



TA2014098 AM NIF

TA2015011 AM NIF

EUROPEAN INVESTMENT BANK

TECHNICAL ASSISTANCE COOPERATION AGREEMENT

for

TECHNICAL ASSISTANCE OPERATION no. TA2014098 AM NIF, ENTITLED "TECHNICAL ASSISTANCE FOR THE CONSTRUCTION SUPERVISION OF TRANCHE 3 LANJIK-GYUMRI ROAD SECTION IN ARMENIA"

AND

TECHNICAL ASSISTANCE OPERATION no. TA2015011 AM NIF, ENTITLED "TECHNICAL ASSISTANCE FOR THE FEASIBILITY STUDY, ENVIRONMENT/SOCIAL IMPACT ASSESSMENT & DETAILED DESIGN OF THE GYUMRI BYPASS AND GYUMRI-BAVRA ROAD SECTION"

between

THE EUROPEAN INVESTMENT BANK

and

THE REPUBLIC OF ARMENIA

Yerevan, *01/10/*..... 2015

Luxembourg, *09/10/*..... 2015



THIS COOPERATION AGREEMENT (THE “**AGREEMENT**”) IS MADE BETWEEN:

The European Investment Bank, having its seat at 100, boulevard Konrad Adenauer, Luxembourg, Grand Duchy of Luxembourg, represented by Mr Stefan Kerpen, Head of Unit and Mr Martin Vatter, Managerial Adviser,

hereinafter called: “**the Bank**”

of the first part, and

The Republic of Armenia, acting through the Ministry of Transport and Communication, whose present address is 28 Nalbandyan Str. Yerevan 0010 Armenia, represented by Mr Gagik Beglaryan, Minister,

hereinafter called: “**the Promoter**”

of the second part,

each individually a “**Party**” and together “**the Parties**”,





WHEREAS:

- A. The European Union has established the Neighbourhood Investment Facility (the “**NIF**”), aimed at supporting the partner countries in their efforts towards better governance and economic and social development, through the provision of non-reimbursable financing from the general budget of the European Union (the “**EU**”), to accompany reimbursable financing from European public finance institutions, including the Bank, in order to generate a substantial leverage effect.
- B. On 29 February 2008, the Republic of Armenia and the Bank entered into a Framework Agreement governing the Bank’s activities in the Republic of Armenia, which continues to be in full force and effect.
- C. On 18 November 2013, the Republic of Armenia and the Bank entered into a finance contract (the “**Finance Contract**”), whereby the Bank established a credit line in favour of the Republic of Armenia, in an amount of up to EUR 60 million, to be used for the financing of a project aimed at rehabilitating and upgrading the Lanjik – Gyumri section of the North-South road corridor in Armenia (the “**Project**”).
- D. In relation to the Project and the Finance Contract, the Promoter requested the Bank and the Bank agreed to support the Promoter to obtain non-reimbursable financing under the NIF, to cover (i) part of the costs of works and supplies necessary for the implementation of the Project (the “**Investment Component**”) and (ii) the costs of the professional services required for supervising the Project road rehabilitation works and for preparing the feasibility study, environmental impact assessment, detailed design and tender documentation for the next phase of the development and upgrade of the North-South road corridor (the “**Technical Assistance**”).
- E. On 17 July 2013, the governing bodies of the NIF authorized, at the proposal of the Bank, the use of NIF resources for the financing of the Investment Component and of the Technical Assistance. The Bank subsequently entered into a contribution agreement with the EU, setting out the terms and conditions for the said NIF financial contribution (the “**EU Contribution Agreement**”).
- F. In connection with the Project, the Technical Assistance and the EU Contribution Agreement, the Parties agree to enter into this Agreement, on the terms and conditions set out below.

NOW THEREFORE it is hereby agreed as follows:

ARTICLE 1 - Subject

- 1.1. The subject of this Agreement is to set forth the rights and obligations of the Parties in relation to the design, procurement, management and monitoring of the performance of the professional services which form the object of the Technical Assistance (the “**Services**”).
- 1.2. The objectives and scope of the Services required for supervising the Project road rehabilitation works are set out in the document attached as Annex II.A to this Agreement (the “**Terms of Reference for Works Supervision Services**”). The objectives and scope of the Services required for preparing the feasibility study, environmental impact assessment, detailed design and tender documentation for the next phase of the development and upgrade of the North-South road corridor are set out in the document attached as Annex II.B to this Agreement (the “**Terms of Reference for Preparatory Studies**”).
- 1.3. The Bank and the Promoter cooperated in the design of the Services. The Promoter acknowledges and agrees that the description of the Services set out in the Terms of Reference for the Works Supervision Services and for the Preparatory Studies, respectively, fully reflect and respond to the needs identified, and the Promoter accepts them without reservation.



- 1.4. The Promoter has the right to be consulted on and agree to any amendments envisaged, during the execution of the relevant Service Contract (as defined below), to the Terms of Reference referred to in this Article 1.
- 1.5. On the basis of the Terms of Reference referred to in this Article 1 and in accordance with the provisions of Article 4, the Bank will enter into separate service contracts (each, a “**Service Contract**”), substantially in the form attached as Annex I to this Agreement, with external service providers (each, a “**Consultant**”), for the provision of the Works Supervision Services and of the Preparatory Studies, respectively.

ARTICLE 2 - Entry into force and duration

This Agreement shall enter into force on the day the last Party signs and shall remain valid for as long as any rights, obligations or liabilities arising out of its provisions remain outstanding, unless it is otherwise terminated in accordance with the provisions of Article 13.

ARTICLE 3 - Financing of the Services

The total cost of the Services is estimated to be up to EUR 6,000,000¹, net of any taxes, including VAT, and shall be fully financed from the NIF.

ARTICLE 4 - Selection of the Consultants

- 4.1. The Consultants shall be selected by the Bank in accordance with the standard procedures and documents defined and published by the European Commission for the implementation of external actions, as used by the Bank at the time the relevant tender procedure is launched.
- 4.2. The Promoter has the right to designate a representative as observer or voting member in any and all of the evaluation committees established by the Bank for the selection of the Consultants. The role of the representatives of the Promoter in such evaluation committees shall be agreed in advance by the Parties within the framework of the internal rules and procedures of the Bank.
- 4.3. Notwithstanding its representation in evaluation committees, the Promoter acknowledges and agrees that the decision on the award of the Service Contracts rests entirely with the Bank.

ARTICLE 5 - Co-operation and Information Obligations

- 5.1. The Promoter undertakes to ensure that its employees co-operate at all times with the Bank and the Consultants in relation to the provision of the Services.
- 5.2. The Promoter shall promptly provide the Consultants with such information and documents at its disposal which may be relevant and necessary to the provision of the Services under the relevant Service Contract. Such documents shall be returned by the Consultants to the Promoter on completion of their respective Service Contract.
- 5.3. The Promoter shall allow persons designated by the Bank, as well as persons designated by other institutions or bodies of the European Union, when so required by the relevant mandatory provisions of EU law, to verify, by examining the documents, and to make copies thereof, or by means of on-the-spot checks of original documents, the implementation of this Agreement, and

¹ The exact amount will be determined upon termination of the relevant tender procedures.





shall provide such persons, or ensure that they are provided, with all necessary access and assistance for this purpose.

- 5.4. The Promoter acknowledges that the Bank may be obliged to divulge such information relating to the Promoter and the Technical Assistance, including the Service Contracts, to any competent EU institution or body in accordance with the relevant mandatory provisions of EU law.

ARTICLE 6 - Assistance with Local Regulations

- 6.1. The Consultants may request the assistance of the Promoter in obtaining copies of local laws, regulations and information which may affect the Consultants in the performance of their obligations under the relevant Service Contract in the Republic of Armenia.
- 6.2. Subject to the laws and regulations on foreign labour in the Republic of Armenia, the Promoter shall use its best endeavours to ensure that the Consultants' employees and their dependents obtain the required visas and permits, including work and residence permits.

ARTICLE 7 - Monitoring of the Services, Approval of Reports and Deliverables

- 7.1. The Promoter shall monitor the delivery of the Services and shall provide its acceptance of the progress reports and deliverables submitted by the Consultants, as these are listed in the relevant Terms of Reference, as well as of any other material report, as required by the Bank.

For the avoidance of doubt, the Parties acknowledge that the Promoter has the right to refuse the acceptance of any progress report, output or deliverable, to the extent that it deems such progress report, output or deliverable not compliant with the relevant requirements of the Service Contracts, in particular of the Terms of Reference. The Promoter shall communicate its decision on the acceptance of any progress report, output or deliverable, including when necessary its reasons for refusing such acceptance, within fifteen (15) calendar days from receiving a request in this regard from the Bank.

The Promoter's acceptance of the relevant progress report, output or deliverable will be deemed to be given if not expressly refused within the time frame specified in the preceding paragraph.

- 7.2. The Bank shall take due account of the Promoter's decision when it makes its own decision on the approval of the progress reports, outputs and deliverables produced by the Consultants. The Promoter acknowledges that the final decision on the approval of the reports and deliverables produced by the Consultants rests with the Bank, in accordance with the procedures and deadlines foreseen in the relevant Service Contract.
- 7.3. Subject to any pre-existing Intellectual Property Rights of any natural or legal entity, including any of the Parties, the Intellectual Property Rights in new materials compiled or prepared by the Consultants in the performance of the Service Contracts, including all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material, will vest in the Bank.
- 7.4. The Bank grants to the European Commission, in consideration of the funding provided for the Services, as well as to the Promoter, an irrevocable, non-exclusive, royalty-free, perpetual license in any new Intellectual Property Rights.
- 7.5. For the purposes of this Agreement, Intellectual Property Rights will be understood to mean any copyright and related rights, rights in designs, database rights, rights in computer software, domain names, trademarks, service marks, patents, trade names or any applications for any of the foregoing, rights in confidential information (including know-how and trade secrets) or similar rights or obligations, moral rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.



ARTICLE 8 - Payment of the Consultants

- 8.1. The Bank, with the agreement of the Promoter, as evidenced through the approval of the relevant progress reports, outputs and deliverables and, whenever foreseen by the relevant Service Contract, the acceptance of the timesheets recording the days or hours worked by the Consultant's experts, shall pay the Consultants as agreed in the relevant Service Contract, on the terms therein agreed.
- 8.2. Provided that the Consultants have carried out the tasks foreseen in their respective Service Contracts in a manner satisfactory to the Bank and after consulting with the Promoter, the Promoter may not withhold consent to payment of the Consultants.
- 8.3. The Parties acknowledge that the Promoter has the right to refuse the acceptance of the timesheets submitted by one or more of the experts employed by a Consultant for the delivery of the Services, should the quality of the services provided by these experts not conform to the standards specified in the relevant Service Contract.
- 8.4. The Promoter acknowledges that the final decision on the approval of the timesheets submitted by a Consultant rests with the Bank, in accordance with the procedures and deadlines foreseen in the relevant Service Contract.

ARTICLE 9 - Charges and expenses

- 9.1. The Promoter shall pay all taxes, duties, fees and other impositions of whatsoever nature, including stamp duty and registration fees, if any, arising out of the execution or implementation of this Agreement in accordance with the laws of the Republic of Armenia.
- 9.2. The Promoter shall bear all charges and expenses, including professional, banking or exchange charges, if any, incurred by it in connection with the preparation, execution, implementation and termination of this Agreement or any related document, including any amendment thereto.

ARTICLE 10 - Liability

- 10.1. Without prejudice to any other rights of the Bank under this Agreement, or under any applicable law, the Promoter shall indemnify and hold the Bank harmless from and against all damages, losses, costs and expenses suffered or incurred by the Bank as a result of any act or omission committed by it or from its failure to comply with any of its obligations set out in this Agreement.
- 10.2. The Bank shall not be liable towards the Promoter for any act or omission of any of the Consultants or for the failure of any of the Consultants to provide the Services in accordance with the relevant Service Contract.

ARTICLE 11 - Integrity Commitment

- 11.1. The Promoter warrants and undertakes that it has not committed, and no person to its present knowledge has committed, any of the following acts and that it will not commit, and no person, with its consent or prior knowledge, will commit any such act, as hereby specified:
 - (a) the offering, giving, receiving or soliciting of any improper advantage to influence the action of a person holding a public office or function or a director or employee of a public authority or public enterprise or a director or official of a public international organisation in connection with the tendering and/or execution of any of the Service Contracts; or
 - (b) any act which improperly influences or aims improperly to influence the procurement process or the implementation of the Technical Assistance to the detriment of the Bank or the Promoter, including collusion between tenderers.



11.2. The Promoter undertakes to inform the Bank and investigate if it should become aware of any fact or information suggestive of the commission of any such act and to adopt the necessary redress measures, and shall facilitate any investigation that the Bank may make concerning such act or behaviour.

ARTICLE 12 - Notices

12.1. Any notice or other communication to be served under this Agreement must be in writing and shall state the number and the title of the relevant Service Contract.

12.2. Except for those notices to the Promoter relating to litigation whether pending or threatened, which shall be sent to the address specified at Article 14 below, all notices and correspondence in relation to this Agreement and the Technical Assistance shall be sent by post, facsimile or, to the extent agreed by the Parties in writing, by e-mail or other means of electronic communication, to the following addresses:

For the Bank	European Investment Bank 100 boulevard Konrad Adenauer L-2950 Luxembourg Fax: +352 4379 62650 e-mail: tau@eib.org Attention: Mr. S. Kerpen
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For the Promoter	“North-South Road Corridor Investment Program” State Non-Commercial Organisation 38 Tumanyan str., 0002 Yerevan e-mail: sargsyana@northsouth.am Attention : Mr A. Sargsyan
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ARTICLE 13 - Amendments, Assignments and Termination

13.1. This Agreement may be amended by written agreement between the Parties. Such amendments shall become effective on the terms set out in the relevant amendment agreement.

13.2. A Party may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the other Party.

13.3. If, for any reason whatsoever, the Service Contracts referred to in Article 1.5 are terminated before their scheduled expiry date, or otherwise cease to be valid and in full force and effect and no new service contract is awarded for the Services following such early termination of the initial Service Contract, this Agreement shall be automatically terminated, without further notice from either Party, and without any liability for the Bank.

13.4. If the Finance Contract is terminated before its scheduled expiry date or otherwise ceases to be valid and in full force and effect, the Bank shall have the right to terminate this Agreement unilaterally and without any liability, after giving seven (7) days' notice to the Promoter.

ARTICLE 14 - Jurisdiction and Governing Law

14.1. This Agreement is governed by the laws of England and Wales.

14.2. All disputes concerning this Agreement shall be submitted to the jurisdiction of the Court of Justice of the European Union (the “Court”) and the parties hereby submit to the jurisdiction of



the Court. The parties to this Contract hereby waive any immunity from or right to object to the jurisdiction of the Court. A decision of the Court given pursuant to this Article shall be conclusive and binding on each party without restriction or reservation.

ARTICLE 15 - Recitals and Annexes

The Recitals and Annexes form part of this Agreement. The following Annexes are attached hereto:

- Annex I: Standard Form of Service Contract
- Annex II.A: Terms of Reference for Works Supervision Services
- Annex II.B: Terms of Reference for Preparatory Studies

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed on their behalf in three (3) originals in the English language (each page of which has been initialled on behalf of the Bank and of the Promoter), of which two (2) for the Bank and one (1) for the Promoter.

Signed for and on behalf of
EUROPEAN INVESTMENT BANK

Signed for and on behalf of
the MINISTRY OF TRANSPORT AND
COMMUNICATION, representing
THE REPUBLIC OF ARMENIA

Stefan Kerpen
Head of Unit

Date: 09/10/2015

Martin Vatter
Managerial Adviser

Date: 08/10/2015

Gagik Beglaryan
Minister

Date:



2015