

MINUTES OF CONTRACT NEGOTIATION

BETWEEN

VIETNAM EXPRESSWAY CORPORATION (VEC)

AND

THE JOINT VENTURE

**NIPPON KOEI CO., LTD - NIPPON ENGINEERING CONSULTANTS CO.,LTD -
CHODAI CO.,LTD – THAI ENGINEERING CONSULTANTS CO.,LTD**

SUBJECT: IDA Credit No. 3843-VN: Road Network Improvement Project –
Detailed Design Consulting Services for the whole route of Da Nang –
Quang Ngai Expressway Development Project.

A. PARTICIPANTS:

1) Vietnam Expressway Corporation (Employer):

- Dr. Mai Tuan Anh - General Director – Chief Negotiator
- Mrs. Pham Thi Thanh Khuya – Inspector
- Mr. Luong Quoc Viet – Chief accountant
- Mr. Phung Minh Mo – Manager of Investment Planning Department
- Mr. Nguyen Dang Tuyen – Deputy Manager of Appraisal Department
- Mr. Pham Hong Quang – Manager of Technical, Technological and Environmental Department
- Mr. Nguyen Hai Long – Deputy Manager of Project Department

2) The Joint Venture of Nippon Koei Co., Ltd - Nippon Engineering Consultants Co.,Ltd - Chodai Co.,Ltd - Thai Engineering Consultants Co.,Ltd (the Joint Venture)

- Mr.

Before negotiations, the Employer requested the Joint Venture to submit their Power of Attorney for authorized representatives to participate in the Contract Negotiation and to sign the Contract.

B. CONTENTS OF NEGOTIATIONS:

The two parties have negotiated and agreed the following contents:

1. Terms of Reference

- The Employer confirmed that there were no basic modifications of Terms of Reference (TOR) of the Request for Proposals. The Employer had only clarified details of requirements of the replacement cost survey as follows:

*** Objectives of the Assignment**

Under the Replacement Cost Survey (RCS) the team shall verify and establish compensation rates for land, crops, trees, structures, and other non-land based income (e.g. fishponds) to ensure that Displaced Persons (DPs) are compensated at replacement costs.

*** Scope of Works**

Approach. The establishment of replacement costs will be carried out based on information collected from both Desk research and Direct interviews with people in affected area, both those persons who are affected and those not affected. Desk research will focus on relevant publications, materials of Government authorities, both at central and local levels. However, these materials will play the supporting role only. As the work is aimed at obtaining reasonable replacement costs for different types of affected assets, market evidences are the factors which most strongly base the formulation of these costs. Direct interviews with people in the affected area, both those, whose assets are affected by the Project and those, whose assets are not, will produce reliable data for establishment.

Basis for Valuation. The basis for valuation assessment of both land and real estate should be (i) research and market investigations carried out by the RCS team, (ii) accumulated market evidence already held by the valuation organization, (iii) the results of any valuation surveys carried out by any other organization that is available and (iv) survey maps of the land to be valued and surrounding land. Valuation of land must be undertaken by a licensed Land Valuer.

Data collection. The interviews will be conducted based on a pre-developed interview guide. Sample size will be determined by the RCS team for land, structures and other fixed assets.

Structures: (a) Interviews with owners of structures (main materials they used for their current structures; type of shops where they bought construction materials; distance of transport; origin of the materials (local or overseas); costs of various materials; labor cost); and (b) interviews with construction contractors (main materials which are most used by the local people to build their structures; costs of those main materials; cost of labor; average construction cost (cost per sq.m floor) for different types of houses according to different categories; and (c) validation of provincial construction prices (cost per sq.m floor for each category). Proposed compensation rates for structures will

be based on sample of houses in each class to ensure that the rates established cover the whole range of houses in that class.

Land. Price of land will be differentiated based on the use of land, including: Residential land; Garden land; Agricultural land; Land with water surface for fishery cultivation; and Forest land.

The objective of this establishment is to determine whether the provincial prices are sufficient or not to purchase the same quality and quantity of land. The establishment of compensation for the loss of land is based on its market value. The best way to obtain this market value is to gather data of some sales of land, which have just taken place. However, the transfer of land use right does not always go along with such sales, which makes details of such sales not recorded. The team will make their best effort to collect sales evidence to support the verification of provincial prices. In addition, information to base the establishment will be collected from direct interviews with owners of land in Project affected area, including those, whose land is affected and those whose land is not. The interviews will cover the following issues: (i) recent land use rights transfer in the area and (ii) price, at which owners (affected and not affected persons) are willing to sell their land.

Apart from determining the rates for various types of land. The Land Valuer also need to determine the transaction costs involved such as administrative charges, taxes, registration and titling costs. The Land Valuer should bear in mind that when establishing replacement cost for each type of assets, transaction costs should be clearly specified and should be shouldered by the Project.

Crops and Trees. The objective of this establishment is to determine whether the provincial prices paid to DPs are equivalent, lower or higher than the average market price. The basis of the establishment is to determine the average market price for each type of crops and trees. The information to base the establishment will be collected from:

- Secondary sources: (a) publications of respective ministries (environment, agriculture, forestry and (b) publications of Price Committee (if available)
- Primary source: (a) interviews with people who own the same crops and trees in the locality. The interviews will cover price, at which owners are willing to sell each type of their crops and trees. The prices for perennial trees will be differentiated by the age of the trees and (b) market, team will investigate the sales price of outputs of different types of crops and trees in the market.

Replacement Cost = Current Market Value + Transaction Cost. Apart from determining the rates for land and non-land assets indicated above. The RCS team also needs to determine the transaction costs involved such as administrative charges, taxes, registration and building permit costs. The RCS team should bear in mind that when establishing replacement cost for each type of assets, transaction costs should be clearly specified to ensure that these expenses or costs are shouldered by the Project and should not be deducted from the compensation payment that each AP will receive. A separate section in the report should present how transaction costs are calculated.

*** Formal Outputs**

Based on the activities carried out, the consultant team should (i) present the methodology used and (ii) prepare a table and discuss among the team the unit rates to be applied for the project.

*** Working Schedule**

The tasks for the Replacement Cost Survey will be a critical input to the Detailed Measurement Survey (DMS) to be undertaken to prepare the detailed Resettlement Action Plan. To ensure that the results of the Replacement Cost Survey are available to be incorporated in the DMS it is expected that this work will be undertaken between June - December 2011 with the following inputs submission schedule:

N o.	Output	Hard copies		Date
		Vietnam ese	Englis h	
1	Inception report	6	6	1 month after beginning of the assignment
2	Replacement cost survey	6	6	06 month after signing of contract

*** Qualification and Experience Requirements**

The team will be composed of one senior social development consultant, at least 2 resettlement consultants and a team of enumerators, statistician and encoders. A licensed Land Valuer must be engaged as part of the team to prepare land valuations that are (i) prepared using internationally accepted methodologies, (ii) reflect market values and clear transaction costs and (iii) are independent.

Each member of the RCS team will have the following minimum qualifications and experience:

- (a) The consultants must hold a university degree with a minimum of Bachelor preferably with a major in social sciences;
- (b) The Land Valuer must hold all required licenses and registrations to practice as a land valuer in Vietnam;
- (c) The consultant must have at least 2 years working in similar field and that have experience in RCS for projects funded by WB or other international sponsors such as ADB;
- (d) Preferably RCS consultants should have experience in the management of projects;
- (e) Consultant must be fluent in written and spoken English.

*** Client's Inputs**

The consultant shall report to the Vietnam Expressway Corporation (VEC), who will provide, free of charge, the RAPs, and available related documents of the project.

VEC will assist in arranging access to, and coordination with relevant departments, local authorities and organizations in the three project provinces of Da Nang, Quang Nam, and Quang Ngai.

- The Joint Venture and the Employer agreed two (02) changes of sub-clauses 9, 10 of clause 3.3.3 as follows:

+ Delete all contents of sub-clause (9) and replace by: Using a participatory approach, identify the impact of the expressway construction on local infrastructure, which will include consideration of pedestrian and vehicle accesses, and disruption to irrigation and other agricultural or community facilities. Based on consultations with local communities prepare plans and procedures for minimizing impacts on local communities both during and after construction of expressways. To the extent possible existing accesses should be reinstated through use of over and under passes. Where an access cannot be reinstated alternative routes must be provided.

+ Delete all contents of sub-clause (10)

- The Joint Venture confirmed to carry out all items specified in TOR.

- The Joint Venture committed to comply with report submission schedule specified in TOR.

2. Implementing Plan:

- The Joint Venture committed to submit overall plan, project details (including appraisal plan of packages) after receiving Notice to Proceed from the Employer and promptly carry out relevant assignments of surveys after receiving approval from the Employer.
- The two parties agreed that the Employer shall mobilize the Joint Venture by June 2011 (after results of negotiations are approved by WB).
- The Joint Venture shall review implementing plan to be in compliance with current situation.

3. Personnel:

- The Joint Venture confirmed that proposed personnel were available.
- The Employer requested the Joint Venture not to replace personnel proposed in the Consultant's Bidding Documents and to mobilize such personnel in compliance with technical proposal. In case of replacement due to force majeure, the Employer shall only review and approve a replacement of a person of equivalent or better qualifications.
- In case the Joint Venture subcontract any part of services to sub-consultants, they must submit qualifications of sub-consultants to the Employer for reviewing, and prior written consent is required. With respect to External Valuer Consultant, the Joint Venture must submit evaluation criteria to the Employer for reviewing and approval.
- With respect to TOR, the Consultant confirmed to carry out all items following TOR.

4. Financial conditions and provisions:

4.1. Remuneration rates: according to proposals of the Consultant.

4.2. Expenses other than remuneration: according to proposals of the Consultant.

4.3. Provisional sums:

- Prior to implementation, the Joint Venture shall submit detailed technical proposal (implementing plan) and detailed cost estimates proposal in compliance with technical proposal (implementing plan) and must be approved by the Employer.
- The external valuer surveys item (clause 3.3.2, sub-clause 2, point vii): the Consultant confirmed to properly carry out this assignment in compliance with TOR and its cost shall not be taken out of estimated costs.

4.4. Contingencies: Contingencies are used for additional assignments that are unforeseen by the Employer. Prior to using contingencies, the Consultant must submit to the Employer for approval. The estimated contingencies is 10%.

4.5. Final price: is the Joint Venture confirmed that the final price included all taxes and expenses to carry out the project with guaranteed progress and quality.

4.6. Payment for contract.

* Payment shall be made according to conditions of contract.

* Estimated items shall be paid as follows:

- Pegging out for land acquisition item: contract mode is unit price. Payment schedule shall be as below:

+ 70% of approved price, after the Consultant hand-overs all land acquisition pegs of main route to the local authorities.

+ The remainder shall be paid after completion of assignments.

4.7. Insurances: The Joint Venture committed to buy necessary insurances complying with regulations of law, including those specified in special conditions of the Contract (clause 3.4).

4.8. Taxes and duties in accordance with the Contract

- The Joint Venture confirmed that personal income taxes were included in remuneration rates in their financial proposal.

- The Joint Venture proposed and the Employer agreed that the Joint Venture are responsible for taxes registration, declaration and payment for all taxes in accordance with Bidding Documents, and shall provide the relevant information and evidence accurately, quickly and timely for the Employer's review and supervision.

4.9. Currency exchange: Currency exchange shall be selling currency exchange of Vietcombank before 28 days of the day submitting the proposals (i.e. May 4, 2010), where 1.0 USD = 18,990 VND and 1.0 JPY = 201.76 VND.

The currency exchanges are fixed, and they shall remain unchanged for every payment and during contract implementation.

5. Support for counterpart personnel

VEC shall facilitate the Joint Venture's documentary collection and discussion with relevant agencies for project implementation purposes.

VEC shall support necessary procedures for international consultants working in Vietnam.

6. Equipment

Equipment purchased for project operation purposes in accordance with the Joint Venture's proposals must be approved by the Employer. The Joint Venture is responsible for hand-overing purchased equipment to the Employer after contract completion.

7. Corruption prevention

Based on relevant regulations of the Government, provisions of Corruption prevention policy and Guidelines of WB, any payment, gift, commission, gratuity out of contract shall not be allowed during contract implementation.

8. Penalty for progress breach

If the Joint Venture do not satisfy contract progress due to internal causes, the Employer shall handle a penalty of not exceeding 12% of contract price in total.

9. Implementation evaluation

The Employer and WB shall supervise the Joint Venture during contract implementation. If any professional staff of the Joint Venture is found to be unsatisfied, then the Employer shall request a replacement.

10. Contract languages

Languages used in the contract are English and Vietnamese whereas English is main language. In addition, all reports and correspondences during contract implementation must be in English and Vietnamese whereas English is the main language.

VEC

THE JOINT VENTURE

MAI TUAN ANH

General Director

Vietnam Expressway Corporation

III. Special Conditions of Contract

Condition	Amendments of, and Supplements to Clauses in the General Conditions of Contract
[1.1(a)]	The words "in the Borrower's country" are amended to read Vietnam.
[1.1(i)]	Leader of the Joint Venture is Nippon Koei Co.,Ltd.
1.3	Languages used in the contract are: English and Vietnamese, English is main language
1.4	<p>The addresses are:</p> <p>Employer: Vietnam Expressway Corporation Hamlet No.2 – Linh Nam Ward – Hoang Mai District Hanoi, Vietnam</p> <p>Attention: Dr. Mai Tuan Anh, General Director Tel: (84-4) 36430266 Facsimile: (84 -4) 36430270 E-mail: duongcaotoc@vnn.vn</p> <p>Representative agency: Project Management Unit 85 No. 184 Nguyen Sy Sach – Vinh city – Nghe An Province</p> <p>Attention: Mr. Nguyen Ngoc Canh, General Director Tel: (84-38) 3831270 Facsimile: (84-38) 3834705 Email: bqlda85@fpt.vn</p> <p>Consultant: The Joint Venture Nippon Koei Co.,Ltd. - Nippon Engineering Consultants Co.,Ltd. - Chodai Co.,Ltd. - Thai Engineering Consultants Co.,Ltd. (the Joint Venture)</p> <p>Attention: Tel: Facsimile: E-mail:-</p>
1.6	<p>The Authorized Representatives are:</p> <p>The Employer: Dr. Mai Tuan Anh - General Director, VEC</p> <p>The Consultants:</p>
1.7	<ul style="list-style-type: none"> - The Joint Venture is responsible for taxes registration, declaration and payment for all local taxes, fees and others, and shall provide the relevant information and evidence accurately, quickly and timely for the Employer's review and supervision. - As the time period of the consulting services is 14 months, personal income taxes shall be included in remuneration rates and the consultant shall be responsible for paying personal income taxes for their staff - The Consultant shall be exempted from import taxes and VAT in respect

	<p>of</p> <p>(a) any equipment, materials, and supplies brought into Vietnam by the Consultants or Subconsultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn therefrom by them;</p> <p>(b) any property brought into Vietnam by the Consultants, any Subconsultants, and the Personnel of either of them (other than nationals of Vietnam or permanent residents of Vietnam) for their personal use and which will subsequently be withdrawn therefrom by them upon their respective departure from Vietnam.</p>
2.1	The date on which this Contract shall come into effect is the deadline for the Consultant to start the consulting services specified in the Notice to Proceed.
2.2	The date for the commencement of Services is: the day that the Employer requested in the Notice to Proceed.
2.3	The period shall be fourteen (14) months.
3.2.1	<p>“Procurement Rules of Funding Agencies</p> <p>Furthermore, if the Consultants, as part of the Services, have the responsibility of advising the Employer on the procurement of goods, works, or services, the Consultants shall comply with any applicable procurement guidelines of the Bank or of the Association, as the case may be, and other funding agencies and shall at all times exercise such responsibility in the best interest of the Employer. Any discounts or commissions obtained by the Consultants in the exercise of such procurement responsibility shall be for the account of the Employer.</p>
3.4	<p>The risks and the coverage shall be as follows:</p> <p>(i) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Government’s country by the Consultant or its Personnel or any Sub-consultants or their Personnel, with a minimum coverage of 1,600 USD for a person per year and 1,600 USD for a vehicle per year;</p> <p>(ii) Third Party liability insurance, with a minimum coverage of 1,600 USD for a person per year and 1,600 USD for asset per year;</p> <p>(iii) Employer’s liability and workers’ compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate;</p> <p>(iv) Professional liability with a minimum coverage equivalent to the Contract Price</p> <p>(v) Loss or damage to (i) equipment purchased in whole or in part with</p>

	funds provided under this Contract, (ii) the Consultant's property used in the performance of the Service
3.7	The Consultants shall not use documents and softwares of Project for purposes unrelated to this Contract without the prior written approval of the Client.
5.1	Not applicable
6.2(a)	The amount in foreign currency or currencies is <i>[insert amount]</i> .
6.2(b)	The amount in local currency is <i>[insert amount]</i> .
6.4	<p>The accounts are:</p> <p style="padding-left: 40px;">for foreign currency: <i>[insert account]</i> for local currency: <i>[insert account]</i></p> <p>- Payments shall be made according to the following schedule:</p> <ul style="list-style-type: none"> • Twenty (20) percent of the Contract Price shall be paid on the commencement date against the submission of a bank guarantee for the same. • Ten (10) percent of the lump-sum amount shall be paid upon submission of inception report and satisfactory completion of the following works: <ul style="list-style-type: none"> ○ Review of previous studies; ○ Establish Detailed Engineering Design Framework. • Twenty five (25) percent of the lump-sum amount shall be paid upon submission of interim report and satisfactory completion of the following works: <ul style="list-style-type: none"> ○ Procurement Packaging; ○ Site Survey; • Twenty (20) percent of the lump-sum amount shall be paid upon satisfactory completion of the following works: <ul style="list-style-type: none"> ○ DD of roads, bridges and other structures; ○ Study and design of ITS and toll collection system ○ Cost estimate; ○ Expressway operation and maintenance. • Fifteenth (15) percent of the lump-sum amount shall be paid upon submission of the draft final report and satisfactory completion of the following works: <ul style="list-style-type: none"> ○ Review and update EIA, EMP, EMDP, RAP ○ Construction method and schedule; ○ Preparation of implementation program; ○ Pre-qualification and bidding documents • Ten (10) percent of the lump-sum amount shall be paid upon approval of the final report by relevant authorities and satisfactory completion of procurement assistance;

	<p>- Pegging out for land acquisition item: contract mode is unit price. Payment shall be made according to the following schedule:</p> <ul style="list-style-type: none"> • 70% of approved price, after hand-overing all land acquisition pegs of main route to the local authorities. • The remainder shall be paid upon completion of assignments. <p>The bank guarantee shall be released when the total payments reach fifty (50) percent of the lump-sum amount.</p>
6.5	<p>Payment shall be made within 45 days of receipt of the invoice and the relevant documents specified in Clause 6.4, and within 60 days in the case of the final payment.</p> <p>The interest rate shall be the prevailing USD interest rate used by Vietcombank at the time of payment.</p>
7.2	<p>Any dispute, controversy, or claim arising out of or relating to this contract, or the breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.</p>