



**Kenya National Highways Authority**

**Quality Highways, Better Connections**

**REQUEST FOR PROPOSAL**

**FOR**

**CONSULTANCY SERVICES FOR DESIGN REVIEW AND CONSTRUCTION  
SUPERVISION**

**OF**

**BARPELLO ~ TOT ~ SIGOR ~ MARICH PASS (B17) ROAD,  
LOT 1: BARPELLO (MORU) ~ TOT JUNCTION (KM 178+115 ~ KM 218+375)**

**TENDER NO ~ KeNHA/2361/2020**

**NOVEMBER 2020**

**DIRECTOR GENERAL  
KENYA NATIONAL HIGHWAYS AUTHORITY  
P.O. BOX 49712 –00100  
NAIROBI**

**DIRECTOR (DEVELOPMENT)  
KENYA NATIONAL HIGHWAYS AUTHORITY  
P.O. BOX 49712 –00100  
NAIROBI**

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**SECTION A: -  
LETTER OF INVITATION**

To \_\_\_\_\_ [date]

*[Name and address of Consultant]*

Dear Sir,

**RE: CONSULATANCY SERVICES FOR DESIGN REVIEW AND CONSTRUCTION SUPERVISION OF BARPELLO ~ TOT ~ SIGOR ~ MARICH PASS (B17) ROAD, LOT 1: MORU ~ BARPELLO ~ TOT JUNCTION (KM 178+115 ~ KM 218+375)**

The Kenya National Highways Authority (KeNHA) is a State Corporation established under the Kenya Roads Act, 2007, with the responsibility for the management, development, rehabilitation and maintenance of national roads.

The Authority invites sealed bids from eligible Engineering Consultancy firms registered as Engineering Consulting firms by the Engineer's Board of Kenya (EBK) to submit bids for the above tender.

1. The following are mandatory requirements that **must** be submitted together with the proposal
  - **Certified** copy of certificate of incorporation
  - Curriculum vitae (CVs) of the proposed key staff **duly signed** by the proposed individual.
  - **Certified** copy of **valid** Tax Compliance Certificate (Will be verified on the KRA TCC Checker)
  - **Certified** copies of certificates and testimonial of the proposed key staff
  - Letters of availability for the assignment signed by the proposed key staff (The proposed key staff should not be engaged in any ongoing Supervision project with completion date scheduled later than 4months from this Tender Notice).
  - Proof of Registration as Consulting Firm with EBK.
  - Details of Current work load
  - Litigation history (**sworn affidavit**)
  - Duly filled Confidential Business Questionnaire
  - The submitted bid document must be **sequentially serialized**

**NOTE: All certification of documents shall be original and executed by a Commissioner for Oaths or Notaries Public**

2. Due to the COVID -19 pandemic and consequently the Presidential Directives issued, there shall be NO Pre-Tender Site Visits. However, bidders are encouraged to make personal arrangements to acquaint themselves with the site before submissions of their bids and can submit in writing any queries to the undersigned vide electronic means.
3. The Consultant will be selected under Quality-and Cost-Based Selection (QCBS) and procedures described in the RFP, in accordance with the Public Procurement and Asset Disposal Act, 2015 and Regulations. The above details will be submitted with the proposal.
4. To enhance equity, bidders shall bid for a maximum of Two (2) Tenders (For each category of Works or Consultancy), but can only be awarded One (1) Tender under this Tender Notice.

**Bidders who participate in more than Two (2) tenders shall be disqualified.**

5. Interested eligible firms may inspect the tender documents from the Supply Chain Management Department Office, Kenya National Highways Authority Headquarters, 2<sup>n</sup> Floor Block C, Barabara Plaza, Off Mazao Road, Jomo Kenyatta International Airport, Nairobi during normal working hours. A Request for Proposal document may be obtained by interested candidates upon payment of non-refundable fees of Kshs. 1,000.00 (One thousand only) in form of banker's cheque only payable to **Kenya National Highways Authority**.
6. The proposal shall be enclosed in plain sealed envelopes marked with tender name and reference number and deposited in the tender Box at Kenya National Highways Authority Headquarters, 3<sup>rd</sup> Floor Block C, Barabara Plaza, Off Mazao Road, Jomo Kenyatta International Airport and/or to be addressed to the:

Deputy Director, Supply Chain Management  
Kenya National Highways Authority,  
Barabara Plaza, Jomo Kenyatta International Airport (JKIA), Off Mazao Road,  
P.O. Box 49712 – 00100  
**NAIROBI, KENYA**

so as to be received on or before **Thursday 14<sup>th</sup> January, 2021 at 10.00am.**

Opening of the Proposals will take place immediately thereafter at the **KeNHA Offices, 2<sup>nd</sup> Floor Floor Boardroom, Block C, Barabara Plaza**, in the presence of Tenderers/Representatives who wish to attend.

Yours sincerely,

**Deputy Director, Supply Chain Management**  
**FOR: DIRECTOR GENERAL**

## **SECTION B:-**

### **INFORMATION TO CONSULTANTS**

- 1. Introduction**
  - 1.1 The Client named in Appendix “A” will select a firm among the bidders, in accordance with the method of selection detailed under this section.
  - 1.2 The Consultants are required to submit both a Technical Proposal and a Financial Proposal, as specified in Appendix “A” for consulting services required for the assignment named in the said Appendix. The proposal will be the basis for Contract negotiations and ultimately for a signed Contract with the selected firm.
  - 1.3 The Consultants must familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain first-hand information on the assignment and on the local conditions, consultants are encouraged to liaise with the Client regarding any information that they may require before submitting a proposal. Consultants should contact the officials named in Appendix “A” to arrange for any visit or to obtain additional information. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make necessary arrangements.
  - 1.4 The Client will provide the inputs specified in Appendix “A”, assist the firm in obtaining licenses and permits needed to carry out the services and make available relevant project data and reports.
  - 1.5 Please note that (i) the costs of preparing the proposal and of negotiating the Contract, including any visit to the Client are not reimbursable as a direct cost of the assignment; and (ii) the Client is not bound to accept any of the proposals submitted
- 2. Clarification and Amendment of RFP Documents**
  - 2.1 Consultants may request a clarification of any of the RFP documents only up to seven [7] days before the proposal submission date. Any request for clarification must be sent in writing by paper mail, cable, telex, facsimile or electronic mail to the Client’s address indicated in Appendix “A”. The Client will respond by cable, telex, facsimile or electronic mail to such requests and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all invited consultants who intend to submit proposals.
  - 2.2 At any time before the submission of proposals, the Client may for any reason, whether at his own initiative or in response to a clarification requested by the bidding firm, amend the RFP. Any amendment shall be issued in writing through Tender Notice. Tender Notice shall be sent by mail, cable, telex or facsimile to all invited consultants and will be binding on them. The Client may at his discretion extend the deadline for the submission of proposals.
- 3. Preparation of Proposal**
  - 3.1 The Consultant’s proposal shall be written in English language

- 3.2 In preparing the technical proposal, Consultants are expected to examine the documents constituting this RFP in detail. Material deficiencies in providing the information requested may result in rejection of a proposal.
- 3.3 While preparing the Technical Proposal, consultants must give particular attention to the following:
- (i) If a firm considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual Consultant(s) and/or other firms or entities in a joint venture or sub consultancy as appropriate.
  - (ii) For assignments on a staff-time basis, the estimated number of professional staff-months is given in Appendix “C”. Any costs associated with any other staff required on the project shall be factored in the staff itemised under Appendix C.
  - (iii) It is desirable that the majority of the key professional staff proposed be permanent employees of the firm or have an extended and stable working relationship with it.
  - (iv) Proposed professional staff must as a minimum, have the experience indicated in Appendix “A”, preferably working under conditions similar to those prevailing in Kenya.
  - (v) Alternative professional staff shall not be proposed and only one Curriculum Vitae (CV) may be submitted for each position.
- 3.4 The Technical Proposal shall provide the following information using the attached Standard Forms;
- (i) A brief description of the firm’s organization and an outline of recent experience on assignments of a similar nature. For each assignment the outline should indicate inter alia, the profiles of the staff proposed, duration of the assignment, contract amount and firm’s involvement.
  - (ii) Any comments or suggestions on the Terms of Reference, a list of services and facilities to be provided by the Client.
  - (iii) A description of the methodology and work plan for performing the assignment.
  - (iv) The list of the proposed staff team by speciality, the tasks that would be assigned to each staff team member and their timing.
  - (v) CVs recently signed by the proposed professional staff and the authorized representative submitting the proposal. Key information should include number of years working for the firm/entity and degree of responsibility held in various assignments during the last ten (10) years.

- (vi) Estimates of the total staff input (professional and support staff staff-time) needed to carry out the assignment supported by bar chart diagrams showing the time proposed for each professional staff team member.
  - (vii) A detailed description of the proposed methodology, staffing and monitoring of training, if Appendix “A” specifies training as a major component of the assignment.
  - (viii) Any additional information requested in Appendix “A”.
- 3.5 The Technical Proposal shall not include any financial information.
- 4. Preparation of Financial Proposal**
- 4.1 In preparing the Financial Proposal, Consultants are expected to take into account the requirements and conditions outlined in the RFP documents. The Financial Proposal should follow Standard Forms (Section D). It lists all costs associated with the assignment including; (a) remuneration for staff (in the field and at headquarters), and; (b) reimbursable expenses such as subsistence (per diem, housing), transportation (international and local, for mobilization and demobilization), services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. If appropriate these costs should be broken down by activity.
- 4.2 The Financial Proposal should clearly identify as a separate amount, the local taxes, duties, fees, levies and other charges imposed under the law on the consultants, the sub-consultants and their personnel, unless Appendix “A” specifies otherwise.
- 4.3 Consultants shall express the price of their services in Kenya Shillings.
- 4.4 Commissions and gratuities, if any, paid or to be paid by consultants and related to the assignment will be listed in the Financial Proposal submission Form.
- 4.5 The Proposal must remain valid for 90 days after the submission date. The Consultant shall include in his submissions a declaration confirming the 90 days validity period. During this period, the consultant is expected to keep available, at his own cost, the professional staff proposed for the assignment. The Client will make his best effort to complete negotiations within this period. If the Client wishes to extend the validity period of the proposals, the consultants who do not agree have the right not to extend the validity of their proposals.
- 5. Submission, Receipt and Opening of Proposals**
- 5.1 The original proposal (Technical Proposal and Financial Proposal; see para. 1.2) shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialled by the persons or person authorised to sign the proposals.

- 5.2 For each proposal, the consultants shall prepare the number of copies indicated in Appendix “A”. Each Technical Proposal and Financial Proposal shall be marked “ORIGINAL” or “COPY” as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall govern.
- 5.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked “**TECHNICAL PROPOSAL,**” and the original and all copies of the Financial Proposal in a sealed envelope clearly marked “**FINANCIAL PROPOSAL**” and warning: “**DO NOT OPEN WITH THE TECHNICAL PROPOSAL**”. Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated in Appendix “A” and be clearly marked, “**DO NOT OPEN, EXCEPT IN PRESENCE OF THE EVALUATION COMMITTEE.**”
- 5.4 The completed Technical and Financial Proposals must be delivered at the submission address on or before the time and date stated in Appendix “A”. Any proposal received after the closing time for submission of proposals shall be returned to the respective consultant unopened.
- 5.5 After the deadline for submission of proposals, the Technical Proposal shall be opened immediately by the evaluation committee. The Financial Proposal shall remain sealed and deposited with a responsible officer of the client department until all submitted proposals are opened publicly.

**6. Proposal Evaluation General**

- 6.1 From the time the bids are opened to the time the Contract is awarded, if any Consultant wishes to contact the Client on any matter related to his proposal, he should do so in writing at the address indicated in Appendix “A”. Any effort by the firm to influence the Client in the proposal evaluation, proposal comparison or Contract award decisions may result in the rejection of the consultant’s proposal.
- 6.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.
- 6.3 The evaluation committee appointed by the Client shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria as follows: -

**Evaluation of Technical Proposal**

	<b>Points</b>
i. Specific experience of the consultant related to the assignment	(0-5)
ii. Adequacy of the proposed work plan and methodology in responding to the terms of reference	(0-45)
iii. Qualifications and competence of the key staff for the assignment	(0-40)
iv. Training of Client’s Engineers/General Training.	(0-10)
Total Points	<u><b>100</b></u>



Each responsive proposal will be given a technical score (St). A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or if it fails to achieve the minimum technical score indicated in Appendix "A".

**Public Opening and Evaluation of Financial Proposals**

- 6.4 After Technical Proposal evaluation, the Client shall notify those Consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP and Terms of Reference, indicating that their Financial Proposals will be returned after completing the selection process. The Client shall simultaneously notify the Consultants who have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals and stating that the opening ceremony is open to those Consultants who choose to attend. The notification may be sent by registered letter, cable, telex, facsimile or electronic mail.
- 6.5 The Financial Proposals shall be opened publicly in the presence of the Consultants' representatives who choose to attend.
- 6.6 The name of the Consultant, the technical scores and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.
- 6.7 The Evaluation Committee will determine whether the financial proposals are complete (i.e. whether the consultant has costed all the items of the corresponding Technical Proposal and correct any computational errors).
- The cost of any unpriced items shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.
- 6.8 While comparing proposal prices between local and foreign firms participating (where applicable) in a selection process in financial evaluation of Proposals, firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias in proposal prices. However, there shall be no such preference in the technical evaluation of the tenders. Proof of local incorporation and citizenship shall be required before the provisions of this sub-clause are applied. Details of such proof shall be attached by the Consultant in the financial proposal.
- 6.9 The formulae for determining the Financial Score (Sf) shall, unless an alternative formula is indicated in Appendix "A", be as follows: -

$Sf = 100 \times \frac{FM}{F}$  where Sf is the financial score; FM is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the Appendix. The combined technical and financial score, S, is calculated as follows: -  $S = Sf \times T\% + St \times P\%$

- P* %. The firm achieving the highest combined technical and financial score will be invited for negotiations.
- 7. Negotiations**
- 7.1 Negotiations will be held at the same address as “address to send information to the Client” indicated in Appendix “A”. The aim is to reach agreement on all points and sign a contract.
- 7.2 Negotiations will include a discussion of the Technical Proposal, the proposed methodology (work plan), staffing and any suggestions made by the firm to improve the Terms of Reference. The Client and firm will then work out final Terms of Reference, staffing and bar charts indicating activities, staff periods in the field and in the head office, staff-months, logistics and reporting.
- The agreed work plan and final Terms of Reference will then be incorporated in the “Description of Services” and form part of the Contract. Special attention will be paid to getting the most the firm can offer within the available budget and to clearly defining the inputs required from the Client to ensure satisfactory implementation of the assignment.
- 7.3 Unless there are exceptional reasons, the financial negotiations will not involve the remuneration rates for staff (no breakdown of fees).
- 7.4 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis of the experts named in the proposal.
- Before contract negotiations, the Client will require assurances that the experts will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified.
- 7.5 The negotiations will conclude with a review of the draft form of the Contract. To complete negotiations the Client and the selected firm will initial the agreed Contract.
- If negotiations fail, the Client will invite the firm whose proposal received the second highest score to negotiate a contract.
- 8. Award of Contract**
- 8.1 The Contract will be awarded following negotiations. After negotiations are completed, the Client will promptly notify other consultants on the shortlist that they were unsuccessful and return the Financial Proposals of those consultants who did not pass the technical evaluation.
- 8.2 The selected firm is expected to commence the assignment on the date and at the location specified in Appendix “A”.
- 9. Performance Security**
- 9.1 The Consultant will furnish within 14 days of the issue of Letter of Acceptance (LOA), an unconditional Bank Guarantee from the bank for an amount equivalent to 5% of the total

contract value to be received by him towards Performance Security valid for a period of three months beyond the date of completion of the services. The Bank Guarantee will be released by the Client upon successful completion and approval of the final report including inspection and acceptance of the services undertaken. This will include issuance of project completion certificate.

- |  |      |   |
|--|------|---|
| <b>10. Compensation for Loss/ Damages</b>  | 10.1 | The Consultant will indemnify for any direct loss or damage that may accrue due to deficiency in services in carrying out the project. Compensation shall be levied on the Consultants for poor performance/deficiency in service as expected from the Consultant and as stated in the General Conditions of Contract.      |
| <b>11. Confidentiality</b>                 | 11.1 | Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted the proposals or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the Contract.                  |
| <b>12. Corrupt or Fraudulent Practices</b> | 12.1 | The procuring entity requires that the consultants observe the highest standards of ethics during the Selection and award of the consultancy contract and also during the performance of the assignment. The tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices. |
|  | 12.2 | The procuring entity will reject a proposal for award if it determines that the consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.  |
|  | 12.3 | Further a consultant who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.   |

**APPENDIX “A”**

The following information for procurement of consultancy services and selection of consultants shall complement or amend the provisions of the information to consultants, wherever there is a conflict between the provisions of the information to consultants and provisions of the appendix, the provisions of the appendix herein shall prevail over those of the information to consultants.

Reference Clause	
1.1 & 2.1	<p>The name of the Client is:</p> <p style="text-align: center;"><b>Director General Kenya National Highways Authority P.O. Box 49712-00100, NAIROBI</b></p>
1.2 & 6.2	<p>The method of selection is: <b><i>Quality and Cost Based Selection</i></b>                      Technical and Financial Proposals are requested: <b>Yes</b>                      The name of the assignment is:  <i>Consultancy Services for Design Review and Construction Supervision of Barpello - Tot - Sigor - Marich Pass (B17) Road, Lot 1: Moru - Barpello - Tot Junction (Km 178+115 - Km 218+375)</i></p>
1.3	<p>The name(s), address(es) and telephone numbers of the Engineer are:</p> <p style="text-align: center;"><b>Director (Development) Kenya National Highways Authority P.O. Box 49712 NAIROBI Tel: (+254) 20 495 4103                      Fax:(254) 20 271 5483 Email: directordevelopment@kenha.co.ke</b></p>
1.4	<p>The Client will provide the following inputs subject to availability:</p> <ul style="list-style-type: none"> <li><i>i. Standard specification for Road and Bridge construction (1986)</i></li> <li><i>ii. Road Design Manual Part I – Geometric Design for Rural Roads (1979)</i></li> <li><i>iii. Road Design Manual Part III – Pavement Design and Materials (1987)</i></li> </ul> <p>The client shall arrange for the following documents to be viewed at the office of the Head of Supply Chain Management –KeNHA.</p> <ul style="list-style-type: none"> <li><i>i. Contract Document for Civil Works</i></li> </ul> <p>The client shall also give assistance to facilitate the timely granting of the Consultant and his personnel of:</p> <ul style="list-style-type: none"> <li>i. Unobstructed access to all sites and locations involved in carrying out the services</li> <li>ii. Necessary Visas and customs clearance for entry and exits</li> </ul>

3.3

The duration required for construction is: **Thirty Six (36) months.**

The Consultant must provide written commitment from the proposed key personnel on their availability for the assignment.

The minimum required experience in years of proposed professional staff and the points assigned to each is as shown hereunder: -

No.	Description	Years	Points
a.	Project Director, BSc (Civil Eng.)	12	3
b.	Resident Engineer, BSc (Civil Eng.)	8	8
c.	Deputy Resident/ Highways Engineer, BSc (Civil Eng.)	6	6
d.	Materials Engineer, BSc (Civil Eng.)	8	5
e.	Asst. Materials Engineers, BSc (Civil Eng.) (2No)	3	3
f.	Asst. Highways Engineer, BSc (Civil Eng.) (2No)	3	3
g.	Structural/Drainage Engineer, BSc (Civil Eng.)	8	5
h.	Asst. Structural/Drainage Engineer, BSc (Civil Eng.) - (2No)	3	3
i.	Environmentalist: BSc or BA and must have undertaken Environmental Studies on roads projects	8	2.5
j.	Asst. Environmentalist: BSc or BA and must have undertaken Environmental Studies on roads projects	4	1.5
k.	Sociologist	6	2.5
l.	Asst. Sociologist	3	1.5
m.	Surveyor: BSc (Survey & Photogrammetry)	6	5
n.	Senior Materials Technologist 1	6	4
o.	Road Inspectors (3No.)	6	9
p.	Materials Technologist (2No.)	6	4
q.	Assistant Surveyor: BSc (Survey & Photogrammetry)	4	1.5
r.	Draughtsman/ CADD Engineer	4	2.5
<b>Total</b>			<b>70</b>

	<p><b>NB: Consultant can also add the professionals as per their understanding about the assignment.</b></p> <p>All other required staff must be listed and their remuneration to be included in the financial proposal.</p> <table style="margin-left: 40px;"> <tr> <td>Firms experience and organisation</td> <td style="text-align: right;">5 mks</td> </tr> <tr> <td>Comments on Terms of Reference</td> <td style="text-align: right;">5 mks</td> </tr> <tr> <td>Methodology and work plan</td> <td style="text-align: right;">10 mks</td> </tr> <tr> <td>Training of Engineers</td> <td style="text-align: right;">5 mks</td> </tr> <tr> <td>Work plan &amp;T timetable of Activities</td> <td style="text-align: right;">5 mks</td> </tr> <tr> <td style="text-align: center;"><b>Total</b></td> <td style="text-align: right;"><b><u>30marks</u></b></td> </tr> </table> <p>An Evaluation grid is attached (Appendix C).</p>	Firms experience and organisation	5 mks	Comments on Terms of Reference	5 mks	Methodology and work plan	10 mks	Training of Engineers	5 mks	Work plan &T timetable of Activities	5 mks	<b>Total</b>	<b><u>30marks</u></b>
Firms experience and organisation	5 mks												
Comments on Terms of Reference	5 mks												
Methodology and work plan	10 mks												
Training of Engineers	5 mks												
Work plan &T timetable of Activities	5 mks												
<b>Total</b>	<b><u>30marks</u></b>												
3.4	<p>i. Training of Client’s Engineers is a specific component of this assignment: <b>Yes</b></p> <p>ii. The Consultant <b>MUST</b> demonstrate that they carried out previous road design/design review or construction supervision assignments, successfully and delivered to the satisfaction of the client.</p>												
3.6	The Fees for these Services shall be monthly payments as broken down in Section D.												
4.2	<p>Taxes:</p> <p style="text-align: center;"><i>The Consultant shall be liable to pay all taxes, duties and levies including VAT in accordance with the laws of Kenya and the Client shall not reimburse any amount paid in this context.</i></p>												
5.2	Consultants must submit One (1) original and One (1) additional copy of the proposal.												
4.3	<p>The proposal submission address is:</p> <p style="text-align: center;"><b><i>Director General Kenya National Highways Authority, Barabara Plaza, Jomo Kenyatta International Airport (JKIA), Off Mazao Road, P.O. Box 49712 – 00100 NAIROBI, KENYA</i></b></p> <p>The outer envelope shall also be clearly marked:</p> <p>“Consultancy Services for Design Review and Construction Supervision of Barpello - Tot - Sigor - Marich Pass (B17) Road, Lot 1: Moru - Barpello - Tot Junction (Km 178+115 - Km 218+375)</p> <p><b>TENDER No: KeNHA/2361/2020</b></p>												

5.4	Proposals must be submitted no later than the date and time stated in the <b>Tender Notice</b> .
6.3	The minimum technical score required to pass is <b>75%</b>
6.9	Alternative formulae for determining the financial scores is the following: <b>None</b>  Weightings: <b>T = 0.8,</b> <b>F = 0.2</b>
7.1	The address to send information to the Engineer:  <i>Director (Development)</i> <i>Kenya National Highways Authority,</i> <i>Barabara Plaza, Jomo Kenyatta International Airport (JKIA),</i> <i>Off Mazao Road,</i> <i>P.O. Box 49712 – 00100</i> <i><u>NAIROBI, KENYA</u></i>
8.2	Commencement of Assignment: <b>Fourteen (14)</b> days after order to commence
12.1	In pursuance of this policy, the Client:  (i) Defines, for purposes of this provision, the terms set forth below as follows:  (a) “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution: and  (b) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Client, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition  (ii) Will reject a proposal for award if it determines that the Consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

APPENDIX "B"

MODEL LETTER OF DELEGATION OF POWERS TO ENGINEER'S REPRESENTATIVE



**Kenya National Highways Authority**

**Quality Highways, Better Connections**

Barabara Plaza, Jomo Kenyatta International Airport (JKIA), Nairobi, Off Mazao Road (Opposite KCAA Headquarters), P.O Box 49712 - 00100 Nairobi  
Tel 020 - 4954000 / 0700 423 606 Email dg@kenha.co.ke / Website www.kenha.co.ke

Ref. No.

Date:

Addressee

**DELEGATION OF THE POWERS OF THE ENGINEER/APPOINTMENT AS THE ENGINEER'S REPRESENTATIVE**

I write to confirm that you are hereby appointed the Engineer's Representative to perform the duties of supervision on the above road project with the following specific limitations on the powers and authority of the Engineer as stipulated in the Conditions of Contract.

The Engineer in this contract shall be the Director (Development).

**Limitation**

- |               |   |  |
|---------------|---|--|
| Clause 5      | ~ | <b><u>Documents Mutually Explanatory</u></b>   |
| Clause 7      | ~ | <b><u>Further Drawings and Instructions</u></b><br>With the limitations described in Clause 51 below.  |
| Clause 13     | ~ | <b><u>Work to be to the satisfaction of the Engineer</u></b>   |
| Clause 15     | ~ | <b><u>Contractor's Superintendence</u></b><br>With the reservation of approval by us of the Contractor's Agent, or any subsequent change thereof, you are authorised to deal with any relative matters concerning superintendence. |
| Clause 16 (2) | ~ | <b><u>Contractor's Employees</u></b><br>Within the limitation given in Clause 15 above.  |
| Clause 18     | ~ | <b><u>Boreholes and Explanatory Excavation</u></b><br>Within the limitations given in Clause 51.   |
| Clause 20 (1) | ~ | <b><u>Cares of Works</u></b>   |
| Clause 30 (3) | ~ | <b><u>Settlement of Extraordinary Traffic Claims</u></b><br>You are authorized to receive report of damage or injury to highways or bridges.   |
| Clause 31     | ~ | <b><u>Opportunities for other Contractors</u></b>  |
| Clause 33     | ~ | <b><u>Clearance of Site on Completion</u></b>  |
| Clause 35     | ~ | <b><u>Returns of Labour etc.</u></b>   |
| Clause 36 (1) | ~ | <b><u>Quality of Materials, Workmanship and Tests</u></b>  |



- Within the limitations given in Clause 51 below.
- Clause 36 (4) ~ **Costs of Test not Provided for etc.**  
Within the limitations given in Clause 51 below.
- Clause 37 ~ **Inspection of Operations**
- Clause 38 (2) ~ **Uncovering and Making Openings**
- Clause 39 (1) ~ **Removal of Improper Work and Materials**
- Clause 42 (1) ~ **Possession of Site**  
You are authorized to receive Contractor's proposals as regards programme affecting possession of the site.
- Clause 48 (1) ~ **Taking Over Certificate**  
It is your duty to arrange for substantial completion inspection and prepare minutes of the same. Taking over certificates shall be issued by this office.
- Clause 51 (1) ~ **Variation and Orders for Variations to be in Writing**  
Our approval must be obtained prior to any Variation being authorized.
- Clause 52 ~ **Valuation of Variations and Power of Engineer to Fix Rates.**  
Subject to our final approval you are authorized to enter into negotiations on the value of Variation and new rates. You are also authorised to receive notification of Contractor's intention to claim and to inform the Contractor of Engineer's approval of the value of Variations and new rates.
- Clause 52 (3) ~ **Variations Exceeding 15% of the Contract Price**  
Subject to our approval you are authorised to receive details of the proposed amendment to the Contract Price from the Contractor.
- Clause 52 (4) ~ **Dayworks**  
You are authorized to order minor works to be carried out on a daywork basis. Minor works in this case are regarded as those estimated to be less than Kshs. 50,000/= (Fifty Thousand Shillings). You are also authorized to receive receipt of other vouchers. You must closely monitor Dayworks Expenditure against the scheduled cost.
- Clause 52 (5) ~ **Claims**  
Subject to our approval you are authorized to receive details of claims and examine matters of fact and such like with the Contractor.
- Clause 53(5), (7), (8) ~ **Plant, Temporary Works and Materials**
- Clause 56 ~ **Works to be measured**

You are authorized to measure the works and to keep up to date records of all measurements used in compiling certificates, subject to our approval.

- Clause 58 (2) ~ **Use of Provisional Sums**  
You are authorized to order expenditure against provisional sums subject to individual limit of Kshs. 50,000 (Fifty Thousand Shillings only).
- Clause 58 (3) ~ **Production of Vouchers etc.**
- Clause 59 (4) ~ **Payments to Nominated Sub-Contractors**  
You are authorized to demand from the Contractor proof of payments to nominated Sub-Contractors and to make recommendations to us accordingly.
- Clause 60 (1) ~ **Monthly Payments**  
You are authorized to receive the statement referred to in Sub-Clause (2) hereof and to evaluate the amount of the interim certificate therein referred to. The evaluation made by you is subject to our approval.
- Clause 62 (1) ~ **Defects Liability Certificate**  
It is your duty to arrange for inspection of the site at the end of the Defects Liability Period and prepare minutes of the same. The Defects Liability certificate shall be issued by this office.
- Clause 64 ~ **Urgent Repairs**  
Subject to our approval, you are authorised to issue instructions to the Contractor to carry out urgent repairs. Any dispute concerning the liability for the urgent repairs shall be referred to the Engineer.
- Clause 70 ~ **Variation of Price**  
You are authorised to deal with requests for Variation of Price within the limits of this Clause and subject to our approval.

In addition, it should be noted that the Resident Engineer has authority to act as described in the following Clauses: -

- Clause 6 (1) ~ **Custody for Drawings**  
Requirements for Drawings
- Clause 6 (2) ~ **Drawings on Site**  
Use of Drawings
- Clause 14 ~ **Programme**  
Receipt of programme. Approval of programme will be given by us.
- Clause 17 ~ **Setting Out**
- Clause 19 ~ **Watching and Lighting**
- Clause 21 ~ **Insurance etc.**  
Receipt of Insurance

- Clause 23 (2) ~ **3<sup>rd</sup> Party Insurance.**
- Clause 24 (2) ~ **Insurance**  
Receipt of Insurance
- Clause 27 ~ **Fossils**
- Clause 30 (2) ~ **Specials Loads**
- Clause 38 ~ **Examination of Works**
- Clause 45 ~ **Restriction on Working Hours**  
Authorisation of work at night, on public holidays or locally recognized days of rest.

You should operate strictly within your delegated powers and authority, as you will be held liable for any ultra vires actions.

You are hereby required to immediately appoint and delegate authority to the approved Resident Engineer with a copy to us.

By copy of this letter, the Contractor is being informed of your appointment as the Engineer's Representative under the contract.

**DIRECTOR (DEVELOPMENT)**

CC: Director General  
Kenya National Highways Authority (KeNHA)  
P. O. Box 49712  
**NAIROBI.**

**APPENDIX “C”**

**EVALUATION GRID**

**METHODOLOGY AND ORGANISATION**

<b>ITEM</b>	<b>MAXIMUM SCORE</b>
Firm’s experience and organization	5
Comments on Terms of Reference	5
Approach and Methodology	10
Work plan and schedule of activities	5
Training of Engineers	5
<b>Total score for Organization and Methodology</b>	<b>30</b>

**KEY PERSONNEL**

- 1. Project Director (max.3 points)**
  - Qualification and skills 0.5
  - General professional experience 0.5
  - Specific professional experience 2
  
- 2. Resident Engineer (max. 8 points)**
  - Qualification and Skills 2
  - General professional experience 2
  - Specific professional experience 4
  
- 3. Deputy Resident/ Highway Engineer (max. 6 points)**
  - Qualification and Skills 1
  - General professional experience 2
  - Specific professional experience 3
  
- 4. Materials Engineer (max. 5 points)**
  - Qualification and Skills 1
  - General professional experience 1
  - Specific professional experience 3
  
- 5. Structural/Drainage Engineer (max. 5 points)**
  - Qualification and Skills 1
  - General professional experience 1
  - Specific professional experience 3
  
- 6. Environmentalist (Maximum 2.5 points)**
  - Qualification and Skills 0.5
  - General professional experience 1
  - Specific professional experience 1
  
- 7. Sociologist (max. 2.5 points)**
  - Qualification and Skills 0.5
  - General professional experience 1
  - Specific professional experience 1
  
- 8. Surveyor (max. 5 points)**

Qualification and Skills	1
General professional experience	1
Specific professional experience	3
<b>9. Snr. Materials Technologist 1 (max. 4 points)</b>	
Qualification and Skills	1
General professional experience	1
Specific professional experience	2
<b>10. Materials Technologist 2No (max. 2 points each)</b>	
Qualification and Skills	0.5
General professional experience	0.5
Specific professional experience	1
<b>11. Roads Inspector 3No (max.3 points each)</b>	
Qualification and Skills	0.5
General professional experience	0.5
Specific professional experience	2
<b>12. Asst. Materials Engineers 2No, (max. 1.5 points each)</b>	
Qualification and skills	0.5
General Professional Experience	0.5
Specific Professional Experience	0.5
<b>13. Asst. Highways Engineer 2No (max. 1.5 points each)</b>	
Qualification and skills	0.5
General Professional Experience	0.5
Specific Professional Experience	0.5
<b>14. Asst. Structural/Drainage Engineer 2No. (max. 1.5 points)</b>	
Qualification and skills.	0.5
General Professional Experience	0.5
Specific Professional Experience	0.5
<b>15. Asst. Environmentalist (max. 1.5 points)</b>	
Qualification and skills	0.5
General Professional Experience	0.5
Specific Professional Experience	0.5
<b>16. Asst. Sociologist (max. 1.5 points)</b>	
Qualification and skills	0.5
General Professional Experience	0.5
Specific Professional Experience	0.5
<b>17. Assistant Surveyor (max. 1.5 points)</b>	
Qualification and skills	0.5
General Professional Experience	0.5
Specific Professional Experience	0.5
<b>18. Draughtsman (max. 2.5 points)</b>	
Qualification and Skills	0.5
General professional experience	0.5
Specific professional experience	1
<b>Total score for Key Personnel</b>	<b>70</b>

**SECTION C: ~**

**TECHNICAL PROPOSAL – STANDARD FORMS**

These forms shall include;

- i) Technical Proposal submission form.
- ii) Firm's references.
- iii) Comments and suggestions of consultants on the Terms of Reference and on data, services and facilities to be provided by the Client.
- iv) Description of the methodology and work plan for performing the assignment.
- v) Team composition and task assignments.
- vi) Firm's Current Workload
- vii) Format of curriculum vitae (CV) for proposed professional staff.
- viii) Time schedule for professional personnel – short term experts
- ix) Time schedule for professional personnel – construction period
- x) Time schedule for professional personnel – defects liability period
- xi) Activity (work) schedule.
- xii) Confidential Business Questionnaire

(i) TECHNICAL PROPOSAL SUBMISSION FORM

[\_\_\_\_\_ Date]

To: \_\_\_\_\_ [Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for \_\_\_\_\_ [Title of consulting services] in accordance with your Request for Proposal dated \_\_\_\_\_ [Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, [and a Financial Proposal sealed under a separate envelope- *where applicable*].

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

\_\_\_\_\_ [Authorized Signature]:

\_\_\_\_\_ [Name and Title of Signatory]

:

\_\_\_\_\_ [Name of Firm]

:

\_\_\_\_\_ [Address:]

**(ii) FIRM'S REFERENCES**

**Relevant Services Carried Out in the Last Five Years  
That Best Illustrate Qualifications**

Using the format below, provide information on each assignment for which your firm either individually as a corporate entity or in association, was legally contracted (**attach letters of awards or completion certificates as proof of evidence**).

Assignment Name:		Country
Location within Country:		Professional Staff provided by Your Firm/Entity(profiles):
Name of Client:		Clients contact person for the assignment.
Address		No of Staff-Months; Duration of Assignment:
Start Date (Month/Year): Approx. Value of Services (Kshs)	Completion Date (Month/Year):	
Name of Associated Consultants. If any:		No of Months of Professional Staff provided by Associated Consultants:
Name of Senior Staff (Project Director / Coordinator, Team Leader) Involved and Functions Performed:		
Narrative Description of project:		
Description of Actual Services Provided by Your Staff:		

Firm's Name: \_\_\_\_\_

Name and title of signatory: \_\_\_\_\_



**(iii) COMMENTS AND SUGGESTIONS OF CONSULTANTS ON THE TERMS OF REFERENCE AND ON DATA, SERVICES AND FACILITIES TO BE PROVIDED BY THE CLIENT.**

---

On the Terms of Reference:

- 1.
- 2.
- 3.
- 4.
- 5.

On the data, services and facilities to be provided by the Client:

- 1.
- 2.
- 3.
- 4.
- 5.

**(iv) DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT**

---

(v) TEAM COMPOSITION AND TASK ASSIGNMENTS

1. Technical/Managerial Staff

Name	Position	Task

2. Support Staff

Name	Position	Task

**(vi) FIRM'S CURRENT WORKLOAD**

Using the format below, provide information on each assignment for which your firm either individually as a corporate entity or in association, is legally contracted to carry out (attach letters of award of contracts).

Assignment Name:		Country	
Location within Country:		Professional Staff provided by Your Firm/Entity(profiles):	
Name of Client:		No. of Staff:	
Address:		No of Staff-Months; Duration of Assignment:	
Start Date (Month/Year):	Expected date of Completion: (Month/Year):	Approx. Value of Services (Kshs)	
Name of Associated Consultants. If any:		No of Months of Professional Staff provided by Associated Consultants:	
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:			
Narrative Description of project:			
Description of Actual Services Provided by Your Staff:			
Description of any contractual issues between Client and Consultant (give brief if any)			

Firm's Name: \_\_\_\_\_

Name and title of signatory; \_\_\_\_\_

**(vii) FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF**

Proposed Position: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Name of Staff: \_\_\_\_\_

Profession: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Years with Firm: \_\_\_\_\_ Nationality: \_\_\_\_\_

Membership in Professional Societies: \_\_\_\_\_

Current Engagement:  
\_\_\_\_\_

Detailed Tasks Assigned: \_\_\_\_\_

---

**Key Qualifications:**

*[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations.]*

---

**Education:**

*[Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degree[s] obtained.]*

---

**Employment Record:**

*[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments.]*

---

**Certification:**

I, the undersigned, certify that these data correctly describe me, my qualifications, and my experience.

\_\_\_\_\_  
*[Signature of staff member]* Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_  
*[Signature of authorized representative of the firm]*

Full name of staff member: \_\_\_\_\_

Full name of authorized representative:  
\_\_\_\_\_

**Note: The signatures must be original for all local professionals. The Client, if finds it necessary, may carry out a one-on-one interview with the proposed staff to ascertain the details prior to contract award.**



**STATEMENT OF AVAILABILITY**

**TENDER NO: KeNHA/2361/2020**

**Consultancy Services For Design Review And Construction Supervision Of Barpello ~ Tot ~ Sigor ~ Marich Pass (B17) Road, Lot 1: Moru ~ Barpello ~ Tot Junction (Km 178+115 ~ Km 218+375)**

I, the undersigned, hereby declare that I agree to participate exclusively with the tenderer \_\_\_\_\_ (Name of Tenderer) in the above-mentioned service tender procedure. I further declare that I am able and willing to work for the period(s) foreseen for the position for which my CV has been included.

By making this declaration, I understand that I am not allowed to present myself as a candidate to any other tenderer submitting a tender procedure for the above tender. I am fully aware that if I do so, I will be excluded from this tender procedure, the tenders may be rejected and I may also be subject to exclusion from other tender procedures and contracts being undertaken by KeNHA.

Furthermore, should this tender be successful, I am aware that if I am not available at the expected start date of my services for reasons other than ill-health or *force majeure*, I may be subject to exclusion from other tender procedures and contracts being undertaken by KeNHA and that the notification of award to contract to the tenderer may be rendered null and void.

Name of Key Personnel	
Signature of Key Personnel	
Date	
Signature of Authorized Representative of the Tenderer	

**(viii) TIME SCHEDULE FOR PROFESSIONAL PERSONNEL – Design Review & Construction Period**

Months (in the Form of a Bar Chart)

Name	Position	Reports Due/ Activities																Number of months

Reports Due: \_\_\_\_\_

Activities Duration: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Authorized representative)

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_



**(ix) TIME SCHEDULE FOR PROFESSIONAL PERSONNEL – Defects Liability Period**

Months (in the Form of a Bar Chart)

Name	Position	Reports Due/ Activities																		Number of months

Reports Due: \_\_\_\_\_

Activities Duration: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Authorized representative)

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_



**(xi) CONFIDENTIAL BUSINESS QUESTIONNAIRE**

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2(b) or 2(c) whichever applies to your type of business.

You are advised that it is a serious offence to give false information on this Form.

**Part 1 ~ General:**

Business name.....

Location of business premises  
.....

Plot No..... Street/Road.....

Postal Address..... Tel No.....

Nature of business.....  
.....

Current Trade Licence No. .... Expiring Date.....

Maximum value of business which you can handle at any one time:

Kshs.....

Name of your Bankers.....

Branch.....

Are you an agent of the Kenya National Trading Corporation? YES/NO

**Part 2(a) ~ Sole Proprietor:**

Your name in full.....

Age.....

Nationality .....Country of origin.....

\*Citizenship details.....

**Part 2(b) - Partnership:**

Give details of partners as follows:

Name	Nationality	Citizenship Details*	Shares
1.....			
2.....			
3.....			
4.....			
5.....			

**Part 2(c) - Registered Company:**

Private or public.....

State the nominal and issued capital of the company-

Nominal Kshs.....

Issued Kshs.....

Give details of all directors as follows:

Name	Nationality	Citizenship Details*	Shares
1.....			
2.....			
3.....			
4.....			
5.....			

**Part 2(d) - Interest in the Firm:**

Is there any person / persons in the Kenya National Highways authority who has interest in this firm? Yes /No\*\*

.....

Date

.....

Signature of Bidder

\* Attach Proof of Citizenship

\*\* Delete as necessary

**SECTION D:-**

**FINANCIAL PROPOSAL – STANDARD FORMS**

These forms shall include;

- i) Financial Proposal submission form.
- ii) Summary of costs.
- iii) Breakdown of price per activity.
- iv) Breakdown of remuneration per activity.
- v) Reimbursables per activity.
- vi) Miscellaneous expenses.

I. **FINANCIAL PROPOSAL SUBMISSION FORMS**

\_\_\_\_\_ [ Date]

To: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ [Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for ( \_\_\_\_\_ ) [Title of consulting services] in accordance with your Request for Proposal dated ( \_\_\_\_\_ ) [Date] and our Proposal. Our attached Financial Proposal is for the sum of ( \_\_\_\_\_ ) [Amount in words and figures] inclusive of the taxes.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

\_\_\_\_\_ [Authorized Signature]

\_\_\_\_\_ [Name and Title of Signatory]:

\_\_\_\_\_ [Name of Firm]

\_\_\_\_\_ [Address]

**II. SUMMARY OF COSTS**

<b>Costs</b>	<b>Currency(ies)</b>	<b>Amount(s)</b>
Subtotal 1		
Add 12% Contingency		
Sub Total 2		
Add VAT (14% of Sub Total 2)		
Total Amount of Financial Proposal		<hr/>



**III. BREAKDOWN OF PRICE PER ACTIVITY**

Activity NO.: _____	Description: _____
<b>Price Component</b>	<b>Amount(s)</b>
Remuneration	
Reimbursable Expenses	
Miscellaneous Expenses	
Subtotal	_____

**IV. BREAKDOWN OF REMUNERATION PER ACTIVITY**

Activity No. _____		Activity Name: _____		
Names	Position	Input (Staff months, days or hours Rate as appropriate.)	Remuneration	Amount
Regular Staff				
(i)				
(ii)				
Consultants				
Grand total				_____

V. REIMBURSABLES PER ACTIVITY

Activity No: \_\_\_\_\_

Activity Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Road travel	Kms			
2	Subsistence Allowance	Day			
	etc				
	Grand Total				_____

**VI. MISCELLANEOUS EXPENSES**

Activity No. \_\_\_\_\_

Activity Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.					
2.					
3.					
4.					
	Grand total				<hr/>

## **SECTION E:-**

### **TERMS OF REFERENCE FOR CONSULTANCY SERVICES FOR DESIGN REVIEW AND CONSTRUCTION SUPERVISION OF BARPELLO - TOT - SIGOR - MARICH PASS (B17) ROAD, LOT 1: MORU - BARPELLO - TOT JUNCTION (KM 178+115 - KM 218+375)**

#### **1.0 BACKGROUND INFORMATION**

##### **1.1 General**

The Government of the Republic of Kenya (GoK) has earmarked funds through Development Vote for use in engaging the services of a Consultancy Firm to undertake the provision of design review and construction supervision services for the Barpello - Tot - Sigor - Marich Pass (B17) Road, Lot 1: Moru - Barpello - Tot Junction (Km 178+115 - Km 218+375).

The Government of Kenya, through its implementing agency, the Kenya National Highways Authority shall require the Consultant to render all technical support services which may be deemed relevant to the above work. The detailed description of the consulting services to be performed is described in these Terms of Reference (TOR).

##### **1.2 Selection Criteria**

The Consultant selected to undertake the consultancy services shall have had extensive experience in the Design Review and Construction Supervision of road projects.

##### **1.3 Project Description**

###### **1.3.1 Project Location**

The project road is in between Barpello-Marich pass part of the B17 road running from Nakuru through Marigat, Loruk, Tot, Lomut to Marich Pass on A1.

The road section starts at Moru (Km 178+115) and takes the north west direction, skirting the mountain range to the north, crossing Kerio River and terminates at Tot Junction (Km 218+375). The length of this road section is approximately 41km excluding the spur roads/feeder roads.

The site of the works shall be the area within the road reserve and any other area as may be designated in the contract. The project also includes construction of the following feeder roads:

- a) Kollowa – Kinyach – Barwesa (E333) Road
  - Length - 2km to the river crossing.
  - Carriageway - 6m,
  - Shoulder – 1.5m on both sides
  
- b) Access to Kollowa centre
  - Length - 1km to Kollowa Centre
  - Carriageway - 6m,

- Shoulder – 1.5m on both sides

## **2.0 CONTRACT OBJECTIVES**

The overall objective of the project is to attain a sustainable, safe road network, which facilitates economic growth and improves living standards in Kenya.

The specific objectives of this contract are to ensure that the Barpello (Moru) - Tot Junction (**Km 178+115 to Km 218+375**) road section is constructed to bitumen standard and to enhance accessibility for socio – economic development.

The Consultant will be appointed as the Engineer's Representative and shall provide services to include but not be limited to the following:

- The Consultant shall carry out an engineering survey and design Review including engineering cost estimates, materials investigations for the entire alignment and design standards for the road and any additional town/market roads
- Carry out design of Feeder/Spur roads
- The design review of existing bridges will be a specific requirement of the terms of reference under this project.
- Prepare land acquisition (where very necessary) and utility map drawings and develop the cost estimates for the same.
- Ensure the project road is constructed to the required standard, and within the contract sum
- Approve work programme and working drawings prepared by the Contractor
- Review and approve the Contractor's Traffic Management Plan
- Carry out Environmental Audit and monitoring in accordance with the environmental management plans
- Supervise all construction works
- Enforce environmental mitigation measures
- Check and forward interim and final payment certificates for approval by the Engineer
- Evaluate contractual claims and forward recommendations to the Engineer
- Prepare monthly progress and end of project reports

- Conduct project cost appraisals and advise the Client
- Provide training to client's personnel
- Prepare As-built drawings
- Prepare final completion report.

### **3.0 SCOPE OF THE WORK**

#### **3.1 General**

The Consultant shall conscientiously fulfil, to the highest professional standards, the role of the Engineer's Representative to supervise the construction of the works and to ensure that they are executed in accordance with the Conditions of Contract, Specifications and Contract Drawings or any amendments thereto; and to ensure that so far as is reasonably possible, within the Contract Price and Contract Period allowed under the Contract or any agreed amendments thereto;

#### **3.2 Location and Extent of Contract**

The road section is situated within the jurisdiction of the North Rift Region of the Kenya National Highways Authority. The project description is as detailed in section 1.3.

The site of the works shall be the area within the road reserve and any other places as may be designated in the Contract. These works involve reconstruction to Bitumen Standards of the entire 41 Km (including spurs) of road.

#### **3.3 Scope of work**

The scope of the works shall be as identified in the contract.

##### **3.3.1 Specific activities**

The responsibilities delegated to the Consultant will call for the services listed below, without, however, being necessarily and strictly restricted to the items listed: The Consultant shall be expected to act with utmost integrity adhering to the required professional ethics.

##### **Phase 1: Design Review**

- Review of the existing data on the proposed road project and social and economic activities in the project study area
- Collection of social, environmental, and physical data that is necessary to assist in the design of the project road;
- Geological studies to inform on the ground conditions on the existing alignment on possible existence of fault lines and other tectonic plate movements.

- Detailed Materials Investigations for Pavement Design using design standards including preliminary costs estimates and implementation schedule;
- Detailed Engineering survey and design review work for the optimum alignment.
- Carrying out an environmental and social impact assessment study of the project area in relation to the proposed project.

## **Phase II: Works Supervision**

- Review of the Contractor's work programmes and monitoring, on a day-to-day basis, of the Contractor's adherence to these programmes.
- Approval of the Contractor's proposed materials sites.
- Review and approval of the Contractor's traffic management plan
- Issuance of Site Instructions.
- Verification of quality of executed works and materials used.
- Verification of measurements and issuance of interim payment certificates.
- Monitoring contractor's work progress, Preparation of Progress Reports and advising the Engineer accordingly.
- Advising the Engineer on problems arising during the execution of the works.
- Arranging for the relocation of services.
- Monitoring of sound use of resources and protection of the environment.
- Requesting for assistance in HIV/AIDS awareness campaigns from the Ministry of Health.
- Co-ordinating with third parties, e.g. public utilities, traffic police.
- Analysis of any claims submitted by the contractor.
- Services at Taking Over of the works.

## **Phase III: Services during Maintenance Period**

- Inspection of defect rectification works and maintenance.
- Services at End of Defects Liability of the works.
- Preparation of Final Completion Report, Final Accounts and As-built drawings.

### **3.4 DETAILED DESCRIPTION OF THE SERVICES**

#### **3.4.1 Phase 1: Detailed Engineering Design Review**

The Consultant shall prepare a Detailed Engineering Design Review for the construction of the project road, complete with cost estimates on the basis of standards agreed upon with the Director (Development). These shall be prepared at 10km intervals for approval



by the Client before the Consultant can issue site instructions to the Contractor. The detailed Engineering Design work shall include but not be limited to:

- i) Staking out in the field the improved existing alignment: field survey of cross sections at regular 20 metre intervals, or 10 metres where the terrain is difficult and the Director (Development) so directs. If this field survey proves the necessity of amendments in the alignment, the Consultant shall propose such amendment and re-stake the centreline.
- ii) Preparation of plan and profile drawings containing the alignment done to an appropriate scale whose original and design levels are legible. Contour lines shall be at 2m vertical intervals. The accuracy shall comply with the Road Design Manual.
- iii) Tacheometry survey and preparation of site plans of all major structures and major junctions to the scale 1:500 with 0.5m contour intervals.
- iv) The coordinates of all intersection points shall be tied to the National Survey Grid, (UTM) and levels related to the National Benchmarks.
- v) Field survey and laboratory investigation of the materials along the proposed alignment in order to determine the suitability of these materials for road formation and/or pavement construction. Further survey and investigation of potential borrow pits and quarries for earthworks and pavement construction as specified in the Road Design Manual Part III. Preparation of a Materials Report with sufficient detailed information and test results from the above and including pavement design and appropriate recommendations.

#### **Field surveys.**

- 3.4.1.1 The Consultant shall carry out the necessary surveys in order to establish the alignment and to determine the accurate centreline. The centreline shall be set out, cross-sectioned, and benchmarks established. No major deviations from the alignment recommended in the preliminary engineering study shall be made without the approval of the Director (Development). The consultant shall be responsible for the accuracy of all survey data and established benchmarks.
- 3.4.1.2 The alignment shall be connected to the National Grid System (U.T.M) by establishing a trigonometric and polygon network along the proposed road. This network shall be connected to the Survey of Kenya data, preferably data of the first order. To this end a secondary network of trigonometrical points (T.P) shall be established with side lengths of approximately 150 metres to the primary network.
- 3.4.1.3 The Consultant shall then carry out all the works necessary for the detailed design of the proposed works, for the estimation of quantities to an accuracy of +/- 10% of final quantities as measured on completion of the works, excluding any approved variations of the contract.
- 3.4.1.4 The following engineering investigations shall be carried out:-
  - a) Ground reconnaissance survey to locate the position of the road and related town/market roads, and to indicate them on a plan.

- b) Concreted beacons shall be firmly sited, referenced and shall be as agreed by the Director (Development).
- c) The geometric characteristics of the centre-line shall be computed and defined. Staking-out data will also be given for points at the regular intervals along the curves and the longer tangent alignments. Vertical alignments will be defined and computed. The consultant shall be responsible for the accuracy of the setting out data up to the pre-construction stage and will be required to set out the road with the client's surveyor.
- d) Detailed site investigations and hydrological surveys shall be carried out at all bridge and box culvert sites, including a sufficient length upstream and downstream to enable the hydraulic design of the structure to be carried out. All topographical surveys undertaken by the Consultant shall be to generally accepted international standards for such work, and after approval by the Director (Development), shall become recorded in standard survey field books that shall become the property of the Government at the completion of the work.
- e) Land acquisition reports and drawings in the format prescribed by the Director (Development).

#### **Soils and Materials Investigation**

- 3.4.1.5 A review shall be made of all existing relevant data followed by a general Study of the soils and materials along the route. The Consultant shall make detailed soils investigations along the road alignment in accordance with the Road Design Manual Part III.
- 3.4.1.6 Boring (or any similar methods) shall be carried out along the proposed alignment to determine rock surface levels.
- 3.4.1.7 At bridge sites and for other major structures, sub-surface conditions shall be investigated by trenching, hand auguring, and/or drilling as required including the taking of undisturbed samples. Seismic investigation shall be carried out if considered necessary by the Consultant. Allowable bearing pressures of sub-surface stratum shall be determined at proposed foundation levels of structures.
- 3.4.1.8 Investigation for sources of construction materials for pavement structures shall also be carried out, and sites of suitable materials surveyed and shown in the engineering plans. Analysis and testing shall be carried out as required on the construction materials, in accordance with the Road Design Manual part III.
- 3.4.1.9 Construction samples shall be tested as per Road Design Manual Part III.
- 3.4.1.10 Soil and materials borrow areas shall be prepared showing exact locations of all construction materials available with an indication of their quantities.

#### **Drainage and Bridge Site Investigation**

- 3.4.1.11 Hydrological studies shall be carried out on all drainage structures by use of available maps and field investigation.
- 3.4.1.12 The catchment area, run-off coefficient, hydraulic slope and Design flood discharge for the appropriate return period shall be determined for each drainage structure, and the corresponding water level established.

- 3.4.1.13 Cross-sections and gradients of water courses shall be surveyed to determine the design of proper drainage and erosion control of the roadway and the protection of slopes.

#### **Geometric Design Requirements**

- 3.4.1.14 The horizontal alignment of the road centreline shall be determined by study of the optimum alignment between control points specified as a result of the engineering investigations. Points at even increments of lengths of 20 metres along the centreline, tangent points, and such other critical points as shall be required, shall be fully defined relative to stations on the baseline by coordinates and offsets suitable for setting out the centreline. All points shall be coordinated to the National Survey Grid System (UTM) to which the road shall be referenced. Cross-sections shall be taken along the length of the road centreline and levelled at each 20 metres and at any local abnormalities in topography.
- 3.4.1.15 The vertical alignment shall take into account the design standard adopted, while optimizing the earth works involved. There shall be coordination between horizontal and vertical alignments to the extent possible. Due consideration shall be given to road safety standards in carrying out these designs, e.g. excessively long straights in the design of the horizontal alignment and ensuring balanced design between horizontal and vertical curves.
- 3.4.1.16 The design shall incorporate all the environmental aspects identified in the preliminary design and the Consultant shall investigate whether there might be any possible impact on the environment and make proposals for remedial measures.

#### **Earthworks and Pavements**

- 3.4.1.17 Engineering analysis shall be undertaken using the results of the soils and the materials tests, to determine the gradients of the slopes, compaction requirements, pavement design, and other engineering treatment dictated by the natural materials.

#### **Drainage and Bridge Design**

- 3.4.1.18 All existing data and the result of the field investigations for soils, foundations, hydrology, etc., shall be assessed and used as a basis for the design of drainage and bridge structures. Detailed hydraulic computation and structural designs shall be fully documented.
- 3.4.1.19 Detailed designs shall be prepared for all drainage structures having spans of 10 metres or greater. Structures of spans less than 10 metres shall be specified as standard type structures, which shall be fully designed.
- 3.4.1.20 Bridges shall be designed to a width and loading as agreed with the Director (Development).

#### **Traffic Engineering Design**

- 3.4.1.21 A detailed traffic engineering analysis shall be prepared to specify the design

of necessary traffic control features. This analysis shall include detailed traffic assignments, including where appropriate design traffic forecasts for major intersection. Based on the traffic assignments, the Consultant shall conduct intersection capacity analyses and related traffic studies to determine the location of signs, signals as necessary, pavement markings, and other control features.

### **Construction Water**

3.4.1.22 The Consultant shall review existing sources and shall identify additional supplies of construction water and on this basis shall provide information on the quantities and quality of the water required and available for construction. When it is determined that surface water is unavailable, the consultant shall carryout ground water surveys

### **Engineering Plans**

3.4.1.23 The Consultant shall prepare the following engineering plans for the project, using a format and title sheets as required by the Director (Development), the originals becoming the property of the Government:

- a) Plan and Profile, scales, 1:2,500 and 1:250 showing natural ground levels; horizontal and vertical curve details; running chainages; cross-section chainages; side drain location; description and reference to all drainage and bridge works location of benchmarks; location of road furniture; contour lines superimposed on plans; any other relevant information approved by the Director (Development). Typical cross-sections, scales 1:25 showing: all details of road cross-sections in cut and fills; side drains; pavement thickness, camber, super-elevation; and pavement widening.
- b) Cross-section, scale 1:50 showing: natural ground levels superimposed with the road prism at selected locations to be agreed upon with the Director (Development).
- c) Typical culverts showing: details of all types of culverts and other drainage structures with opening less than 12 m<sup>2</sup>, their inlets and outlets, and any necessary protection work.
- d) Major structures: detailed engineering design plans shall be produced at appropriate scales for all bridge structures with spans of 10 metres or greater, including, inter-alia, contoured site plans, sub-structure and foundation details, protective or ancillary works, and bar bending schedule.
- e) Soil plan: an alignment soils plan shall be produced showing the characteristics of soils for various sections of the route. A plan showing the locations of borrow and quarry sites shall also be produced, including a materials utilization chart.

- f) Ancillary works: A plan for all other ancillary works shall be prepared.
- g) Maintenance of traffic plan: a detailed scheme for maintenance of traffic flow shall be developed to ensure that vehicle and pedestrian traffic is properly handled during the construction period. This plan shall include details of the location and design of by-pass lanes temporary structures, barriers, signing, signals and other physical features necessary to accommodate traffic flow during construction. In addition to the operations plan, the Consultant shall prepare a traffic operations plan detailing the construction sequencing plan detailing the announcements, use of traffic control devices and other activities designed to minimize traffic disruption.
- h) Land acquisition plans: these shall be to a scale of 1:2500 and shall indicate all the plot boundary intersections with the proposed road reserve and accurate to 1 m. They shall also be accompanied by a list showing the plot numbers affected, owners' names and area to be acquired.
- i) Service relocation plan developed from a utility map prepared to the same scale as adopted for the profile drawings for the horizontal alignment of the road

### **Construction Quantities**

3.4.1.24 The calculated quantities for the items of construction shall be based on the final design drawings. The earthworks quantities shall be derived from calculations based on the field cross-sections taken along centreline and is in accordance with accepted methods of measurement, which shall be agreed with the Director (Development). A detailed Bills of Quantities shall be prepared generally corresponding to the relevant sections of the Standard Specification and including contingencies and escalation of price elements.

### **3.4.2 Phase II: Works Supervision**

#### **3.4.2.1 Review of work programs and monitoring of the adherence to these programmes.**

The Consultant will scrutinize the Contractor's work programme, schedule of plant and cash-flow projections. Where appropriate he will request clarification without, however, imposing any modifications on the Contractor. The Consultant has, however, the right to reject a works programme that is either unrealistic, will imply unacceptable obstruction of the normal traffic flows or is unacceptable for other major considerations to be indicated by the Consultant with reference to the stipulations of the contract. Once the work programme(s) is (are) approved, a parallel schedule of services to be rendered by third parties (public utilities, Traffic Police Department, etc.) will be submitted by the Contractor for approval by the Consultant.

The Consultant will inspect the Contractor's proposed materials sites and conduct necessary confirmatory testing before approving them for acquisition and use on the works.

The Consultant will review the measures for traffic management proposed by the Contractor with respect to traffic diversions and passage of traffic through the works in order to ensure minimal disruption of normal traffic flows and further to ensure that the measures proposed will in no case compromise the safety of the road users.

The Consultant will issue the final setting out data and finished road levels by way of site instructions to the Contractor to allow him to proceed with the detailed setting out of works.

The Consultant will be responsible for identifying those items requiring the approval of the Engineer and bring these items to his attention. The Consultant will be responsible for informing the Contractor clearly and unambiguously on decisions made by the Engineer on these and all other issues of relevance to the proper execution of the Contract.

The Consultant shall organise monthly progress site meetings and shall monitor the progress of the works and shall report on these issues to all parties concerned in his Monthly Progress Reports.

The Contractor is responsible for the construction and handing over of the works in accordance with the Contract. The Consultant shall ensure that any modification/variation to the Contract is approved in accordance with the provisions in the Conditions of Contract.

The Consultant shall ensure that an adequate record of measurements is kept for the purpose of establishing accurate as-built drawings and that a sufficient number of fixed monuments be established as permanent reference of coordinates.

#### **3.4.2.2 Verification of Quality of works**

The Consultant shall verify that all works are carried out in conformity with the Standard and Special specifications. He shall request the Contractor to issue written method statements to both the Contractor's foremen and the Consultant's inspectors for each field activity and shall ensure that the agreed work methods are strictly adhered to.

#### **3.4.2.3 Verification of Quantity of executed works**

The Consultant shall verify the accuracy of the primary setting out of works in accordance with the new approved design. The Consultant shall ensure that adequate references will be established for the verification of quantities to be brought into the works.

The Consultant shall ensure that an adequate record of measurements is kept for the purpose of establishing accurate as-built drawings and that a sufficient

number of fixed monuments be consolidated as a permanent reference of coordinates. Particular attention will be given to the establishment of stable reference points in areas where settlements are to be expected.

#### **3.4.2.4 Verification of Quality of materials used**

The Contractor will test all materials to be used for the works prior to incorporating them in the works. The Consultant will check the quality of these materials in accordance with the Conditions of Contract for compliance with the Standard and Special Specifications.

The Consultant shall in principal, carry out these tests on site in a site laboratory to be provided through the works contract. A Senior Laboratory Technologist and a Laboratory Technologist are to be supplied by the Consultant, while lab attendants to assist him will be provided under the Works Contract.

Tests for which the site laboratory does not have the equipment required may be carried out in third party laboratories under the relevant stipulations of the conditions of the works contract and shall be paid through the works contract.

#### **3.4.2.5 Verification of measurements and issuance of interim payment certificates**

The Consultant and the Contractor shall measure jointly all works completed, using mutually agreed methods and frequencies. Wherever the Consultant finds necessary, additional verifications of the measurements shall be undertaken.

In addition, the Consultant and the Contractor shall estimate jointly and on a weekly basis the progress of the works. Towards the end of each month, these estimates will serve to establish the quantities payable to the Contractor's interim payment certificate for that period.

The Consultant shall finalise at regular intervals all measurements taken and agreed with the Contractor for completed sections of the road and shall take off quantities on which basis the final accounts will be elaborated in draft after the Taking over Certificate is issued and in final after the Defects Liability Period. The draft accounts shall be established during the month following Taking Over of the works and shall be analysed in the Final Project Completion Report.

#### **3.4.2.6 Compilation of Progress Reports**

The Consultant shall prepare Monthly Progress Reports to inform all parties concerned in a transparent and concise way about the progress of works (including critical path analysis and progress photographs), the financial situation of the project and about possible difficulties encountered. The Consultant shall prepare Quarterly Progress Reports at the end of every quarter of the financial year.

The Consultant shall maintain documentary and photographic records. The documentary records shall include a daily Site Diary and details of all contractual correspondence and data; all work stoppages or delays; accidents on site; official visitors to site; weather records; details of all daily site activities showing the start and end time and full details of the personnel and equipment or resources employed per activity. It shall contain detailed records of the Contractor's equipment on site and its date of manufacture, previous hours worked and condition, its precise date of arrival or removal from site, the date commissioned to commence work, its availability and utilisation. Equipment availability figures for each category of equipment shall be established.

In respect of photographic data, the Consultant shall maintain a record of digital progress photographs (using a digital camera to be provided under the Works Contract) taken throughout the Contract period at set locations and of any construction activity of technical or contractual interest at any time. Each photograph is to be captioned with; reference number, time, date, precise location, subject and points of particular note. These digital data shall be stored on a CD-ROM together with the captions and shall be made available to the Engineer on a monthly basis.

#### **3.4.2.7 Advice on problems arising during the execution of the works**

In the event problems of engineering nature arise during the execution of the works, the Consultant will address these problems and suggest solutions. In the event the nature of these problems will justify so, they will be subject to a special report to the Engineer. Any instruction to the Contractor providing a clarification of or a variation to specifications and/or drawings will be given in writing.

Variation Orders shall be issued in respect of variations to specifications and/or drawings. These Variation Orders will need prior approval of the Engineer and the Employer in the event they will give rise to additional expenditure and/or an extension of the Contract period.

Problems of non-engineering nature shall be brought to the attention of the Engineer, who will decide whether these problems can best be analysed on site by the Consultant or referred to other competent bodies. The Consultant shall bring to the attention of the Client any problems regarding land acquisition, right of way and damage to third party property and shall play a coordinating role with respect to problems regarding public utilities and traffic management outside the construction site, unless these problems relate to the Contractor's deviation roads.

#### **3.4.2.8 Monitoring of sound use of resources and protection of the environment**

The Consultant shall monitor human and material resources mobilised by the Contractor and keep a comprehensive record of these resources and the use



made thereof. In his periodic reporting the Consultant shall relate resources mobilised and works performed. Unbalanced resources or discrepancies between projected outputs and works performed will be brought to the attention of the Contractor.

The Consultant shall monitor the environmental impact of the works and issue the necessary instructions to the Contractor whenever avoidable damage to the environment occurs or is likely to occur. In particular, the Consultant shall monitor the full respect of the following recommendations for environmental protection during implementation of the project:

Advise on proper location of Contractor's campsites to an area so as to minimise disruption to local population, fauna and flora and watercourses; provision of adequate drainage facilities and treatment of sewage and waste disposals and ensure that camp areas are dismantled and rehabilitated once construction is completed.

- Minimise water and soil pollution as a result of the works;
- Minimise noise and dust levels.
- Shape and landscape all borrow pit and quarry sites.
- Minimise the risk of soil erosion, stabilise bridge sites and the inlets and outlets of culverts on erosive soils with gabions or stone pitching.

#### **3.4.2.9 HIV/AIDS awareness campaigns**

In this respect, the Consultant shall request the local Ministry of Health District Aids Coordinator to carry out structured and regular HIV/AIDS awareness campaigns to target the workers and staff on the project.

#### **3.4.2.10 Coordination with third parties**

The Consultant shall ensure that all parties involved in the works will be informed about the developments on site relevant to their respective competences. Representative of public utility firms, traffic police, local government and water management bodies shall be invited from time to time to site whenever necessary to hold special coordination meetings.

#### **3.4.2.11 Analysis of Contractor's claims**

Any claims submitted by the contractor during the course of the works will be analysed by the Consultant and appropriate advice will be given to the Engineer on their validity. These services are deemed to be part of the responsibilities of the consultant and do not entitle him to any additional fees.

#### **3.4.2.12 As-built drawings**

The Consultant shall keep a precise record of all modifications to the plans ordered to the Contractor and enter these modifications in electronic format in the relevant drawings. At End of Defects Liability Period of the works the electronic files will be

edited and a comprehensive file titled “As built drawings” will be issued to the Employer and the Engineer in electronic format and hard copy.

#### **3.4.2.13 Substantial Completion of the works**

When the works are nearing substantial completion, the consultant shall inspect the works jointly with the contractor and shall establish lists specifying the remaining works. These works may concern corrections to work already done or completion of outstanding works. The Consultant shall notify the Engineer that the works are substantially complete and may be inspected for handing over to the Employer.

The Consultant shall prepare a Taking over Certificate to be signed by the parties concerned after the Substantial Completion inspection. A list of outstanding works and any defects noted during the inspection will be appended to the certificate, specifying the time within which these works are to be completed or when defects have to be corrected.

#### **3.4.3 Phase 3: Services During the Maintenance Period**

One man-month input each is foreseen for the Resident Engineer, Materials Technologist, Draughtsman and a Site Inspector during the maintenance period which should be utilised on intermittent basis as deemed appropriate for the following services (without being limited to):

- Inspection of designated outstanding works and correction of defects.
- Drawing the attention of the Contractor to any defects as soon as such defects are noticed on the road and supervision of the subsequent repairs.
- Assisting in the Defects Liability inspection and preparing the Defects Liability Certificate.
- Finalising the final As-built Drawings within 30 days after Substantial Completion Inspection.
- Documentation of contractual matters pertaining to the works and completion of the Final Project Completion Report, Final Accounts.

The Consultant shall give necessary instructions to the Contractor to avail those specific site facilities that shall be required during the maintenance period with respect to the site office, laboratory, houses and equipment and vehicles.

At the end of the maintenance period, and provided that all defects shall have been completed to his satisfaction, the Consultant shall notify the Engineer that the Contractor has completed all outstanding works and has remedied all defects at the end of the defects liability period for an inspection to be carried out.

#### **4.0 TECHNOLOGY TRANSFER AND TRAINING OF CLIENT’S STAFF**

The Client will second engineers and other personnel to work with the Consultant ,s and Contractors team and they will work closely with the Consultant in the Work phases of design review, construction, and other related project works in order to make use of the opportunity for technology transfer.

These Counterpart Personnel will work under the supervision and management of the Consultant. The administrative matters and the payments of the Counterpart Personnel is the responsibility of the Consultant. In their Financial submission, the bidders are therefore required to include;

<b>Cadre</b>	<b>Number</b>	<b>Remuneration</b>	<b>Effective Man-Months</b>
Engineers	3	84,000.00	36
Material Technologist	3	60,000.00	36
Allocation for Seminars, & Lectures	Kshs.5,000,000		

Each Seconded trainee is required to be attached to the project for a period not exceeding 12Months.

The Consultant is also required to have provision as shown above for seminars, lectures to the Client staff as will be directed by the Engineer.

## **5.0 PROJECT MANAGEMENT, CONTRACTUAL FRAMEWORK AND RESPONSIBILITIES**

- 5.1 The Employer for both works and supervision contracts will be the Director General, Kenya National Highways Authority (KeNHA) whereas the Engineer will be the Director (Development), KeNHA.
- 5.2 The Consultant selected for the supervision of the works, hereinafter called the Consultant, will be the Engineer's Representative for the works contract. The Engineer will delegate certain of his responsibilities for the implementation of the works contract to the Engineer's Representative within the framework of the FIDIC Conditions of Contract.
- 5.3 Responsibilities that the Engineer will retain with respect to the works contract will include all legal and financial issues arising from claims and disputes by third parties relating to land tenure, national planning, damage caused to commercial interests and issues of similar nature. The Engineer will also retain the responsibilities for the project budget and the management of the financial allocations to the contracts, conclusion of these contracts and issuing of commencement orders and variation orders. In these matters he will closely liaise with the Engineer.
- 5.4 The Engineer shall identify a Project Engineer, who will facilitate decision making in matters pertaining to the supervision and the works contracts that are either not covered by the delegation of powers to the Consultant or that need a decision by the Engineer once the Consultant has fulfilled all his obligations under these Terms of Reference. The Project Engineer will be the Consultant's day-to-day contact person in the Kenya National Highways Authority. The Consultant will keep the Project Engineer informed in a detailed way of all developments on site. The Project Engineer will visit the site regularly and will attend all site meetings.
- 5.5 A model letter setting the Delegation of Powers is attached in Appendix B to these RFP document.

## **6.0 LOGISTICS AND TIMING**

### **6.1 Project location:**

The project location is as already described in Section 1.3 herein.

### **6.2 Project period:**

The Contract period shall be Sixty (60) months, including; -

**Phase I:** Design Review & Works supervision - 36 months

**Phase II:** 24 months (Defects Liability Period), the consultant will only be engaged as follows:

- 6 months for Resident Engineer (spread over the 24 months' period)
- 3 months Site Inspectors with approval of the Employer.

## 7.0 REQUIREMENTS

### 6.1 Staff Required

The Consultant shall provide the following staff required for the performance of the duties described above:

No.	Description	Effective Man Months
1.	Project Director, BSc (Civil Eng.)	6
2.	Resident Engineer, BSc (Civil Eng.)	42
3.	Deputy Resident Engineer/highways Engineer, BSc (Civil Eng.)	36
4.	Materials Engineer, BSc (Civil Eng.)	36
5.	Structural/Drainage Engineer, BSc (Civil Eng.)	15
6.	Environmentalist: BSc or BA and must have undertaken Environmental Studies on roads projects	15
7.	Sociologist	20
8.	Surveyor: BSc (Survey & Photogrammetry)	36
9.	Snr.Materials Technologist	36
10.	Road Inspectors (3No.) for earthworks, structures and asphalt works respectively)	114
11.	Materials Technologist (2No)	72
12.	Asst. Materials Engineers, BSc (Civil Eng.) (2No)	72
13.	Asst. Highways Engineer, BSc (Civil Eng.) (2No)	72
14.	Asst. Structural/Drainage Engineer, BSc (Civil Eng.) (2No)	72
15.	Asst. Environmentalist: BSc or BA and must have undertaken Environmental Studies on roads projects	36
16.	Asst. Sociologist	36
17.	1No.Assistant Surveyor: BSc (Survey & Photogrammetry)	36
18.	1 Draughtsman	36
<b>Total</b>		<b>788</b>

The works contract shall provide for the attendance to the Resident Engineer only in the categories of labourers, chainmen and office messengers/assistants.

Remuneration for all other Support Staff such as Survey Assistants, Laboratory Technicians and a Secretary and any other expenses required for proper functioning of the site supervision or backstopping shall be factored in the rates for listed staff.

The profiles of the key experts to be provided by the Consultant for this contract are as follows:

**Key Expert 1: Project Director**

**(i) Qualifications and skills**

Must possess University Degree BSc (Civil Engineering) or equivalent and be a Registered Engineer and Registered Consulting Engineer with Engineers Registration Board of Kenya or equivalent such as Member of the Institution of Civil Engineers (U.K.) etc. A Masters Degree will be an added advantage.

**(ii) General professional experience**

A minimum of 12 years practical post-qualification experience

**(iii) Specific professional experience**

Must have extensive broad experience in highway design works contract administration, evaluation of contractor's claims for at least 10 years and more specifically have recent service as a Project Engineer on at least two highway construction contracts of comparable magnitude. Knowledge of FIDIC contract procedure is mandatory. Previous experience on road projects in East Africa will be an advantage.

**Key expert 2: Resident Engineer**

**(i) Qualifications and skills**

Must possess University Degree BSc (Civil Engineering) or equivalent and be a registered engineer with Engineers Registration Board of Kenya or equivalent such as Member of the Institution of Civil Engineers (U.K.) etc. A Masters Degree will be an added advantage.

**(ii) General professional experience**

A minimum of 8 years practical post-qualification experience

**(iii) Specific professional experience**

Must have extensive broad experience in highway design works contract administration, evaluation of contractor's claims for at least 10 years and more specifically have recent service as a resident engineer on at least one highway construction contract of comparable magnitude. Knowledge of FIDIC contract procedure is mandatory. Previous experience on road projects in East Africa will be an advantage.

**Key expert 3: Deputy Resident Engineer / Highway Engineer**

**(i) Qualifications and skills**

Must possess University Degree BSc (Civil Engineering) or equivalent and be registered with Engineers Registration Board of Kenya or equivalent such as Member of the Institution of Civil Engineers (U.K.) etc. A Masters Degree will be an added advantage.

**(ii) General professional experience**

A minimum of 6 years practical post-qualification experience in road projects.

**(iii) Specific professional experience**

Must have previous relevant experience of at least 8 years as a measurement engineer or resident engineer gained on large highway construction contracts with particular experience in Highway design, estimation of quantities, writing specifications and contract administration, and measurement of works. Must be familiar with latest highway design computer applications. Knowledge of FIDIC contract procedures is desirable.

**Key expert 4: Materials Engineer**

**(i) Qualifications and skills**

Must possess University Degree BSc (Civil Engineering) or equivalent and be registered with Engineers Registration Board of Kenya or equivalent such as the Institution of Civil Engineers (U.K.) etc. A Masters Degree will be an added advantage.

**(ii) General professional experience**

A minimum of 8 years practical post-qualification experience in road projects

**(iii) Specific professional experience**

Must have 8 years relevant experienced in soils and materials sampling and testing for large road construction contracts. Experience in bituminous materials testing and quality control is mandatory.

Experience with analytical pavement evaluation methods is desirable. Previous experience on road projects in East Africa will be an advantage.

**Key expert 6: Structural /Drainage Engineer (short term input)**

**(i) Qualifications and skills**

Must possess University Degree BSc (Civil Engineering) or equivalent and be a registered engineer with Engineers Registration Board of Kenya or

equivalent, such as Member of the Institution of Civil Engineers (U.K.) etc. A Masters Degree will be an added advantage.

**(ii) General professional experience**

A minimum of 8 years practical post-qualification experience

**(iii) Specific professional experience**

At least 6 years of experience in structural analysis and design and construction of bridges and minor road drainage structures including urban drainage systems. Should be familiar with the latest Computer Aided Design applications. Must have demonstrated experience in hydrological/ hydraulic capacity design of road drainage structures such as box culverts and bridges.

**Key Expert 9: Environmentalist**

**(i) Qualifications and skills**

Must possess a University degree or equivalent and be registered as Lead Expert (NEMA).

**(ii) General Professional Experience**

A minimum of 8 years of practical post qualification experience in environmental studies of infrastructural projects.

**(iii) Specific Professional experience**

Must have relevant previous experience as an environmentalist gained on an infrastructure project, especially in East Africa. Previous work done on highway project would be an added advantage.

**Key Expert 8: Sociologist**

**(i) Qualifications and skills**

B.A. in Sociology or relevant social Science

**(ii) General Professional Experience**

A minimum of 6 years of practical qualification experience in infrastructural projects.

**(iii) Specific Professional experience**

Must have relevant previous experience as a sociologist gained on an infrastructure project, especially in East Africa. Previous work done on highway project would be an added advantage.

**Key expert 9: Surveyor**



**(i) Qualifications and skills**

Must possess University Degree of BSc (Survey & Photogrammetry) or equivalent and be registered with the Institute of Surveyors of Kenya or equivalent such as Chartered Surveyor of the Royal Institute of Chartered Surveyors (U.K.) etc.

**(ii) General professional experience**

A minimum of 8 years practical post-qualification experience in road projects.

**(iii) Specific professional experience**

At least 4 years of recent experience in carrying out topographic survey and mapping of large road projects using the latest electronic survey equipment including GPS, Total Stations and associated computer applications. Experience on road projects in East Africa will be an advantage.

**Key expert 10: Snr Materials Technologist**

**(i) Qualifications and skills**

Must possess a Higher National Diploma in Civil Engineering from Kenya Polytechnic or equivalent.

**(ii) General professional experience**

A minimum of 6 years practical post-qualification experience on road projects.

**(iii) Specific professional experience**

Must be experienced on soils and materials sampling and testing for large road construction contracts. Particular experience with laboratory testing of stabilised mixes, bituminous mixes and surface dressing is essential.

**Key expert 11-13: Roads Inspector (3 No.)**

**(i) Qualifications and skills**

Must possess a KNEC Diploma in Civil Engineering from Kenya Polytechnic or its equivalent.

**(ii) General professional experience**

A minimum of 6 years practical post-qualification experience

**(iii) Specific professional experience**

Must be experienced on-site inspection and works measurement of large road construction contracts. Familiarity with electronic survey equipment will be an advantage.

**Key expert 15: Materials Technologist**

**(i) Qualifications and skills**

Must possess an Ordinary Diploma in Civil Engineering from Kenya Polytechnic or equivalent.

**(ii) General professional experience**

A minimum of 6 years practical post-qualification experience on road projects

**(iii) Specific professional experience**

Must be experienced on soils and materials sampling and testing for large road construction contracts. Particular experience with laboratory testing of stabilised mixes, bituminous mixes is essential.

**Key expert 16: Draughtsman (CAD Expert)**

**(i) Qualifications and skills**

Must possess an Ordinary Diploma in Civil Engineering or Cartography from Kenya Polytechnic or equivalent.

**(ii) General professional experience**

A minimum of 4 years practical post-qualification experience.

**(iii) Specific professional experience**

Must be experienced on production of office and site production of drawings and site construction details using CAD or any other equivalent.

**Key expert 17-18: Asst. Materials Engineers**

**(i) Qualifications and skills**

Must possess University Degree of BSc (Civil Engineering) or equivalent and be registered with the Engineers Board of Kenya or equivalent.

**(ii) General professional experience**

A minimum of 3 years practical post-qualification experience in road projects.

**(iii) Specific professional experience**

Must have previous relevant experience of at least 2 years gained on soils and materials sampling and testing for large road construction contracts.

Particular experience with laboratory testing of stabilised mixes, bituminous mixes is essential.

**Key expert 19 -20 : Asst. Highway Engineers**

**(i) Qualifications and skills**

Must possess University Degree of BSc Civil Engineering) or equivalent and be registered with the Engineers Board of Kenya or equivalent.

**(ii) General professional experience**

A minimum of 3 years practical post-qualification experience in road projects.

**(iii) Specific professional experience**

Must have previous relevant experience of at least 2 years gained on a highway construction contracts with particular experience in Highway design, estimation of quantities, writing specifications and contract administration, and measurement of works. Must be familiar with latest highway design computer applications. Knowledge of FIDIC contract procedures is desirable.

**Key expert 21-22: Asst. Structural Engineers**

**(i) Qualifications and skills**

Must possess University Degree of BSc Civil Engineering) or equivalent and be registered with the Engineers Board of Kenya or equivalent.

**(ii) General professional experience**

A minimum of 3 years practical post-qualification experience in road projects.

**(iii) Specific professional experience**

At least 2 years of experience in structural analysis and design and construction of bridges and minor road drainage structures including urban drainage systems. Should be familiar with the latest Computer Aided Design applications. Must have demonstrated experience in hydrological/ hydraulic capacity design of road drainage structures such as box culverts and bridges.

**Key Expert 21: Asst. Environmentalist**

**(i) Qualifications and skills**

Must possess a University degree or equivalent (NEMA).

**(ii) General Professional Experience**

A minimum of 4 years of practical post qualification experience in environmental studies of infrastructural projects.

**(iii) Specific Professional experience**

Must have relevant previous experience as an environmentalist gained on an infrastructure project, especially in East Africa. Previous work done on highway project would be an added advantage.

**Key Expert 22: Asst. Sociologist**

**(i) Qualifications and skills**

B.A. in Sociology or relevant social Science

**(ii) General Professional Experience**

A minimum of 3 years of practical qualification experience in infrastructural projects.

**(iii) Specific Professional experience**

Must have relevant previous experience as a sociologist gained on an infrastructure project, especially in East Africa. Previous work done on highway project would be an added advantage.

**Key expert 23: Assistant Surveyor**

**(i) Qualifications and skills**

Must possess University Degree of BSc (Survey & Photogrammetry) or equivalent and be registered with the Institute of Surveyors of Kenya or equivalent such as Chartered Surveyor of the Royal Institute of Chartered Surveyors (U.K.) etc.

**(ii) General professional experience**

A minimum of 4 years practical post-qualification experience in road projects.

**(iii) Specific professional experience**

At least 4 years of recent experience in carrying out topographic survey and mapping of large road projects using the latest electronic survey equipment including GPS, Total Stations and associated computer applications. Experience on road projects in East Africa will be an advantage.

**6.2 Work Schedule**

The Consultant shall propose a schedule of activities and corresponding deployment of manpower, which will ensure that all duties entrusted to him, will be adequately performed. This schedule, together with a comprehensive statement justifying the proposed deployment will be incorporated in the methodology statement.

### **6.3 Facilities to Be Provided by The Employer**

Under the Terms and Conditions of the Works Contracts, the Consultant shall be provided with:

- Fully furnished and equipped site office.
- Fully equipped site laboratory.
- Furnished site housing accommodation.
- Site transport in the form of supervisory vehicles and
- Other site facilities, survey and drawing office equipment, computers and utilities necessary for the execution of the services, including office consumables, and office operating expenses.

It shall be the responsibility of the Consultant to supervise the supply and provision and maintenance of the said buildings, furniture, equipment and vehicles by the Works Contractor in accordance with the works contract. The Consultant shall ensure that any items designated to revert to the Employer after completion of the Works Contract are officially handed over to the Employer in good condition as soon as they are no longer required on the Works Contract.

## **7.0 REPORTS**

The Consultant shall prepare and submit the design for the entire road section within six (6) months of the commencement of their services. As such, the Consultant will be required to submit every month, a design equalling at least a sixth (1/6) of the entire road length to the Engineer for approval. After the completion of the Design, the Consultant shall prepare an Appraisal of the entire project to the Engineer. The Engineering design shall consist wholesomely of the following documents:

- 1) The Engineering Report
- 2) The Book of drawings
- 3) Environmental and Social Impact Assessment Study Report and RAP report
- 4) Engineer's Estimate
- 5) Land Acquisition Plans
- 6) Utilities relocation plan
- 7) Communication and Stakeholders engagement plan
- 8) Quality Assurance plan
- 9) Occupation Health and Safety Plan

The above reports should be submitted to the address below:

**To**  
**Director (Development)**  
**Kenya National Highways Authority**  
**P.O. Box 49712-00100**  
**NAIROBI**

Additionally, the Consultant shall prepare Monthly Progress Reports during the period of execution of the works contract, and submit them within 7 days after the end of the reporting month. Quarterly Summary Reports shall be prepared every quarter of the financial year and submitted within 7 days after the end of the reporting period. The Provisional Completion Report including Provisional Accounts is to be submitted within 7 days after the Provisional Acceptance of the last section of the works. The Final Project Completion Report, Final Accounts are to be submitted within 7 days after the Defects Liability Certificate of the works to the address below:

To:

**Director (Development)**

**Kenya National Highways Authority**

**P.O. Box 49712-00100**

**NAIROBI**

The reports shall be written in English, and shall be submitted in the number of copies tabulated below.

The Final Project Completion Report shall comprehensively evaluate the project with regard to both the works contract and the supervision service contract, include a summary of the principle difficulties encountered during construction and the means employed to overcome them, changes made in the original designs, modifications to the technical specifications and conditions of contract, all variation orders, utilisation of provisional sums, variation of prices, utilisation of contingency amounts, cumulative monthly payments to the contractor designated by dates and a similar schedule for the supervision contract. The report shall contain all observations or recommendations that the Consultant wishes to draw to the attention of the Engineer and the Employer as regards the works contract or the service contract.

In their Methodology Statement, the Consultant shall provide a fixed layout for these reports. The reports shall be submitted as follows:-

**Report to be submitted during Design Review, Construction and Defects Liability Period**

<b>Report</b>	<b>No. of Hard Copies</b>	<b>No of Soft Copies</b>
Engineering Design Review Reports	2	3
Monthly Progress Reports	1	3
Quarterly Progress Summary Reports	1	3
Provisional Completion Report	1	3
Provisional Accounts (at project closure)	1	3
Final Project Completion Report	1	3
As build drawings (hard and soft copies)	1	3

## **8.0 MONITORING AND EVALUATION**

### **8.1 Definition of Indicators**

In his Technical Proposal (Organisation and Methodology), the Consultant shall propose relevant key indicators for monitoring project progress, results, activities and assumptions and show how these will be monitored.

As a minimum, the Consultant will regularly review the physical work progress in terms of number of km of road construction and completed to various levels in compliance with the drawings and specifications in relation to the Contractor's approved work programme and cash flow projections, schedule of plant and manpower resources.

The Consultant will regularly appraise this information in his Progress Reports and in Site Meetings and discuss them with the Contractor and the Engineer.

## **8.2 Reviews and Evaluations**

Project reviews and evaluation applying monitoring indicators will be presented in the regular progress reports and the Final Project Completion Report will contain an overall assessment.



## **SECTION F:**

### **STANDARD FORMS OF CONTRACT**

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#### **Special Notes**

1. The Contract price is arrived at on the basis of inputs – including rates – provided by the Consultant. The Client agrees to pay the Consultant according to a schedule of payments stipulated under clause 6.4 of Special Conditions of Contract.
2. The Contract includes four parts: Form of Contract, the General Conditions of Contract, the Special Conditions of Contract and the Appendices.

**CONTRACT FOR CONSULTANT'S SERVICES**

between

\_\_\_\_\_  
*[name of the Client]*

AND

\_\_\_\_\_  
*[name of the Consultant]*

Dated: \_\_\_\_\_ *[date]*

## I. FORM OF CONTRACT

This Agreement (hereinafter called the “Contract”) is made the \_\_\_\_\_) day of the month \_\_\_\_\_ of \_\_\_\_\_, [month], [year], between \_\_\_\_\_, [name of client] of [or whose registered office is situated at / \_\_\_\_\_ [location of office] (hereinafter called the “Client”) of the one part AND

\_\_\_\_\_ [name of consultant] of [or whose registered office is situated at] \_\_\_\_\_ [location of office] (hereinafter called the “Consultant”) of the other part.

### WHEREAS

- (a) the Client has requested the Consultant to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the “Services”);
- (b) the Consultant, having represented to the Client that he has the required professional skills and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the Parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) The following Appendices: [**Note:** *If any of these Appendices are not used, they should be deleted from the list*]

Appendix A: Letter of Award and Acceptance

Appendix B: Terms of Reference

Appendix C: Comments on Terms of Reference

Appendix D: Description of the Methodology and Workplan for performing the assignment.

Appendix E: Time schedule for professional Personnel

Appendix F: Team Composition and Task assignments

Appendix G: Curriculum Vitae (CV) for proposed professional staff

Appendix H: Activity (Workplan) Schedule

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Appendix J: Other submissions

➤ Technical proposal submission form

➤ Firm’s References

➤ Financial proposal submission form

Appendix K: The request for proposals

2. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Contract; in particular:
- (a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and
  - (b) the Client shall make payments to the Consultant in accordance with the provisions of the Contract.

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

For and on behalf of \_\_\_\_\_ *[name of client]*

*[full name of Client's authorised representative]* \_\_\_\_\_

*[title]* \_\_\_\_\_

*[signature]* \_\_\_\_\_

*[date]* \_\_\_\_\_

For and on behalf of \_\_\_\_\_ *[name of consultant]*

*[full name of Consultant's authorized representative]* \_\_\_\_\_

*[title]* \_\_\_\_\_

*[signature]* \_\_\_\_\_

*[date]* \_\_\_\_\_

## **II. GENERAL CONDITIONS OF CONTRACT**

### **1.0 GENERAL PROVISIONS**

#### **1.1 Definitions**

Unless the context otherwise requires, the following terms whenever used in this Contract shall have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Republic of Kenya as they may be issued and in force from time to time;
- (b) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached together with all the documents listed in Clause 1 of such signed Contract;
- (c) “Contract Price” means the price to be paid for the performance of the Services in accordance with Clause 6 here below;
- (d) “Foreign Currency” means any currency other than the Kenya Shilling;
- (e) “GC” means these General Conditions of Contract;
- (f) “Government” means the Government of the Republic of Kenya;
- (g) “Local Currency” means the Kenya Shilling;
- (h) “Member”, in case the Consultant consists of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Consultant’s rights and obligations towards the Client under this Contract;
- (i) “Party” means the Client or the Consultant, as the case may be and “Parties” means both of them;
- (j) “Personnel” means persons hired by the Consultant or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof;

- (k) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented;
- (l) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A; and
- (m) “Subconsultant” means any entity to which the Consultant subcontracts any part of the Services in accordance with the provisions of Clauses 3 and 4.

**1.2 Law Governing the Contract**

This Contract, its meaning and interpretation and the relationship between the Parties shall be governed by the Laws of Kenya.

**1.3 Language**

This Contract has been executed in English language which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

**1.4 Notices**

Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in the SC.

**1.5 Location**

The Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations, whether in the Republic of Kenya or elsewhere, as the Client may approve.

**1.6 Authorized Representatives**

Any action required or permitted to be taken and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SC.

**1.7 Taxes and Duties**

The Consultant, Subconsultant[s] and their personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Laws of Kenya, the amount of which is deemed to have been included in the Contract Price.

**2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT**

**2.1 Effectiveness of Contract**

This Contract shall come into effect on the date the Contract is signed by both Parties or such other later date as may be stated in the SC.



- 2.2 Commencement of Services** The Consultant shall begin carrying out the Services thirty (30) days after the date the Contract becomes effective or at such other date as may be specified in the SC.
- 2.3 Expiration of Contract** Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period, after the Effective Date, as is specified in the SC.
- 2.4 Modification** Modification of the terms and Conditions of this Contract, including any modification of the scope of the Services or the Contract Price, may only be made by written agreement between the Parties.
- 2.5 Force Majeure**
- 2.5.1 Definition** For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
- 2.5.2 No Breach of Contract** The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
- 2.5.3 Extension Of Time** Any period within which a Party shall, pursuant to this Contract complete any action or task shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 2.5.4 Payments** During the period of his inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by him during such period for the purposes of the Services and in reactivating the Service after the end of such period.

## **2.6 Termination**

### **2.6.1 By the Client**

The Client may terminate this Contract by not less than thirty (30) days' written notice of termination to the Consultant, to be given after the occurrence of any of the events specified in this Clause;

- (a) if the Consultant does not remedy a failure in the performance of his obligations under the Contract within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing;
- (b) if the Consultant becomes insolvent or bankrupt;
- (c) if, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Consultant, in the judgement of the Client, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- (e) For the purpose of this clause;

“corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in Contract execution.

“fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of Contract to the detriment of the Client, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition.

- (f) if the Client in his sole discretion decides to terminate this Contract.

### **2.6.2 By the Consultant**

The Consultant may terminate this Contract by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the following events;

- (a) if the Client fails to pay any monies due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause 7 within sixty

- (60) days after receiving written notice from the Consultant that such payment is overdue; or
- (b) if, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

**2.6.3 Payment upon Termination**

Upon termination of this Contract pursuant to Clauses 2.6.1 or 2.6.2, the Client shall make the following payments to the Consultant:

- (a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a) and (b) of Clause 2.6.1, reimbursement of any reasonable costs incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

**3. OBLIGATIONS OF THE CONSULTANT**

**3.1 General**

The Consultant shall perform the Services and carry out his obligations with all due diligence, efficiency and economy in accordance with generally accepted professional techniques and practices and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Client and shall at all times support and safeguard the Client's legitimate interests in any dealing with Subconsultants or third parties.

**3.2 Conflict of Interests**

**3.2.1 Consultant Not to Benefit from Commissions, Discounts, Etc.**

- (i) The remuneration of the Consultant pursuant to Clause 6 shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and the Consultant shall not accept for his own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of his obligations under the Contract and the Consultant shall use his best efforts to ensure that his personnel, any subconsultant[s] and agents of either of them

similarly shall not receive any such additional remuneration.

- (ii) For a period of two years after the expiration of this Contract, the Consultant shall not engage and shall cause his

personnel as well as his subconsultant[s] and his/their personnel not to engage in the activity of a purchaser (directly or indirectly) of the assets on which he advised the Client on this Contract nor shall he engage in the activity of an adviser (directly or indirectly) of potential purchasers of such assets.

- (iii) Where the Consultant as part of the Services has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant will comply with any applicable procurement guidelines and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement shall be for the account of the Client.

**3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project**

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and his affiliates, as well as any Subconsultant and any of his affiliates, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

**3.2.3 Prohibition of Conflicting Activities**

Neither the Consultant nor his subconsultant[s] nor their personnel shall engage, either directly or indirectly in any of the following activities:

- (a) during the term of this Contract, any business or professional activities in the Republic of Kenya which would conflict with the activities assigned to them under this Contract; or
- (b) after the termination of this Contract, such other activities as

may be specified in the SC.

**3.3 Confidentiality**

The Consultant, his subconsultant[s] and the personnel of either of them shall not, either during the term of this Contract or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

**3.4 Insurance to be Taken Out by the Consultant**

The Consultant (a) shall take out and maintain and shall cause any subconsultant[s] to take out and maintain, at his (or the subconsultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks and for the coverage, as shall be specified in the SC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

**3.5 Consultant's Actions Requiring Client's Prior Approval**

The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions;

- a) entering into a subcontract for the performance of any part of the Services,
- b) appointing such members of the personnel not listed by name in Appendix C ("Key Personnel and Sub consultants").

**3.6 Reporting Obligations**

The Consultants shall submit to the Client the reports and documents specified in Appendix A in the form, in the numbers, and within the periods set forth in the said Appendix.

**3.7 Documents prepared by the Consultant to Be the Property of the Client**

All plans, drawings, specifications, designs, reports and other documents and software submitted by the Consultant in accordance with Clause 3.6 shall become and remain the property of the Client and Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Client together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Neither Party shall use these

documents for purposes unrelated to this Contract without the prior approval of the other Party.

#### **4. CONSULTANT'S PERSONNEL**

- 4.1 Description of Personnel** The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub consultants listed by title as well as by name in Appendix C are hereby approved by the Client.
- 4.2 Removal** (a) Except as the Client may otherwise **and/or** agree, no changes shall be made in the Key Personnel. If for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Key Personnel; the Consultant shall provide as a replacement a person of equivalent or better qualifications.
- Replacement Of Personnel** (b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) the Client has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
- (c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

#### **5. OBLIGATIONS OF THE CLIENT**

- 5.1 Assistance and Exemptions** The Client shall use his best efforts to ensure that he provides the Consultant such assistance and exemptions as may be necessary for due performance of this Contract.

- 5.2 Change in the Applicable Law** If after the date of this Contract, there is any change in the Laws of Kenya with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Consultant, then the remuneration and reimbursable expenses

otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties and corresponding adjustments shall be made to the amounts referred to in Clause 6.2 (a) or (b), as the case may be.

### **5.3 Services and Facilities**

The Client shall make available to the Consultant the Services and Facilities listed under Appendix E.

## **6. PAYMENTS TO THE CONSULTANT**

### **6.1 Monthly Remuneration**

The Consultant's total remuneration shall not exceed the Contract Price and shall be based on monthly payments including all staff costs, Sub consultants' costs, printing, communications, travel, accommodation and the like and all other costs incurred by the Consultant in carrying out the Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

### **6.2 Contract Price**

The price payable is set forth in the Special Conditions.

### **6.3 Payment for Additional**

For the purposes of determining the remuneration due for additional services **Services** as may be agreed under Clause 2.4, a breakdown of the Contract price is provided in Appendices D.

### **6.4 Terms and Conditions of Payment**

Payments will be made to the account of the Consultant and according to the payment schedule stated in the "Special Conditions of Contract".

### **6.5 Interest on Delayed Payment**

Payment shall be made within thirty (30) days of receipt of invoice and the relevant documents specified in Clause 6.4. If the Client has delayed payments beyond ninety (90) days after the due date hereof, simple interest shall be paid to the Consultant for each day of delay at a rate three percentage points above the prevailing Central Bank of Kenya's average rate for base lending.

## **7. SETTLEMENT OF DISPUTES**

### **7.1 Amicable Settlement**

The Parties shall use their best efforts to settle amicably all disputes arising out of

or in connection with this Contract or its interpretation.

**7.2 Dispute Settlement**

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be referred by either Party to the arbitration and final decision of a person to be agreed between the Parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the Chairman of the Chartered Institute of Arbitrators, Kenya Branch, on the request of the applying party.

**III. SPECIAL CONDITIONS OF CONTRACT**

**Number of GC Amendments of and Supplements to Clauses in the Clause General Conditions of Contract**

---

1.1(i)	The Member in Charge is _____ <i>[name of Member]</i> for the Client and _____ <i>[name of Member]</i> for the Consultant.
1.4	The addresses are:  Client: _____ Attention: _____  Telephone: _____  Telex; _____  Facsimile: _____  _____



Consultant:

\_\_\_\_\_  
Attention:

\_\_\_\_\_  
Telephone;

\_\_\_\_\_  
Telex:

\_\_\_\_\_  
Facsimile:

1.6 The Authorized Representatives are:

For the Client:

\_\_\_\_\_  
For the Consultant

2.1 The date on which this Contract shall come into effect is(\_\_\_\_\_) [date].

*Note: The date may be specified by reference to conditions of effectiveness of the Contract, such as receipt by Consultants of advance payment and by Client of bank guarantee*

2.2 The date for the commencement of Services is \_\_\_\_\_ [date]

2.3 The period shall be \_\_\_\_\_ [length of time].

*Note: Fill in the period, e.g., Sixty (60) months or such other period as the Parties may agree in writing.*

3.4 The risks and coverage shall be:

(i) Professional Liability: **Full amount of this contract excluding taxes and contingency amount.**

(ii) Loss of or damage to equipment and property:  
**Kshs 10,000,000**

(iii) Third party Liability: **Kshs 10,000,000**

(iv) Employer's Liability and workers compensation:  
**Kshs 10,000,000**

6.2(a) The amount in local Currency is \_\_\_\_\_ [Insert amount]

6.4 Payments shall be made on monthly basis.

Payments in Kshs shall be made to the following Account

Account Number: \_\_\_\_\_

Account Name: \_\_\_\_\_

Bank: \_\_\_\_\_

Address: \_\_\_\_\_

6.5 Payments will be made within 90 (ninety) days of receipt of the invoice and the relevant documents specified in Clause 6.4 above.

#### **IV. APPENDICES**

**APPENDIX A: LETTER OF AWARD AND ACCEPTANCE (to be inserted)**

**APPENDIX B: TERMS OF REFERENCE (to be inserted)**

**APPENDIX C: COMMENTS ON TERMS OF REFERENCE (to be inserted)**

**APPENDIX D: DESCRIPTION OF THE METHODOLOGY AND  
WORKPLAN FOR PERFORMING THE ASSIGNMENT  
(to be inserted)**

**APPENDIX E: TIME SCHEDULE FOR PROFESSIONAL PERSONNEL (to be  
inserted)**

**APPENDIX F: TEAM COMPOSITION AND TASK ASSIGNMENTS (to be  
inserted)**

**APPENDIX G: CURRICULUM VITAE (CV) FOR PROPOSED  
PROFESSIONAL STAFF (to be inserted)**

**APPENDIX H: ACTIVITY (WORKPLAN) SCHEDULE (to be inserted)**

**APPENDIX I: FINANCIAL PROPOSAL**

**APPENDIX J: OTHER SUBMISSIONS**

- *Technical proposal submission form*
- *Firm's References*
- *Financial proposal submission form*

**APPENDIX K: REQUEST FOR PROPOSALS (to be inserted)**