

**LOAN 2560-GEO: ROAD CORRIDOR INVESTMENT
PROGRAM (TRANCHE 1)**

**PREPARATION OF DETAILED DESIGN AND PREPARATION OF BIDDING
DOCUMENTS FOR KOBULETI BYPASS ROAD, KOBULETI-BATUMI
SECTION AND BATUMI BYPASS ROAD**

**CONTRACT FOR CONSULTING SERVICES
Lump-Sum**

between

**Roads Department of The Ministry of Regional Development and
Infrastructure of Georgia with
Eurasian Transport Corridor Investment Centre (Georgia)
as a Financial Manager of the Contract**

and

SAMBO Engineering Co. Ltd (Korea)

December 2010

I. FORM OF CONTRACT

LUMP-SUM

This CONTRACT N ABRDP/CS/SSS-01 (hereinafter called the "Contract") is made the 13 December, 2010 between, on the one hand, **Roads Department of the Ministry of Regional Development and Infrastructure of Georgia**, A. Kazbegi ave. #12, Tbilisi, 0160 Georgia, (hereinafter called the "Client") and, on the other hand, **Eurasian Transport Corridor Investment Centre**, A. Kazbegi ave. #12, Tbilisi, 0160 Georgia, (hereinafter called the "Financial Manager") and on the other hand, **Sambo Engineering**, 200-2, Bangi-dong, Songpa-gu, Seoul, Korea. (hereinafter called the "Consultant").

WHEREAS

- (a) the Client has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the "Services");
- (b) the Consultant, having represented to the Client that it has the required professional skills, and personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;
- (c) by an Agreement dated [day, month, year] (hereinafter called the Loan Agreement) between the *Georgia* (hereinafter called the Borrower) and the Asian Development Bank (hereinafter called the ADB), has agreed to make a loan to the Borrower for the purpose of financing the **ROAD CORRIDOR INVESTMENT PROGRAM (TRANCHE 1)** (hereinafter called the Project);
- (d) The agreement is made between the client and financial manager. According to this agreement Eurasian Transport Corridor Investment Centre is executing financial management of the contract.

NOW THEREFORE the parties hereto hereby agree as follows:

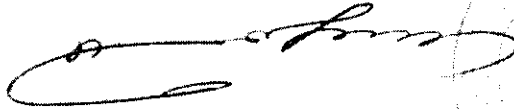
- I. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The General Conditions of Contract;
 - (b) The Special Conditions of Contract;
 - (c) The following Appendices:
 - Appendix A: Description of Services
 - Appendix B: Reporting Requirements
 - Appendix C: Personnel Schedule
 - Appendix D: Cost Estimates in Foreign Currency
 - Appendix E: Cost Estimates in Local Currency N/A
 - Appendix F: Summary of Cost Estimates
 - Appendix G: Services, Facilities and Equipment to be Provided by the Client N/A
 - Appendix H: Form of Advance Payment Security N/A
 - Appendix I: Dispute Notification Form

2. The mutual rights and obligations of the Client and the Consultant 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;
 - (b) the Client shall make payments to the Consultant in accordance with the provisions of the Contract;
 - (c) Subject to subparagraph (d) hereunder, and notwithstanding any other provisions of this Contract, gross payments under this Contract in shall not exceed:
 - (d) Except as otherwise agreed between the Client and the Consultant:
 - (i) Foreign currency payments to the Consultant hereunder will be made in USD.
 - (d) The maximum amount specified in subparagraph (c) above has been fixed on the understanding that the Client will make available free of charge to the Consultant the exemptions, assistance, services and facilities provided for under Clause 5 of the General Conditions of Contract and in Appendix G as required for the purposes of the Services. If any such exemptions, assistance, services and facilities are not supplied, the parties shall consult regarding what additional allowance (if any) should be made to the Consultant as a result thereof to cover necessary additional expenditures not envisaged in the cost estimates in Appendices D and E.

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 **Roads Department of the Ministry of Regional Development and Infrastructure of Georgia**

Mr. Irakli Litanishvili, Vice -Chairman



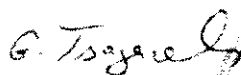
For and on behalf of **Sambo Engineering**

Mr. Wan-Jae Lee, Vice-President



For and on behalf of **Eurasian Transport Corridor Investment Centre**

Mr. George Tsagareli, Director



II. GENERAL CONDITIONS OF CONTRACT

A. I. General Provisions

1.1 Definitions

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

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the Client's Country, or in such other country as may be specified in the Special Conditions of Contract (SC), as they may be issued and in force from time to time.
- (b) "Client" means the agency with which the selected Consultant signs the Contract for the Services.
- (c) "Client's Country" means the country of the borrower.
- (d) "Consultant" means any private or public entity including a Joint Venture that will provide the Services to the Client under the Contract.
- (e) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is these General Conditions (GC), the Special Conditions by which the GC may be amended or supplemented (SC), and the Appendices.
- (f) "Contract Price" means the price to be paid for the performance of the Services, in accordance with Clause 6;
- (g) "Day" means calendar day.
- (h) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- (i) "Foreign Currency" means any currency other than the currency of the Client's country.
- (j) "Government" means the Government of the Client's country.
- (k) "Joint Venture" means a Consultant which comprises of two or more Partners each of which will be jointly and severally liable to the Client for all the Consultant's obligations under the Contract.
- (l) "Local Currency" means the currency of the Client's country.



- (m) "Partner" means any of the entities that make up the Joint Venture, and "Partners" means all these entities.
- (n) "Party" means the Client or the Consultant, as the case may be, and "Parties" means both of them.
- (o) "Personnel" means qualified persons provided by the Consultant and assigned to perform the Services or any part thereof; "International Personnel" means such qualified persons who are citizens of an ADB member Country; "National Personnel" means such qualified persons who are citizens of the Client's country.
- (p) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (q) "Sub-Consultant" means any person or entity to whom/which the Consultant subcontracts any part of the Services and for whom/which the Consultant is fully responsible.
- (r) "Third Party" means any person or entity other than the Government, the Client, the Consultant or a Sub-Consultant.
- (s) "In writing" means communicated in written form with proof of receipt.

- 1.2 Law Governing Contract** This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
- 1.3 Language** This Contract has been executed in the English language, which shall be the binding, and controlling language for all matters relating to the meaning or interpretation of this Contract. Furthermore, all reports and correspondence required during implementation of the Services shall be in English.
- 1.4 Notices**
 - 1.4.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SC.
 - 1.4.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.
- 1.5 Location** The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in the Client's Country or elsewhere, as the Client may approve.

1.6 Authority of Lead Partner In case the Consultant consists of a Joint Venture of more than one entity, the Partners hereby authorize the Lead Partner specified in the SC 1.6 to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

1.7 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.

1.8 Taxes and Duties Unless otherwise specified in the SC, the Consultant, Sub-Consultants, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

1.9 Anticorruption Policy

1.9.1 Definitions

The ADB's Anticorruption Policy requires that all borrowers of ADB loans (including beneficiaries of ADB-financed or administered activities), as well as consultants under ADB-financed or administered contracts, observe the highest standard of ethics during the selection process and in execution of such contracts. In pursuance of this policy, the ADB:

(i) defines, for the purpose of this provision, the terms set forth below as follows:

(a) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

(b) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(c) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(d) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

1.9.2 Measures to (i) will reject a proposal for award if it determines that the consultant

be Taken

recommended for award has directly, or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract in question;

- (ii) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of the ADB financing engaged in corrupt, fraudulent, collusive, or coercive practices during the consultant selection process or the execution of that contract, without the borrower or beneficiary having taken timely and appropriate action satisfactory to the ADB to remedy the situation;
- (iii) will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, such party or successor from participation in ADB-financed or administered activities if it at any time determines that the consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or other prohibited practices in competing for, or in executing, a ADB-financed or administered contract; and

**1.9.3 Fees,
gratuities,
rebates, gifts
and
commissions**

- (iv) The Consultant will disclose any fees, gratuities, rebates, gifts, commissions or other payments that may have been paid or are to be paid to agents and/or representatives, with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent and/or representative, the amount and currency, and the purpose of the fee, gratuity, rebate, gift, commission or other payment.

**1.10 Relationship
between the Parties**

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.11 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

1.12 Eligibility

The Consultant represents and warrants that it is a citizen or legal entity of, or legally established in, an member country of the ADB and that the Services will be wholly and substantially supplied from that country or from other member countries of the ADB. The Consultant further confirms that any professionals, experts, and entities to which the Consultant subcontracts work relating to the Services pursuant to Clause GC 3.6 hereof shall be citizens or legal entity of, or legally established in, a member country of the ADB.

1.13 Sanctions

The Consultant represents and warrants that it, and any Sub-Consultants, as well as any of the Personnel of the Consultant or Sub-Consultant, are not sanctioned by the ADB.

1.14 High Standard of Conduct of The Client and the ADB require the Consultant and its Personnel to maintain a high standard of conduct when carrying out their functions under this Contract. Accordingly, the Consultant and its Personnel are expected to recognize the contribution of others, regardless of their nationality, gender, religion, seniority or contractual status. The Consultant and its Personnel shall also comply with ADB's policy on sexual harassment. The Client will take prompt action to address incidents involving conduct that does not live up to these standards which may result in replacement of any individual expert, consultant, or contractual staff involved in such incidents pursuant to GC 4.2(b).

B. 2. Commencement, Completion, Modification and Termination of Contract

- 2.1 Effectiveness of Contract** of This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SC have been met.
- 2.2 Termination of Contract for Failure to Become Effective** of If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, the Consultant or the Client may, by not less than twenty one (21) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.
- 2.3 Commencement of Services** of The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.
- 2.4 Expiration of Contract** of Subject to sub-Clause GC 2.7.3(c) and unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.
- 2.5 Entire Agreement** This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.
- 2.6 Modifications or Variations** (a) Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
- (b) In cases of substantial modifications or variations, the prior written consent of the ADB is required.

2.7 Force Majeure

- 2.7.1 Definition**
- (a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action.
 - (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.
 - (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of 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 all with the objective of carrying out the terms and conditions of this Contract.

- 2.7.3 Measures to be Taken**
- (a) A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
 - (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
 - (c) 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.
 - (d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:
 - (i) demobilize, in which case the Consultant shall be reimbursed

for costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or

- (ii) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.
- (e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

2.8 Suspension

The Client may, by written notice to the Consultant, suspend in whole or part, the Services if any of the following events shall have happened and be continuing:

- (a) The Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services.
- (b) The ADB has suspended disbursements under the Loan Agreement.

2.9 Termination

2.9.1 *By the Client*

The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (i) of this Clause GC 2.9.1. In such an occurrence the Client shall (except in the case of paragraph (i) below) give not less than thirty (30) days' written notice of termination to the Consultant.

- (a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing.
- (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its Partners becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.
- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.
- (d) If the Consultant submits to the Client a false statement which has a material effect on the rights, obligations or interests of the Client.
- (e) If the Consultant is held by the Client and/or the ADB to have a conflict of interest in performance of the Contract, or any portion thereof.

- (f) If, as the 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.
- (g) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- (h) If the Loan Agreement has been terminated or the ADB has suspended disbursements under the Loan Agreement.
- (i) If the Consultant, in the judgment of the Client and/or the ADB is in breach of the ADB's Anticorruption Policy i.e. has engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing this Contract in such a case the Contract shall be terminated on the date Consultant is notified of such breach.

2.9.2 By the Consultant

The Consultants 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 events specified in paragraphs (a) through (c) of this Clause GC 2.9.2:

- (a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.
- (b) If, as the 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.
- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.

2.9.3 Payment upon Termination

Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2, the Client shall make the following payments to the Consultant:

- (a) payment pursuant to Clause GC 6 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a), (b), (e), through to (f) and (i) of Clause GC 2.9.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents; and
- (c) in the event that the Consultant is found to be in breach of the ADB's Anticorruption Policy there shall be no payment or reimbursement in respect of any fraudulent, corrupt, collusive or coercive practices performed by the Consultant under the Contract.

**2.9.4 Cessation
of Rights
and Obli -
gations**

Upon termination of this Contract pursuant to Clause GC 2.9, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.8 hereof, and (iv) any right which a Party may have under the Applicable Law.

**2.9.5 Cessation
of Ser-
vices**

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GC 3.7 or GC 3.10 hereof.

**2.9.6 Disputes
about
Events of
Termina -
tion**

If either Party disputes whether an event specified in paragraphs (a) through (d), and paragraphs (f) and (g) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter as provided in Clause GC 8 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. Obligations of the consultant

3.1 General

**3.1.1 Standard of
Performance**

The Consultant shall perform the Services and carry out their obligations hereunder in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-Consultants or third Parties.

**3.1.2 Law
Governing
Services**

Subject to the ADB's Anticorruption Policy, the Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law. The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

3.2 Conflict of Interest

The ADB considers a conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations and that such conflict of interest may contribute to or constitute a prohibited practice under the ADB's Anticorruption Policy. In pursuance of the Anticorruption Policy's requirement that borrowers (including beneficiaries of ADB-financed or administered activities) as well as consultants under ADB-financed or administered contracts, observe the highest standard of ethics, the ADB will take appropriate actions to manage such conflicts of interest if it determines that a conflict of interest has flawed the integrity of the consultant selection, consultant engagement or performance of Services under the Contract.

3.2.1 Consultant Not to Benefit from Discounts

- (a) The remuneration of the Consultant pursuant to Clause GC 6 hereof shall constitute the Consultant's remuneration in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Consultant shall not accept for its own benefit any discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use their best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.
- (b) Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall comply with the ADB's *Procurement Guidelines* as amended from time to time, and shall at all times exercise such responsibility in the best interest of the Client. Any discounts obtained by the Consultant in the exercise of such procurement responsibility shall be for the benefit of the Client and shall be credited to the account of the Client.

3.2.2 Consultant and Sub-Consultants Not to Engage in Certain Activities

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant as well as any Sub-Consultant shall be disqualified from providing goods, works or services (other than consulting services) for any project resulting from the Services.

3.2.3 Prohibition of Conflicting Activities including pursuit of a Political Agenda

The Consultant shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any personal, business or professional activities which would conflict with the activities assigned to them under this Contract including but not limited to the pursuit of a political agenda in the Client's Country by way of writing, publication or circulation of propaganda, participation in protests or rallies or involvement in media broadcasts.

3.3 Confidentiality

Except with the prior written consent of the Client, neither the Consultant,

the Sub-Consultant nor their Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the re-recommendations formulated in the course of, or as a result of, the Services.

- 3.4 Insurance to be Taken Out by the Consultant** The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (or the Sub-Consultants', 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, and
 - (c) any other action that may be specified in the SC.
- 3.6 Reporting Obligations**
- (a) The Consultant shall submit to the Client the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.
 - (b) Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.
 - (c) The Consultant shall on a monthly basis, submit to the Client, in a format acceptable to the Client, a report stating personnel movements and inputs in the previous month compared to those specified in Appendix C. In the event the forecast of progress as anticipated in Appendix C is substantially changed due to variations pursuant to GC Clause 2.6, the Consultant may request the Client to revise the Payment Schedule specified in Appendices D & E, to reflect such change.
- 3.7 Documents Prepared by the Consultant to be the Property of the Client**
- (a) All plans, drawings, specifications, designs, reports, other documents and software submitted by the Consultant under this Contract shall become and remain the property of the Client, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Client in its sole discretion may make such

documents available to the public.

- (b) The Consultant may retain a copy of such documents and software, and use such software for their own use with prior written approval of the Client. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

**3.8 Accounting,
Inspection
Auditing**

and

- (a) The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the Client or its designated representative and/or the ADB, and up to five years from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client or the ADB, if so required by the Client or the ADB as the case may be.
- (b) The Consultant shall cooperate with and assist the Client, its authorized representatives and/or the ADB making such an audit. Out of pocket expenditures covered by fixed sums, however, shall not be subject to audit pursuant to this Clause. In the event the audit discloses that the Consultant has overcharged the Client, the Consultant shall immediately reimburse the Client the amount equivalent to the amount overpaid. If overpayment is a result of the Consultant having been engaged in what the Client (or, as the case may be, the ADB) determines to constitute corrupt, fraudulent, collusive or coercive practices as defined in the ADB's *Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers*, the Client may terminate the Contract pursuant to GC 2.9.1(i).

**3.9 Liability of the
Consultant**

the

- (a) The Consultant shall be responsible for, and shall indemnify the Client, in respect of loss of or damage to equipment and materials furnished by the Client, or purchased by the Consultant in whole or in part with funds provided by the Client.
- (b) The Consultant undertakes full responsibility in respect of life, health, and accidents for the Personnel and for the dependents of any such Personnel.
- (c) The Consultant shall indemnify the Client from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgment, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against the Client during or in connection in the Services

by reason of: (i) infringement or alleged infringement by the Consultant of any patent or other protected right; or (ii) plagiarism or alleged plagiarism by the Consultant.

- (d) The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant out of funds provided or reimbursed by the Client or used by the Consultant in the carrying out of the Services do not violate or infringe any industrial property or intellectual property right or claim of any third party.
- (e) Subject to Clause GC 5.4, the Consultant shall indemnify, protect and defend at their own expense the Client, and its agents and employees from and against any and all actions, claims, losses or damages arising out of Consultant's failure to exercise the skill and care required under Clause GC 3.1.1 provided, however:
 - (i) that Consultant is notified of such actions, claims, losses or damages not later than the number of months after conclusion of the Services indicated in the SC;
 - (ii) that the ceiling on Consultant's liability under Clause GC 3.1.1 shall be limited to the amount indicated in the SC, except that such ceiling shall not apply to actions, claims, losses or damages caused by Consultant's gross negligence or reckless conduct;
 - (iii) that Consultant's liability under Clause GC 3.1.1 shall be limited to actions, claims, losses or damages directly caused by such failure to exercise the said skill and care, and shall not include liability for any actions, claims, losses or damages arising out of occurrences incidental or indirectly consequential to such failure.
- (f) In addition to any liability the Consultant may have under Clause GC 3.1.1, the Consultant shall, at its own cost and expense, upon request of Client, re-perform the Services in the event of Consultant's failure to exercise the skill and care required under Clause GC 3.1.1.
- (g) Notwithstanding the provisions of paragraph (a) of this Clause GC 3.9, the Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by: (i) Client's overriding a decision or recommendation of the Consultant or requiring the Consultant to implement a decision or recommendation with which the Consultant does not agree; or (ii) the improper execution of Consultant's instructions by agents, employees or independent contractors of the Client.

**3.10 Equipment,
Vehicles and
Materials Furnished
by the Client**

Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the

Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

3.11 Equipment and Materials Provided by the Consultant Equipment or materials brought into the Client's Country by the Consultant and the Personnel and used either for the Project or personal use shall remain the property of the Consultant or the Personnel concerned, as applicable.

3.12 Specifications and Designs (a) The Consultant shall prepare all specifications and designs that may be required under the Contract using the metric system and so as to embody the latest design criteria and the Consultant shall specify standards that are accepted and well known among industrial nations.

(b) The Consultant shall ensure that the specifications and designs and all documentation relating to procurement of goods and services provided under the Services are prepared on an impartial basis so as to promote international competitive bidding.

4. Consultant's Personnel

4.1 General The Services shall be carried out by the Personnel specified in Appendix C for the respective periods of time indicated therein.

4.2 Replacement of Personnel (a) In the event that any of the Personnel is found by the Client to be incompetent, guilty of misbehavior or incapable in discharging the assigned responsibilities, the Client may request the Consultant, at the expense of the Consultant, to forthwith provide a replacement with suitable qualifications and experience acceptable to the Client and the Consultant shall provide such replacement.

(b) Except as the Client may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.

(c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

4.3 Resident Project Manager When the Services are carried out in the Client's country, the Consultant shall, at all times, ensure that there is a Project Manager acceptable to the Client to supervise and coordinate the operations of the Personnel in the field and to be responsible for liaison between the Consultant and the Client.

C. 5. Obligations of the Client

5.1 Assistance Exemptions

and Unless otherwise specified in the SC, the Client shall use its best efforts to ensure that the Government shall:

- (a) Provide the Consultant, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services.
- (b) Arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Client's Country.
- (c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents.
- (d) Issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.
- (e) Exempt the Consultant and the Personnel and any Sub-Consultants employed by the Consultant for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Applicable Law.
- (f) Grant to the Consultant, any Sub-Consultants and the Personnel of either of them the privilege, pursuant to the Applicable Law, of bringing into the Client's Country reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services.
- (g) Provide to the Consultant, Sub-Consultants and Personnel any such other assistance as may be specified in the SC.

5.2 Change in the Applicable Law Related to Taxes and Duties

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, 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 Clauses GC 6.2 (a) or (b), as the case may be.

5.3 Services and Facilities and The Client shall make available free of charge to the Consultant the Services and Facilities listed under Appendix G.

5.4 Access to Land The Client warrants that the Consultant shall have, free of charge, unimpeded access to all land in the Client's Country in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or any Sub-Consultants or the Personnel of either of them.

5.5 Counterpart Personnel

- (a) The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant's advice, if specified in Appendix G.
- (b) If counterpart personnel are not provided by the Client to the Consultant as and when specified in Appendix G, the Client and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause 6.1 of the GC.
- (c) Professional and support counterpart personnel, excluding Client's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.

D.

E. 6. Payments to the Consultant

6.1 Lump-Sum Payment The total payment due to the Consultant shall not exceed the Contract Price which is an all inclusive fixed lump-sum covering all costs required to carry 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 2.6.

6.2 Contract Price (a) The price payable in foreign currency/currencies is set forth in the SC.



- 6.3 Currency Payment** of Foreign currency payments shall be made in the currency or currencies specified in the SC
- 6.4 Payment for Additional Services** For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.6, a breakdown of the lump-sum price is provided in Appendices D and E.
- 6.5 Terms Conditions Payment** and of Payments will be made to the account of the Consultant and according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultant of an advance payment security for the same amount, and shall be valid for the period stated in the SC. Such security shall be in the form set forth in Appendix H hereto, or in such other form, as the Client shall have approved in writing. Any other payment shall be made after the conditions listed in the SC for such payment have been met, and the Consultant has submitted an invoice to the Client specifying the amount due.
- 6.6 Interest on Delayed Payments** If the Client has delayed payments beyond fifteen (15) days after the due date stated in the Clause SC 6.5, interest shall be paid to the Consultant for each day of delay at the rate stated in the SC.
- 6.7 Payments Government Agencies** to If required to make any payments to any governmental agency in connection with implementation of the Services the Consultant shall make such payments only by means of check, or through official bank remittance addressed to the account of the relevant agency. Where payments to such agency account cannot be made, payments to any employee of such agency, (whether for a permanent, part-time or contractual staff), shall only be made with prior written endorsement of the ADB and the Client and only by check or through official bank remittance addressed to the relevant account of the employee. In the event that a non-cash payment cannot be effected in a timely manner, cash payment up to \$300, or such amount as may be allowed under the relevant laws applicable to the government agency or employee as the case may be, whichever is less, may be made by the Consultant to the government agency or employee against receipt of such payment, provided that such payment is reported to the ADB and the Client within 3 working days after such payment is made and a written explanation of the circumstances that necessitated such payment is submitted by the Consultant to the ADB and the Client.

7. Fairness and Good Faith

7.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

F.

8. Settlement Of Disputes

8.1 General

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

8.2 Dispute Resolution

- (a) Level One: the dispute is notified by one Party to the other according to GC Clause 1.4.1. The dispute is examined by the Authorized Representatives of the Client and the Consultant. In case the dispute is not settled within the period after its notification as specified in the SC, the Authorized Representatives shall fill in and sign the relevant section of the Dispute Notification Form attached as Appendix I, and deliver such Form to the Client's and the Consultant's officials specified in the SC, responsible for the Level Two of the settlement procedure.
- (b) Level Two: the dispute is examined by the Client's and the Consultant's officials specified in the SC. In case the dispute is not settled within the period after the delivery of the Dispute Notification Form to Level Two as specified in the SC, the Client's and the Consultant's officials responsible for Level Two shall fill in and sign the relevant section of the Dispute Notification Form, and Clause GC 8.3 shall apply.

8.3 Dispute Settlement

Any dispute or difference arising out of this Contract or in connection therewith which cannot be amicably settled according to Clause GC 8.2 shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall take place in the location specified in the SC. The resulting award shall be final and binding on the parties and shall be in lieu of any other remedy.

III. SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The words "in the Client's Country" are amended to read "in Georgia"
1.4	<p>The addresses are:</p> <p>Client: ROADS DEPARTMENT OF THE MINISTRY OF REGIONAL DEVELOPMENT AND INFRASTRUCTURE OF GEORGIA, 12 KAZBEGI AVENUE, TBILISI, GEORGIA, 0160</p> <p>Tel: (99532) 37 05 08</p> <p>E-mail: <u>INFO@GEOROAD.GE</u></p> <p>Financial manager: EURASIAN TRANSPORT CORRIDOR INVESTMENT CENTRE, 12 KAZBEGI AVENUE, TBILISI, GEORGIA, 0160</p> <p>Facsimile: (99532) 99 04 61</p> <p>E-mail: trrcoffice@trrc.ge</p> <p>Consultant: SAMBO ENGINEERING, 200-2, BANGI-DONGG, SONGPA-GU, SEOUL, KOREA</p> <p>E-mail: wanjae_lee@yahoo.com</p>
1.7	<p>The Authorized Representatives are:</p> <p>For the Client: Mr. Irakli Litanishvili, Vice -Chairman</p> <p>For the consultant: Mr. Wan-Jae Lee, Vice-President</p> <p>For the Financial Manager: Mr. George Tsagareli, Director</p>
1.8	<p>the Client shall pay on behalf of the Consultant, the Sub-Consultants and the Personnel, or shall reimburse the Consultant, the Sub-Consultants and the Personnel for) any taxes, duties, fees, levies and other impositions imposed, under the Applicable Law, on the Consultant, the Sub-Consultants and the Personnel in respect of:</p> <p>(a) any payments whatsoever made to the Consultant, Sub-Consultants and the Personnel (other than citizens or permanent residents of the Client's Country), in connection with the carrying out of the</p>

Services;

- (b) any equipment, materials and supplies brought into the Client's Country by the Consultant or Sub-Consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn there from by them;
- (c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client;
- (d) any property brought into the Client's Country by the Consultant, any Sub-Consultants or the Personnel (other than citizens or permanent residents of the Client's Country), or the eligible dependents of such Personnel for their personal use and which will subsequently be withdrawn there from by them upon their respective departure from the Client's Country, provided that:
 - (1) the Consultant, Sub-Consultants and Personnel, and their eligible dependents, shall follow the usual customs procedures of the Client's Country in importing property into the Client's Country; and



	(2) if the Consultant, Sub-Consultants or Personnel, or their eligible dependents, do not withdraw but dispose of any property in the Client's Country upon which customs duties and taxes have been exempted, the Consultant, Sub-Consultants or Personnel, as the case may be, (i) shall bear such customs duties and taxes in conformity with the regulations of the Client's Country, or (ii) shall reimburse them to the Client if they were paid by the Client at the time the property in question was brought into the Client's Country.
2.1	The effectiveness conditions are the following: Approval of the Contract by ADB, Contract signature.
2.2	The time period shall be THREE MONTHS
2.3	The date for the commencement of Services is: One week after contract signature.
2.4	The time period shall be SIX MONTHS
2.9.1 (g)	If the client, in its sole discretion and after discussions with the consultant for any justifiable reason whatsoever decides to terminate the contract.
3.4	The risks and the coverage shall be as follows: <ul style="list-style-type: none"> (a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Client's Country by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage of 50,000 USD per vehicle (b) Third Party liability insurance, with a minimum coverage of \$400,000 (FOUR HUNDRED THOUSAND UNITED STATES DOLLARS); (c) professional liability insurance, with a minimum coverage of equal to the value of the contract; (d) 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; and (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.
3.9 (e) (i)	The number of months shall be: SIX MONTHS
3.9 (e) (ii)	The ceiling on Consultant's liability shall be limited to: 500,000 USD

6.2(a)	<p>Contract amount: NET: 2,270,000 USD (TWO MILLION TWO HUNDRED SEVENTY THOUSAND UNITED STATES DOLLARS). GROSS: 2,976,222.23 USD (TWO MILLION NINE HUNDRED SEVENTY SIX THOUSAND TWO HUNDRED TWENTY TWO UNITED STATES DOLLARS).</p>
6.3	<p>The foreign currencies shall be the following: UNITED STATES DOLLARS</p>
6.5	<p>The account is: Bank Name: Shinhan Bank 11-7, Shincheon-Dong, Songpa-Gu, Seoul 138-240, Korea (SHINHAN BANK Chamsil Middle Market Banking Center) Account No. 266-82-001746 SWIFT: SHBKRRSEXXX</p>
	<p>Payments shall be made according to the following schedule: For the I section 20% of the net contract price for Inception Report 30% of the net contract price for Final Design Drawings and BOQ, BD for 1-st contract For the II section 20% of the net contract price for Inception Report 30% of the net contract price for Final drawings, BOQ and BD for second contract The financial manager shall pay on behalf of the Consultant 10 % Income Tax and 18% V.A.T. from gross contract amount. In case of changes of Income Tax by law point 5.2 of GC of contract is applicable.</p>
6.6	<p>The interest rate is: N/A</p>
8.2(a)	<p>Level One: The period for settling the dispute is Thirty Days The Client's official responsible for Level Two is: Consultant's official responsible for Level Two is: GEORGE BEGIASHVILI</p>
8.2(b)	<p>Level Two: The period for settling the dispute is Undefined</p>
8.3	<p>Parties agree to arbitration by a sole arbiter. The location is: SWITZERLAND</p>

IV. APPENDICES

Appendix A - Description of Services

FOR PREPARATION OF DETAILED DESIGN, CONSTRUCTION DRAWINGS AND BIDDING DOCUMENTS FOR THE ROAD CORRIDOR INVESTMENT PROJECT - ADJARA BYPASS

A. Background

Georgia is located south of the Caucasus mountain range, with Russia to the north, Armenia and Turkey to the south, Azerbaijan to the east, and the Black Sea to the west. It has a population of 4.5 million. Georgia, due to its geographic location, provides the shortest transit link between Central Asia and Europe. Hence, transport plays a pivotal role in supporting the national economy, and development of the transport sector is vital to increasing economy of the region through reduced transport costs and increased transit revenues.

The 81 km Poti - Batumi - Sarpi road along the western coast of the country, mostly located in the Ajara Autonomous Republic, is a key highway and international transit route in Georgia. It is connected to the major Black Sea ports of Georgia, viz. Batumi and Poti, and a number of beach resorts including Batumi and Kobuleti. Due to heavy traffic on this road there has been significant increase in traffic congestion and accidents particularly at Batumi and Kobuleti during the tourist season. The Government plans to construct two bypass roads around Batumi and Kobuleti to address these problems and with ADB assistance is carrying out a feasibility study. The study, (TA-7059-GEO), has identified a 48.4 km alignment between Choloki River north of Kobuleti to Chorokhi River south of Batumi, to bypass Kobuleti, Makhinjauri and Batumi. The Government requested ADB's help to finance the detail design and the construction of the bypass roads. The Roads Department of the Ministry of Regional Development and Infrastructure (RD) will be the executing agency.

B. Project Road Description

A full description of the alignment proposed in the Preliminary Design is set out in the attached alignment report and maps.

It is proposed to construct the road with two lanes. The design cross sections should, however, show both two and four lane design. All horizontal design parameters shall conform with a four lane road, except that on the two lane sections the road pavement crossfall shall conform to two lane road standards. The right of way of the road and land acquisition shall be sufficient for a four lane road.

The proposed road can be split into two sections:

- Section 1. The section (Batumi bypass) from Km 34 to 48.4 is in mountainous terrain. It includes 3 small (<200m) and two medium (400m and 700m) tunnel. It also includes 14 bridges including two major river and two long valley crossings, and two grade separated interchanges. Box culverts are recommended for minor road crossings.
- Section 2. The section from Km 13 to 29 is in rolling terrain with five river bridges (two major), eleven road overpasses, one 400m tunnel and one grade separated interchange.

C. Objective and Outcome

(l) Carry out a detailed design and prepare construction drawings of tunnel civil works including, but not limited to, tunnel support design, secondary lining for various selected tunnel types, design of tunnel portals including slope cut, slope protection and surface drainage, design of drainage behind the secondary lining and invert,

(m) Carry out detailed design for ventilation³ and illumination for each tunnel including fixing details and preparation of particular specification and BOQ. The selection of the ventilation system should include an automatic monitoring and management systems to ensure normal climate conditions in the tunnel. Design power-saving systems for each tunnel, considering management of the transition between the outside daylight and artificial lighting in the tunnel. Design should include independent transformers. Design and report on a suitable fire fighting system and specify suitable equipment for analyzing toxic gases, traffic lights, video system, devices for dimension control and loudspeaker communication and warning systems for tunnels over 400m.

3. Bridge Structures:

(n) Georgia has experienced seismic activities with earthquakes registering magnitudes up to 8 on the Richter scale; the design shall take this constraint into consideration with particular attention to specifications for bridges. Review all available seismic data and information relevant to the bridges and recommend seismic design acceleration based on the Georgian Seismic Standard.

(o) Examine possible bridge formats considering both structural steel and concrete and obtain the RD's statement of no objection to the recommended formats.

(p) Review the work done during preliminary design. Determine maximum river flood levels and review possible scour risk for each bridge.

(q) Prepare detailed design calculations for each bridge or other highway structure in accordance with the agreed relevant design codes and standards and prepare detail drawings suitable for construction. Prepare a Bill of Quantities for each bridge.

(r) State of the art investigation is expected for the foundations of bridges and structures to be constructed.

(s) The design of all structures shall consider site access such that costs of any improvements to existing roads and road connections from existing roads to the bridge sites are not excessive; the cost of such improvements and new construction when combined with the bridge construction costs shall be minimized.

(t) Prepare a cost estimate of each bridge and other structure including the cost of roads improvements and temporary roads.

(u) Drawings for structures will use various scales between 1:100 and 1:10 depending on the structure and requirement for readability of the drawings.

4. Testing and Survey

(v) The Consultants shall review any relevant data and undertake additional soils and materials investigations as required to analyze the material properties of base and sub base layers, and subgrade/roadbed soil. The Consultants shall investigate suitable materials for road embankment, pavement and structures and propose using the most economical solutions. The Consultants should confirm or defined the locations for borrow pits and asphalt plants installation if needed. The list of drilling, sampling and test activities to be performed during the contract at all bridge, tunnel and other sites shall be described in the technical offer of the consultant and costs should be detailed. The list may be adjusted during the project and reported upon by the Consultants.

³ Ventilation has not been specified in the preliminary design but this should be reviewed after traffic forecasts and tunnel lengths are updated.

(w) The Consultants shall incorporate any temporary works and/or diversions required during the construction period. All temporary works or diversion designed or proposed should be able to cater for the uninterrupted flow of traffic for the period concerned. The Consultants shall use agreed Georgian or international standards for traffic control at temporary road works and diversion sites. The Consultants shall ensure that adequate provisions are made for access to all adjacent properties during the construction. The Consultants shall prepare proposals for traffic management and obtain the RD's agreement to these proposals. They shall ensure that adequate provision is made in the bidding documents for contractors to be responsible for all aspects of traffic management during construction, including operations of sections of single lane working, construction and maintenance of temporary diversion roads to an acceptable standard and maintenance of any existing secondary roads utilized as diversion roads

Contracts

- (x) For a time schedule for production of contract documentation and drawings see 'F. Reports and Timing' below.
- (y) Prepare a schedule of appropriate contract packages suitable for international bidding and detailed project implementation schedules showing anticipated progress of works and expenditures for each contract package;
- (z) Produce complete detail drawings, design and construction specifications and detailed BOQ and other tender documentation suitable for procurement under ICB in accordance with ADB's Guidelines for Procurement;
- (aa) Produce a comprehensive Engineer's Estimate for the cost of works in each contract and assist Government with procurement of civil works; in particular review Tenders, Contractor's design proposals and construction supervision;
- (ab) Prepare a construction technical specification defining materials used in construction and minimum workmanship standards for all aspects of the work.

Traffic Engineering and Road Safety

- (ac) Review the preliminary design forecast for normal, generated and induced traffic flows for 20 years and amend if necessary taking into account domestic and foreign/transit trade and any new development projects which might affect traffic on the Project Road. Carry out any additional traffic survey as required.
- (ad) Carry out traffic safety studies as required and design and carry out a road safety audits of the detail design and review the road safety component for the project, including road safety awareness campaigns prepared during preliminary design and to be implemented as a separate TA project.
- (ae) Coordinate safety aspects for tunnel construction, operation and maintenance point of view; Propose long term measures to achieve tunnel safety standards

Financial

- (af) Prepare an overall project cost estimate table for the proposed investment, taking into account all relevant financial costs and benefits. Prepare a project financing plan, including proposed ADB lending, counterpart funds and other loans.
- (ag) Review possible toll levels for an Operation and Maintenance (O&M) concession for the Batumi bypass as discussed in the preliminary design and amend if necessary. Identify project revenue and cost risks and conduct relevant sensitivity analyses. If required by RD/ADB prepare a model O&M concession contract with a discussion paper for Government setting out full explanation of the concession and advice on areas of negotiation.

(The financial analysis will be guided by, and outputs prepared in accordance with, ADB's Guidelines for the Financial Governance and Management of Investment Projects, ADB's Operations Manual, ADB's Project Administration Instructions, and the ADB Loan Disbursement Handbook).

Social/Resettlement

(ah) For the detailed design phase the consultants will review the Land Acquisition and Resettlement (LAR) work carried during the preliminary design and, following the finalization of the alignment, they will carry out the following tasks:

- Review the Land Acquisition and Resettlement Plan (LARP). If some sections of the road are realigned during detailed design, resurvey those sections and update the data base on impacts and Affected Persons (APs) as needed and prepare final (LARP)..
- Carry out a final consultation with all APs.
- Jointly with the local government provide assistance to the land owners (preparation of land parcels cadastral drawings together with electronic version) during land registration process to ensure that all APs are legalized.
- Assist EA during land acquisition process to ensure that compensation is paid to the land owners and provisions of Land Acquisition and Resettlement Framework (LARF) are followed.
- Update/re-scope the LARPs already prepared including figures on expropriation.

(ai) Update the social impact assessment in the influence zone as required and assess the impact of project on poverty reduction. Assist RD to implement information campaigns and stakeholder participation

(aj) Prepare of updated (final) LARP in Georgian language for RD and government, also for the disclosure to APs based on ADB's requirements;

(ak) Prepare training modules and dissemination materials and conduct workshops with RD and Regional officials and NGOs on the issues concerning principles and procedures of land acquisition, entitlement and compensation disbursements, grievance readdressing and monitoring of resettlement operations;

(al) Assist RD and liaise with ADB during LARP implementation.

Environment

(am) Conduct further detailed field and desk studies that will lead to the submission of all necessary statutory and other required documents to achieve environmental clearance for the Project. Ensure that all potential contractors are made aware of requirements for all environmental mitigation measures including EIA and EMP through the tender documentation.

(an) Review and verify the assumptions, assessments and recommendations made in the EIA made under TA 7059 –GEO and design and supervise surveys and updating of all necessary documentation based on the final detailed designs. Environmental Management Plans will be prepared for all roads sections to guide the management of environmental impacts during construction.

Project Framework and Monitoring of Impacts

(ao) review and/or edit the draft project framework in the preliminary design report following ADB's Project Performance Management System (PPMS). Collect/develop additional baseline indicators for monitoring the impact of the project as required.

F. Reports and Timing

The detail design and all associated work should be completed within six (6) months of the commencement of consulting services (CC). Full documentation for 1-st construction contract will be completed within three

(3) months of the CC. A second contract will be completed within six (6) months of the CC. The detail time schedule will be:

Time from CC	Item	Payment
	I section	
1 month	Inception Report	20%
2 months	Updated LARP and EMP for 1-st contract.	N/A
2.5 months	Draft Design Drawings, BOQ and BD for 1-st contract.	N/A
3 months	Final Design Drawings and BOQ, BD for 1-st contract.	30%
	II section	
4 months	Inception Report	20%
5 months	Updated LARP and EMP for second contract.	N/A
5.5 months	Draft Design Drawings, BOQ and BD for second contract	N/A
6 months	Final drawings, BOQ and BD for second contract.	30%

Unless otherwise specified below the consultants will submit 2 copies of all reports, technical working papers, and progress reports to ADB in English, except for the technical drawings, of which only one copy should be submitted to ADB; and 5 copies of each to the Government in English and Georgian. The timetable for submitting the reports will be:

- An inception report setting out the initial findings, review of preliminary design and alignment alternative, and detailed work schedule and plan, within 4 weeks of the commencement of consulting services;
- Monthly progress reports at the end of each month, outlining the progress of work during the previous month, the work program for the subsequent month, and major issues to be addressed.

Resettlement Action Plans

The Consultant shall submit one set of Resettlement Action Plans suitable for land acquisition on reproducible stable medium and 6 copies thereof to the Government, whenever any change in horizontal alignment is involved. The plans shall be made available to the Government as the work progresses to facilitate timely action for acquisition of the necessary right-of-way.

Draft Engineering Drawing and Tender Documents

One month in advance of the date on which final engineering designs and tender documents are due, the consultants shall submit draft final design and bid documents (4 copies of the complete set). The Government will review these designs and documents and furnish their comments to the consultants if any within 10 days

after receipt. The consultants will also submit in English and Georgian (2 copies to the Government and to ADB) the following documents suitably bound:

- detailed cost estimates for each contract with work item rate analysis.
- complete design calculations for road works, structures and tunnel presented in a form which enables calculations to be checked independently; and;
- Geo-technical and materials report.

Final Engineering Drawings and other Documents

The consultant shall furnish 25 copies of all engineering drawings (A3 size with A1 size soft copy), specifications, pre-qualification documents and bid documents including geo-technical and material reports to the Government in English, and 10 copies in Georgian and one copy (A3 size drawings) to ADB. In addition, the consultants will submit all original engineering drawings together with 5 sets of contract prints, detailed cost estimates and design calculation to the Government and two sets of detailed cost estimates of design calculations to ADB. In addition, the consultant will also submit all engineering design drawings, estimates, design calculations and reports to the Government in two sets in a digital format (CD ROM).

Penalties.

The client reserves the right to apply actions stipulated in GCC 2.8 and GCC 2.9 in case of non-performance of the consultant or failure to remedy defects.

G. The Consultants

The Consultants are expected to have extensive experience in high standard road design to international standards, including tunnels and major bridges, and relevant previous experiences in highway detailed design in the region. The consultant shall demonstrate capability in designing to major international design codes (British, American, etc. as appropriate).

The Consultant will work closely with the staff of Road Department, local officials, and other related ministries/agencies, as well as Asian Development Bank (ADB)'s Georgia Resident Mission. The consulting firm will be responsible for all aspects of the project.

The Required Expertise

The team proposed by the consultant shall be composed of skilled and experienced specialists, who will carry out necessary engineering works that may be required to perform the services. The team should be, at a minimum, composed of the following:

Required Expertise
<i>a. International Experts</i>
1. Team Leader/Senior Highway Engineer
2. Highway Engineer
3. Bridge / Structural Engineer
4. Tunnel Engineer
5. Geotechnical / Pavement Engineer
6. Tunnel Ventilation & Lighting Specialist
7. Contracts and Procurement Specialist
8. Financial Specialist
9. Environmental Specialist



- 10. Social Development/ Resettlement Specialist
- 11. Geologist¹
- 12. Hydrologist / Drainage Engineer¹
- 13. Traffic/Road Safety Engineer¹

b. Domestic Specialists

- 1. Highway Engineer
- 2. Bridge / Structural Engineer
- 3. Tunnel Engineer
- 4. Survey Engineer
- 5. Contract & Procurement Engineer
- 6. Hydrologist / Drainage Engineer
- 7. Geologist / Geotechnical Engineer
- 8. Traffic Engineer
- 9. Environmental Specialist
- 10. Resettlement / Social Specialist

¹. May be replaced by domestic specialists if suitably qualified and experienced

The team should also include cost estimator, CAD draftsmen, translators (with knowledge of technical terminology), and other counterpart staff.

It is anticipated that up to 70 person months of professional international and 120 person months of professional domestic staff may be required, not including technical and administrative support staff, however, the consultants should note that the required expertise and total person months are indicative and the consultant is responsible in ensuring that the staff nominated are sufficient to complete the works successfully.

Requirements for key staff.

Team Leader/ Senior Highway Engineer

The team leader must have expertise in all aspects of high speed road design with experience in leading a team of multi-discipline experts. The team leader will have overall responsibility for implementing the project and managing the international and domestic team of consultants with expertise in tunnel, bridge and road engineering, cost estimation and contract documentation, BOT concessionary contracts, geology, traffic engineering, road safety, social development, and environment.

He/she should be a senior engineer with a minimum of 15 years of relevant experience covering road design and construction projects in various countries and preferably having experience in region. He should have good communication and reporting skills.

Highway Engineer

Should be familiar with the design of urban and rural highways or other major road schemes incorporating major bridges, tunnels and major grade separated interchanges, should have a minimum of 12 years experience and preferable having experience in the region. He/she should be familiar with highway design software as well as detailed electronic designs for contract drawings.

Bridge/Structural Engineer

The Bridge/Structural Engineer should be a qualified structural engineer with at least 15 years experience in bridge and structure engineering. The candidate should have a thorough understanding and experience with international standards and "best practices", and of modern bridge construction.

Tunnel Engineer

Should have a minimum of 15 years experience in the design of road and other tunnels in mountainous areas including preparation of specifications and evaluation of construction methods.

Geotechnical / Pavement Engineer

The Geotechnical/Pavement Engineer should be a senior engineer with university degree in his/her field, or higher with a minimum of 15 years of relevant experiences in pavement design of road projects with extensive knowledge in materials of roads and pavement and materials investigations. He/she should be familiar with international pavement design guidelines and state-of-the art pavement construction technologies. He/she should be familiar with the preparation of Contract Specifications for materials and testing.

Tunnel Lighting and Ventilation Specialist

Should have a minimum of 10 years experience in detail design of tunnel lighting and other mechanical and electrical details, including ventilation systems, and fixing details.

Contracts and Procurement Specialist

Should have a minimum of 10 years experience in the preparation of Contract Documents and Specifications for major road or infrastructure projects using FIDIC and evaluation of PQ and bid proposals. He/she should be familiar with ADB standard bidding documents and procurement guidelines.

Financial Specialist

Should have a minimum of 15 years experience. Should have proven experience in financial analysis of major road or infrastructure projects using loan financing and experience in drafting infrastructure concession contracts.

The Environmental Specialist (ES) shall have at least 15 years experience and familiarity with all aspects of environmental management and with significant experience in environmental management and monitoring of projects, environmental assessment and / or implementation of environmental mitigation measures on construction projects. The ES shall also have experience working in teams of multi-discipline experts and leading a national team of consultants. Candidates with higher degrees in environmental engineering or environmental science or environment management are preferred.

Social Development/ Resettlement Specialist

The specialist should have a master's degree in social science with a minimum 10 years of work experiences. Up- to- date knowledge of ADB's safeguards policies and procedures, particularly on social impact assessment, poverty assessment, land acquisition, and resettlement, and its implementation are desirable. Experiences in ADB funded projects or projects funded by multilateral agencies in the transport sector will be preferable. The specialist shall also have experience in working in multidisciplinary teams with good communication skill.

Geologist

Should have a minimum of 10 years experience in geological investigation for roads, bridges and tunnels.

Hydrologist/Drainage Engineer

The Hydrologist/Drainage Engineer should have a minimum of 15 years relevant major highway and bridge experience designing drainage systems using international codes and methods. He/she should be familiar with local condition, calculation and design methods.

Traffic/Road Safety Engineer

Should have 15 years experience in traffic analysis and forecasting and road safety analysis and design of road safety programs.

The National social development and resettlement specialist should be a graduate in social science and should have 5 years of working experience. The specialist should be familiar with the Georgian laws/legislations/regulations and procedures related to land acquisition and resettlement in Georgia. Experience in similar projects will be preferable.

National Specialists.

Unless otherwise specified national specialists shall have a graduate degree in their areas of specialization with at least 10 years experience in the design of highway projects. Engineering specialists shall be familiar with Georgian and European design standards and appropriate design software.

