

FINAL PERFORMANCE STATEMENT  
OF  
CONSULTING SERVICES  
UNDER  
HAI VAN PASS TUNNEL CONSTRUCTION PROJECT

- Based on the Contract No. 01/HVT/97 dated December 12, 1997 (hereinafter called "the Original Contract") and the Addendum No. 2 dated August 12, 1999 signed between Project Management Unit No. 85, Ministry of Transport, the Socialist Republic of Vietnam (hereinafter called "the Employer") and Joint Venture of Nippon Koei Co., Ltd. and Louis Berger International Inc. in association with Transport Engineering Design Incorporation (hereinafter called "the Consultant") for Consulting Services for the Hai Van Pass Tunnel Construction Project;
- Based on the Addendum No. 3 dated 10 October, 2002 signed between Project Management Unit No. 85, Ministry of Transport, the Socialist Republic of Vietnam and Joint Venture of Nippon Koei Co., Ltd. and Louis Berger International Inc. in association with Transport Engineering Design Incorporation to carry out the NATM Training and Technology Transfer Program for Hai Van Pass Tunnel Construction Project;

- Based on the Decision No. 4058/GTVT-KHDT dated 4/11/1999 and Decision No. 4153/GTVT-KHCN dated 7/11/2002 issued by Ministry of Transport approving the Contract and Addendums to the Consulting Service Contract;
- Based on the Decision No. 1240 TC/TCDN dated 8/11/1999 and Decision No. 6087 TC/TCDN dated 12/6/2003 issued by Ministry of Finance approving the mentioned above Contract and Addendums;

- Based on the MOT Decision No. 7299/BGTVT-KHDT dated January 18, 2006 approving the time extension for contract packages and extension of 10 months for the Consulting Services Contract under the Hai Van Tunnel Construction Project.
- Based on the Auditing Report issued by the State Auditors by the Letter No. 119/KTN-GD on 30/12/2005 for inspection of investment fund under Hai Van Tunnel Construction Project;

- Based on the Completion Report of Consulting Service issued by the Consultant on 25/2/2006;

Today, 6 March 2006, we consist of :

**The EMPLOYER:**

Project Management Unit No.85  
Address: 184 Nguyen Sy Sach, Vinh City, Nghe An Province, Vietnam.  
Represented by: Mr. Nguyen Ngoc Tran, General Director

**The CONSULTANT:**

Joint Venture of Nippon Koei Co., Ltd. and Louis Berger International Inc. in association with Transport Engineering Design Incorporation  
Address: Hoa Cuong, Danang City, Vietnam.  
Represented by : Mr. Ichizuru Ishimoto, Project Manager

The both Parties agreed to finalize and certify the completion of consulting service contract with the following contents:

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1. Performed Work:

- Provided a special survey and prepared the special survey report to select the best alternative route (instead of the F/S Report)
- Carried out the detailed design and prepared the detailed design report including 9 contract packages.
- Prepared the tendering document, assisted the Client in evaluating the bids submitted by the Contractors for 9 Contract Packages
- Represented the interest of PMU85 to successfully supervise the works of the Contractors during the construction stage;
- Provided technical training and technology transfer to Vietnamese engineers in tunnel designing and in construction supervision as well as manual for operation and maintenance of tunnel facilities and equipments.

\* The Consultant has carried out the Services in accordance with implementation schedule stipulated by the Contract (starting from 20/01/1998 to 30/09/2005).

2. The Payment:

- Final statements of performance have been issued by the Employer for the Claims for Payment No. 33 (Yen Portion), Claims for Payment No. 31 (Local Portion) and Claims for Payment No.40 (USD Portion)
- The payment for the consulting service has been made in accordance with the Contract as shown below:

No.	Description	Foreign currency portion	Local currency portion
		JPY	VND
A	Total contract amount	767,261,000	US\$3,262,000 & D6,158,900,000
B	Total performed amount (up to the final invoice)	765,918,619	5,096,648.53
C	Total amount paid to the Consultant	765,918,619	5,050,857.53
D	Amount temporarily deducted by auditing result	0	17,313.1
E	Total remaining amount to be paid to the Consultant (E=B-(C-D))	0	28,477.9
F	Total claimed amount (F=B-D)	765,918,619	5,079,335.43
			47,671,697,237

It was agreed that the numbers of item D on Table above was temporarily deducted in accordance with the conclusion of the State Audit, however, the Employer and the Consultant are not agreed with this conclusion and continue explaining to the State Audit. The Employer still keep this deducted amount in the project financial

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statement to submit MOT and MOF for review and approval. In case the competent agencies give decision not deducting the above amount, the Employer shall make payment to the Consultant. The amount of VND636,510,663 was provisionally deducted as detailed:

- Local currency portion : VND376,814,163
- Foreign currency portion: USD17,313.1 (equivalent to VND259,696,500)

The other outstanding issues mentioned in the auditing report will be settled and executed by the Consultant after getting the final decision from authorized agencies.

3. Others:

- 1) The Consultant shall inspect and expedite the Contractors to draw up as-built documents for each part of the project till all of works are completed and the Defect Liability Certificates of all Contractors are issued;
- 2) The Consultant shall cooperate with the Employer to work with State Committee for overall taking over as regulated; and
- 3) The Consultant's responsibility for the works shall continue until the certificate of completion has been issued by the State Committee.
- 4) The Consultant is responsible to complete settlement of all general requirement items in the contract packages.

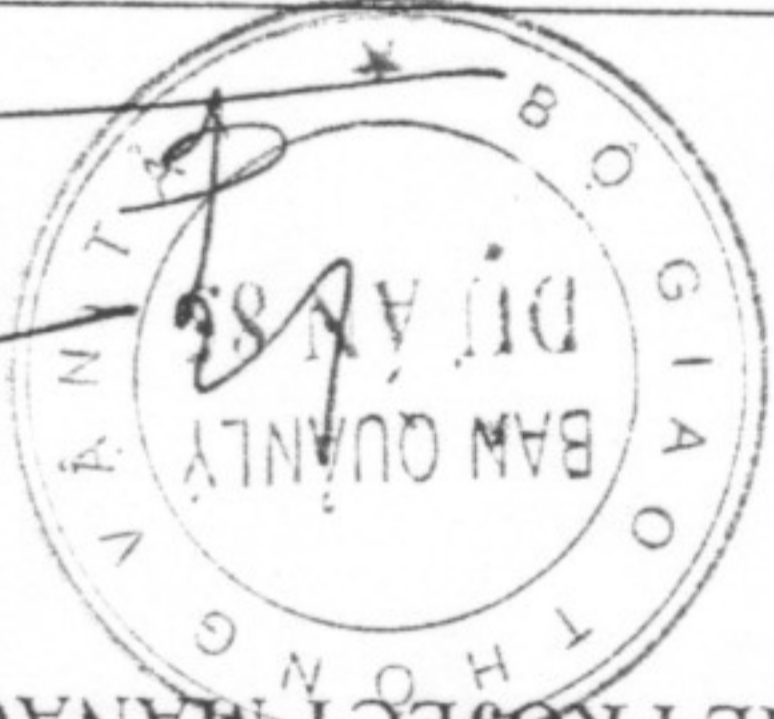
This Statement is made into 4 copies in Vietnamese and English version having the same value, 2 copies will be kept by both sides. This Statement will be the basis to finalize the Consulting Service for Hai Van Tunnel Construction Project.

THE CONSULTANT

*Handwritten signature of ICHIZURU ISHIMOTO*

ICHIZURU ISHIMOTO  
Project Manager

THE PROJECT MANAGEMENT UNIT 85



NGUYEN NGOC TRAN  
General Director