

Article 7 - Complementary services are those considered as convenient, but not essential, to maintain a proper service in the entire are of the Interconnection System, pursuant to the concession agreement.

Article 8 - For performance of the delegated services, especially with respect to the construction and operation of a traffic supervision and control integrated system, collection and toll control and communication systems, the concessionaire shall implement technologically updated systems that enable full automation and greater safety of the operations, in addition to the sharing of data, information and documents that enable the due inspection of the services by ARTESP.

Sole paragraph - The control and automation systems referred to in this article shall enable full application of the non-delegated systems, especially with respect to the traffic inspection.

### CHAPTER III

#### Concessionaire's Responsibilities

Article 9 - The concessionaire's duties and obligations during the entire concession period, without prejudice to the provisions of the concession agreement, are:

I - to use the resources at its disposal to ensure the traffic flow and to make sure that the users receive a suitable service;

II - to submit to ARTESP's approval the alternative circulation plan it intends to adopt when a work or operation performed requires the blocking of one or more lanes of the Interconnection System;

III - to properly disclose to the public in general and to the user in particular, including through automatic boards installed in the Interconnection System and announcements disseminated in an information exchange electronic system via data network, the occurrence of extraordinary events, the adoption of special operation schemes and performance of works;

IV - to properly disclose to the user, including through automatic boards installed in the Interconnection System and announcements disseminated in an information exchange electronic system via data network, any changes in the value of the fees charged at least forty-eight (48) hours before such change becomes effective;

V - to implement the safety recommendations established by ARTESP and to monitor one hundred per cent (100%) of the Interconnection System through proper systems, including through video and automatic identification of emergency systems, as well as to keep human and material resources available for preparation and implementation of structures to provide assistance in emergency situations;

VI - to ensure the prevention and elimination of fire in the Interconnection System;

VII - to implement an accident prevention system;

VIII - to support inspection and policing activities;

- IX - to monitor and request the intervention of public entities, such as civil and uniformed police, the fire department, environmental agencies, federal, state and municipal agencies, in the Interconnection System, whenever necessary;
- X - to perform improvement services intended to adjust the infrastructure and increase the security and comfort of the users;
- XI - to execute all works, services, controls and activities related to the concession with care, diligence and cost saving by using the best technique applicable to each of the tasks performed and obeying the rules, standards and specifications established by ARTESP, taking the necessary steps to preserve the property of the Interconnection System;
- XII - to ensure the protection of the natural resources and ecosystems;
- XIII - to execute all procedures required to obtain the licenses required by the environmental protection agents, and to comply with all environmental actions and programs, subject to the relevant environmental laws, in particular federal Law No. 6,938 dated August 31, 1981 and Law No. 9,509 dated March 20, 1997;
- XIV - to provide with care the delegated public services and support the provision of non-delegated services in the Interconnection System;
- XV - to obey the measures determined by the traffic authorities in the event of accidents or unusual situations;
- XVI - to be liable for the correct behavior and efficiency of its employees and agents, as well as its contractors, providing for their registration with the competent authorities, requiring them to bear an identity badge indicating their functions and instructing them to provide support to the authority's action;
- XVII - to comply with legal determinations related to Occupational Health and Safety;
- XVIII - to immediately redo the services under its responsibility that have been performed with defects;
- XIX - to prepare functional and executive designs and enforce actions related to environmental impact;
- XX - to keep in appropriate locations, close to the gantries of the automatic system, subject to the contractual schedule for their adjustment, signs indicating the value of the toll fees;
- XXI - to provide ARTESP with any and all documents and information relevant to the concession object, including allowing access to the digital systems that shall be implemented by the concessionaire to perform the operating activities described in the respective concession agreement, as well as to authorize the inspection authorities to audit its accounts;
- XXII - to keep ARTESP updated of any and all non-routine event;
- XXIII - to render accounts on the management of the services to ARTESP and to the users, as defined in the agreement;
- XXIV - to be liable before ARTESP and third parties for all acts and events under its authority;
- XXV - to keep the inventory and register of assets related to the respective concession updated, in addition to making available georeferenced video recordings in the frequency and according to the rules established in the agreement;

XXVI - to be liable for any negligence and violations related to the obligations resulting from the respective concession, including of its subcontractors, according to the terms of the concession agreement;

XXVII - to adjust the collection systems to new programs, technologies and fee collection policies defined by the Granting Authority or ARTESP;

XXVIII - to provide information, in the forms established in the respective concession agreement, for integration with ARTESP's Information Control Center and other digital systems specified to support the performance of the monitoring and inspection activities carried out by ARTESP;

XXIX - to keep in full operation, and within the established standards, the user service channels, as well as the ombudsman's channel, provided for in rules applicable to them; and

XXX - to comply with the rules of the concession agreement and rules issued by ARTESP as to the return of the Interconnection System or transfer to any concessionaire that may succeed it.

## CHAPTER IV

### Inspection of the Delegated Services, Administrative Police Power, and Penalties

Article 10 - All services provided for in these regulations are subject to inspection and monitoring.

§1 - The quality, continuity, regularity, efficiency, actuality, generality, security, and courtesy in provision of the services are evaluation factors that define the proper service level, as provided for in federal Law No. 8,987, dated February 13, 1995, in federal Law No. 11,079, dated December 30, 2004, and shall be the basis for inspection of the services referred to in this article.

§2 - For purposes of this article, ARTESP shall establish technical standards, indicators and parameters for the quantification and assessment of the factors referred to in §1 of this article.

Article 11 - The Granting Authority shall perform the administrative police activities, including the authority to impose penalties to those who violate the applicable regulations.

Article 12 - The concessionaire shall be subject to inspection by ARTESP, which may count on the users' cooperation.

§1 - When performing an inspection, ARTESP shall have access to the data related to the administration, accounting, technical, economic, and financial resources of the concessionaire, including through electronic means and in real time.

§2 - The inspection of the service shall be performed by ARTESP, who may contract services to support the inspection, subject to Complementary Law No. 1,413, dated September 23, 2024, and subsequent amendments.

## CHAPTER V

### Overt, Preventive and Repressive Policing

Article 13 - The overt, preventive and repressive policing and other activities assigned by law to the Military Police shall be exercised, in the Interconnection System referred to in these Regulations, by the Traffic Military Police.

## CHAPTER VI



## Toll Fees and Revenues

Article 14 - The concessionaire's revenues, as of the dates indicated in the notice, shall be:

I - toll fees;

II - public consideration;

III - public contribution;

IV - proceeds resulting from investments in the financial market;

V - collection of services provided to the users, except services expressly listed in Article 5, item II, letter d) of these regulations;

VI - charge of a price for advertisements, as permitted by law;

VII - amounts received for insurance and pecuniary penalties provided for in the contracts entered into between the concessionaire and third parties, as well as resulting from enforcement of guarantees offered within the scope of contracts entered into with third parties;

VIII - collections resulting from the provision of complementary services, under the respective concession agreement;

IX - other revenues provided for in the respective notice and concession agreement, or that may be regulated by the Granting Authority, or proposed by the concessionaire.

Article 15 - The toll fees, the public consideration, the public contribution and the ancillary revenues resulting from the non-delegated services, as well as the criteria and frequency of calculation and adjustment, shall be established in the notices, subject to the relevant legal and regulatory standards.

## CHAPTER VII

### Users' Rights and Obligations

Article 16 - The rights and obligations of the users are:

I - to receive proper service;

II - to pay the fee;

III - to receive from the Granting Authority, ARTESP and the concessionaire any information for defense of their individual or collective interests;

IV - to obtain and use the service, with freedom of choice, subject to the rules of the Government;

V - to have access to the concessionaire's ombudsman's office through different means;

VI - to report to ARTESP and the concessionaires the irregularities they may find with respect to the service provided;

VII - to report to the competent authorities the irregularities practiced by the concessionaire in the provision of the service;

VIII - to report to the competent authorities any wrongdoings practiced by the concessionaire in the provision of the service;

IX - to contribute to the conservation of good conditions of the public property whereby the services are provided to them;

X - to be covered by the insurances contracted by the concessionaire, under the concession agreement.

Article 17 - ARTESP and the concessionaire shall encourage the community's participation in matters of interest of the Interconnection System object of the concession.

## CHAPTER VIII

### General Provisions

Article 18 - The Granting Authority shall be responsible for, upon proposal of the concessionaire, the actions for declaration of public utility of assets and areas required for the construction of the Interconnection System, and the concessionaire shall be responsible for carrying out expropriations and administrative easements, as well as for the respective indemnities, under the respective concession agreement.

Article 19 - Once the concession terminates, all reversible assets, rights and privileges associated with the exploration of the Interconnection System, either transferred to the concessionaire or implemented by it under the concession, shall be returned to the Granting Authority, as provided for in law and in the respective agreement.

Sole paragraph - Upon termination of said concession agreement, the reversible assets, rights and privileges referred to in the head provision of this article may be transferred to the concessionaire that may take over the provision of the services referred to in these regulations, subject to the procedures, deadlines, formalities and obligations established in the agreement.

Article 20 – As per the administrative organization rules in force in the State of São Paulo, the Secretariat for Investment Partnerships shall issue the necessary additional rules for enforcement of these regulations.

Article 21 - ARTESP shall be in charge of governing and inspecting the support and additional activities or those resulting from the delegated services.