

**TERMS OF REFERENCE (TOR) FOR STRATEGIC ENVIRONMENTAL & SOCIAL
ASSESSMENT (SESA) FOR THE DEVELOPMENT OF COMMUTER MASTER PLANS AND
INVESTMENT PLANS FOR SUSTAINABLE COMMUTER RAIL SYSTEM FOR NAIROBI
AND MOMBASA**

BY

KENYA RAILWAYS CORPORATION (KRC)

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1. INTRODUCTION AND BACKGROUND

Urbanization in Kenya has been happening rapidly since independence. The population growth in urban centers has been estimated to have increased from 8 % in 1980s to over 34 % in 2003 and is projected to reach over 50% by 2020. This development has not been met with commensurate growth in urban transport infrastructure and services. In major cities and urban centers in Kenya and especially Nairobi urban transport is still characterized by inadequate supply of public transport (mostly comprising of buses and *matatus*), a large number of cars and Heavy Goods Vehicles (HGVs), heavy traffic congestion during peak hours and stiff competition for limited road space among motorists, pedestrians and cyclists. Because of the inefficiency of urban transport due to poor infrastructure, transport costs are high for both passengers and goods. The majority of low-income urban workers have currently found public transport costly or inaccessible and hence meet most of their transport needs through walking. Some of them, however, risk their lives by utilizing non-motorized and intermediate means of transport (NMIMTs) (especially bicycles, motorcycles and *mikokoteni* for which there is no appropriate infrastructure. Given that about 50 per cent of the country's total GDP is generated in the urban areas, the adverse consequences of the above scenario on workers' efficiency and productivity, fuel consumption, education, health and the environment cannot be overemphasized.

The Kenya Vision 2030 gives the perspective for development of efficient mobility of people in main cities within Kenya including Nairobi and Mombasa as well as other important urban areas and their environs in Kenya. Moreover, under the new constitution, counties are going to play a key role in development and therefore more and more people will want increased mobility within the county and across counties for trade and access social amenities. Thus, Kenya Railways Corporation (KRC) which organization is charged with rail development as a Government Agent in the Vision 2030, has embarked on a process to develop commuter rail infrastructure that will meet the projected transport demand and is in consonance with vision 2030 objectives in the city of Nairobi and Mombasa.

A) Nairobi Commuter Rail Master Plan Study

Nairobi Commuter Rail (NCR) Services were introduced in 1992 as an added service to the long-distance passenger services and were first run by Kenya Railways before the organization conceded assets to a private company, the Rift Valley Railways, only later (year 2017) to retake the assets and operations due to breach of contract by concessionaire. The operations began simply by having freight and passenger locomotives bundled together with modified sleeper coaches to compose the commuter trains that were introduced into four routes, from Nairobi to Embakasi Village (12.6km), Kikuyu (31km), Kahawa (24km), Ruiru (32km) and Syokimau, offering a very limited morning and evening services.

Already, a consultant has been procured and works are ongoing to develop the Nairobi commuter master plan as well as an investment plan containing prioritization of the development of the commuter railway lines within the Nairobi Metropolitan Region. The study comprises of two components, A and B. Component A covers the main objectives of the study including a traffic demand analysis and a commuter rail master plan which includes an investment plan. Component B covers the measures necessary to support the development of the commuter rail master plan such as regulatory, institutional, transport policy and legal requirements and capacity building through the provision of a training program.

So far, the demand analysis for commuter services have been determined and the network layout proposed. The investment plan is yet to be developed and this will be done in the next few months. Technical studies involving traffic studies, projected rail demand and routes evaluation carried out so far have determined that with some minimal investments to existing network involving enhanced service levels and additional stations over some sections, the rail will carry approximately 1.4million passengers per day which will rise to about 1.6million passenger per daywith some additional new line options. The proposed expanded network is an illustrated in Figure 1 below.



Figure 1: Proposed Nairobi Commuter Rail Network

B) Feasibility Studies for Mombasa Commuter Rail

As at the moment, the city of Mombasa has no commuter rail services. However, in 2014, Kenya Railways completed a feasibility study for Commuter Rail services for Mombasa City and the larger surrounding environs which proposed corridors connecting the most important settlement areas of Mombasa with the regional metropolis. Further consultations between Kenya Railways and the Mombasa County determined that the proposed network was too large to be implemented readily and that there was need to select a few priority lines based on passenger numbers and need to integrate with the recent Standard Gauge activities.

The study prioritized sections of corridors and proposed a commuter service lines to be subjected to detailed studies. A consultant is now being procured to update the feasibility studies and undertake a detailed design for some of the proposed commuter rail routes in Mombasa.

For both Nairobi and Mombasa Commuter rail networks, the proposed infrastructure planning, design and development is geared to providing integrated transport networks that have intermodal and interchange facilities at major transport nodal points. New routes traversing high population density area, major tourist destinations, and all areas with a high potential for the generation passenger traffic are proposed for development within the year 2030 horizon. With these developments, there are socio-economic opportunities and challenges for the country at large, as well as various challenges for environment protection in areas of high ecological and biodiversity significance. These developments are likely to come with large Infrastructural developments in Nairobi and Mombasa, and are likely to affect human settlements and the natural environment. This, SESApresents an opportunity to assess and analyze these challenges as well as the environment and social risks and impacts of various investments identified in the investment plan as basis, among others, in prioritization and selection of the investments.

KRC is among the Kenyan government key institutions that will benefit from the NUTRIP, to be financed by a credit from the World Bank. Part of the credit is intended to support KRC to undertake a Strategic Environmental and Social Assessment (SESA) for the analysis of E & S implications of the Master Plans and for the E & S assessment of various investments in Investment Plans as basis for their prioritization and selection and further guidance on their preparation and implementation.

The SESA will be conducted to present strategic recommendations for policies, plans, and programs that will guide environmental and socio-economic planning and decision making in the country. The SESA presents a unique opportunity for the country to systematically assess and address environmental and socio-economic management issues pertaining to the development of the master plans and the operationalization of the investment plans for sustainable development. It will analyze Social and Environment risks posed by the proposed network, levels of services/operations, analyze alternative routes and other options and propose some mitigations against the various proposed. It is expected that some adjustments to the network proposals will be made to align with the SESA recommendations. SESA will also assess the output of investments plans and determine risks and impacts of such and consequently develop relevant mitigations. The SESA will also assess the E & S regulatory frameworks in the sector and analyze the capacity of key institutions involved in implementing the master plans and the investments plans.

1.1. Nairobi Commuter Rail Strategic Plan and SESA

As the SESA is to support the development of the Master Plans and Investment Plans for Sustainable Commuter Rail System for Nairobi and Mombasa, it has to be well incorporated into the planning process. An integrated approach is needed, meaning that frequent communication will be required between the plan developers and the team that works on the SESA. The integration of the following planning procedures is generally considered as good practice SESA for the development of the master plans and investment plans.

Strategic Plan	SESA Process
Scoping (SESA Consultant, KRC, NEMA as lead agency, the World Bank, MoTIHUD, City	<ul style="list-style-type: none"> • Identify the stakeholders in the planning process and announce the start of the SESA process
	<ul style="list-style-type: none"> • Develop with all stakeholders a common vision on environmental, social, occupational

Government of Nairobi, City Government of Mombasa)	safety and health risks, impacts, objectives, and alternatives
	<ul style="list-style-type: none"> • Check consistency of the new objectives with those in existing policies through inter-agency cooperation
	<ul style="list-style-type: none"> • Use the results of the above steps to define the scope of the SESA
Assessment (SESA Consultant, KRC, NEMA as lead agency, the World Bank)	<ul style="list-style-type: none"> • Carry out the assessment, document its results and make these available
	<ul style="list-style-type: none"> • Ensure quality assurance of both SESA information and process
Decision-making (KRC, NEMA, Ministry of Transport, Infrastructure, Housing and Urban Development (MoTIHUD), and other GoK Institutions)	<ul style="list-style-type: none"> • Discuss with stakeholders what the results of the SESA mean for decision making
	<ul style="list-style-type: none"> • Justify in writing the choices that have been made in the finally adopted policy or plan(s)
Follow-up/monitoring (KRC, NEMA, MoTIHUD, other GoK Institutions, the World Bank)	<ul style="list-style-type: none"> • Monitor the implementation of the adopted policies/plans and discuss outcomes with stakeholders and define actions to deal with unforeseen effects.

2. TERMS OF REFERENCE (TOR)

KRC has prepared the following Terms of Reference (TOR) for SESA that have been agreed by both KRC and the World Bank. In order to further carry on the SESA process, KRC intends to conduct public stakeholder meetings to discuss the TORs with the main objective of getting more views and comments on the TORs for the SESA which is a very important working tool in the proposed development of masterplans and investment plans for sustainable commuter railway systems for Nairobi and Mombasa.

A consulting team (SESA consultant) will be hired based on procurement legislation to prepare the SESA. As part of the assignment, public stakeholder meetings are to take part throughout the SESA and will involve the local communities, civil society, national and county government agencies, major players in transport sector (private and public), academic institutions, development partners, and non-governmental organizations.

The consultant will conduct the SESA in general accordance with the latest edition of the National Guidelines for Strategic Environmental Assessment in Kenya, National Environment Management Authority (NEMA), and the World Bank Safeguards Policies, OP/BP 4.01 (Environment Assessment), OP/BP 4.11 (Physical Cultural Resources) and OP/BP 4.12 (Involuntary Resettlement). Further, the public consultation process will meet the requirement of the World Bank Safeguards Policies, for OP/BP 4.01 (Environment Assessment) for Category A projects i.e. for Category A projects, the borrower consults the stakeholders at least twice: (a) shortly after environmental screening and before the terms of reference for the EA are finalized; and (b) once a draft EA report is prepared. In addition, the borrower consults with

such groups throughout project implementation as necessary to address EA-related issues that affect them.

In addition, to the above Kenyan SESA guidelines, the consultant will conduct the preparation of the SESA in five phases: scoping; identification of impacts and issues; description of the regulatory and institutional framework and assessment of capacity; formulation of recommendations; and final consultations, review and approval.

The consultant will prepare interim outputs at the end of each phase, to be compiled into a draft report for final consultations, a final draft for review, and a final report. In addition, the consultant will be available on request to advise on the environmental, social, health and safety implications of policy and regulatory options that will be developed. KRC will supervise the consultant's work, in collaboration with other lead agencies and the World Bank.

2.1. Objective

The objective of this SESA in the context of the preparation of the masterplans and investment plans include : (i) identify the positive and negative social and environmental impacts and the risks associated with the various investments in the investment plans, (ii) assess the policy, legal and institutional framework and capacity to manage these issues, (iii) to propose a set of actionable recommendations by which these issues, regulatory and institutional gaps can be addressed.

The SESA phases and their component tasks are described below.

2.2. Scoping

The objective of Scoping is to frame the focus, scope, content and methodology of the SESA, with substantial stakeholder inputs, based on the consultant's preliminary reviews of:

- Environmental and social impact management experience in the sector;
- Trends, the master plans and investment plans for commuter rail development;
- The legal (national and county legislation), regulatory and institutional framework with which the sector operates;
- An overview of the environmental and social characteristics of the areas most likely to be affected by sector activities

The individual tasks are described below.

- 2.2.1. Review the most relevant ESIA's, Environmental Management Plans (EMPs), and Environmental Statements of different commuter rail projects and related large road infrastructure projects in urban and peri-urban environments, during the last 15 years. KRC in collaboration with NEMA will provide the reports and statements to the consultant.
- 2.2.2. Assemble preliminary information relevant to the scope of the SESA, including but not limited to: plans and trends in development of masterplans and investment plans for rail development that are likely to have environmental or social impacts (information to be provided by the MoTIHUD); and

- the policy, legal, regulatory and institutional framework for the sector
- 2.2.3. The Consultant will identify and map the key stakeholders in the public transport sector that should be consulted, and analyze their interests, concerns and incentives. The intent of the stakeholder analysis is to identify the main interest groups in the sector, including residents, commuter, local communities and vulnerable groups, and to formulate a work plan for consultations that will ensure that their interests, concerns and advice are taken into account in the SESA.
 - 2.2.4. Prepare a draft report covering the proposed scope of the SESA, the table of contents for the SESA report (including annexes), the schedule and methodology for conducting the work, and plans for stakeholder consultation.
 - 2.2.5. Conduct scoping workshops. SESA is a participatory process that will involve relevant stakeholders, both to develop understanding and ownership of the process and to obtain valuable inputs. Accordingly, there will be a minimum of six workshops and site visits to Nairobi and Mombasa Commuter rail corridors and other rail facilities of relevance including the recently completed Standard Gauge railway (SGR) and major road projects within urban setting. Exact locations in will be determined in agreement with KRC , but preliminary information indicates those locations are mainly in Nairobi and within the Mombasa-Nairobi-Naivasha SGR corridor. The workshops will engage with stakeholders; including sectors of urban development, wildlife, transport, environment and natural resources, tourism ,energy business associations, interested NGOs, representatives of regional and county governments, local representatives of the communities, and nomadic groups.
 - 2.2.6. Prepare the final Scoping Report, incorporating workshop results, for review by KRC and other relevant lead agencies and the World Bank. The Scoping Report will serve as the consultant's inception report and should therefore include:
 - The institutional arrangements and timing agreed with KRC, MoTIHUD, other key counterparts, and the World Bank to carry out the SESA
 - The SESA work plan describing the main activities for data collection and analysis, including consultation/validation with stakeholders, and
 - The expected products / deliverables, and reports schedule to be submitted to KRC.

The Scoping Phase would require ten (10) weeks.

2.3. Identification of Environmental and Social Impacts and Issues, Safety and Occupational Health Risks and Issues, and Possible Mitigation measures

- 2.3.1. The consultant will identify, evaluate and compile a list of the environmental and social impacts / risks / issues, including climate change, associated with policy, programs and plans for future investments in commuter rail in Nairobi, and safety and occupational health risks and issues relevant to the rail industry, and potentially affected parts of these urbanized areas. This requires that the Consultant develop criteria to prioritize environmental, social, safety and health issues in the context of Kenya for the proposed commuter masterplans and investment plans for Nairobi and Mombasa. To the extent possible, such criteria must allow for quantification to objectively compare and categorize competing issues.
- 2.3.2. Environmental, social, health and safety priorities will be identified based on secondary data, case studies, environmental and social impact assessments, reported incidents and accidents, and public

- transport industry performance in Kenya, expert judgment, and priority environmental, social, occupational health and safety concerns of stakeholders.
- 2.3.3. Cumulative / synergistic / secondary impacts will be considered as well as impacts of individual development of components of the masterplans and investment plans.
 - 2.3.4. Potential mitigation measures and monitoring requirements will be identified for each potential impact.
 - 2.3.5. The Consultant will carry out assessment of Environmental and Social risks and impacts posed by the proposed investment plans, then develop mitigation measures for both Nairobi and Mombasa Commuter rail.

The consultants will combine the outputs of this phase with that of section 2.5 described below and produce an interim report. This phase is expected to require twelve (12) weeks.

2.4. Analysis and assessment of various alternatives and Possible Mitigation measures

- 2.4.1. The Consultant with the input from scoping and adverse environmental and social impacts /risks identified, will identify alternatives to the proposed investment plans and propose mitigation measures where alternatives may not be feasible.
- 2.4.2. Consultant will conduct analysis for the alternatives identified. The purpose of the analysis of these possible options is to inform the formulation of possible policies, plans and strategies by identifying opportunities to enhance benefits. This will also involve summarizing the key challenges/gaps for implementing masterplans and investment plans and discussing possible trade-offs.

2.5. Description of the Regulatory and Institutional Framework and Assessment of Capacity

- 2.5.1. At this phase, the consultant will compile and describe the environmental, social, safety and health, legal, regulatory and institutional framework, and will assess existing capacity of the relevant regulatory institutions.
- 2.5.2. The consultant will prepare a compilation of relevant policies, laws, regulations, and guidelines, including national and county legislation.
- 2.5.3. The Consultant will identify the institutions relevant in the development of mass rapid transport for the public and closely related with the preparation of the proposed masterplans and investment plans.
- 2.5.4. The consultant will assess the adequacy of the framework, based on international standards and experiences, Kenyan experience in other sectors, and the capacity of public agencies at national and county levels, the public transport industry, and non-governmental organizations at national and community levels to address the potential impacts of the masterplans and investments plans.

The consultant will conduct the assessment at two levels:

- At the national level, it will focus on relevant public transport, environmental, social, safety and occupational health related sector institutions within the government.
- For public agencies at regional or county level, the public transport industry and NGOs, the assessment will be mainly based on existing environmental and social impact assessments and case studies, and complemented by in-depth interviews with key individual

stakeholders, and there will be focus group discussions with vulnerable stakeholders.

The results of this phase, which is expected to require six (6) weeks partially overlapping phase 2.2, will be combined with those of phase 2.2 (above) into an interim report.

- 2.5.5. Keeping the focus of the assessment on the effects of sector plans and regulatory development and on environmental, social, occupational health and safety issues, the following institutional and governance issues will be covered by the consultant:
 - 2.5.5.1. Gap analysis of mandates, capacity, incentives and transparency in permitting, monitoring and enforcing environmental regulations in the proposed commuter rail master plans and investment plans.
 - 2.5.5.2. Expenditure review of sector and environmental institutions for environmental and social regulation and enforcement in the sector.
 - 2.5.5.3. Gap analysis of mandates, capacity, incentives and transparency in permitting, monitoring and enforcing occupational health and safety regulations in the proposed masterplans and investment plans.
 - 2.5.5.4. Capacity and transparency of institutions at the central and local level to resolve controversies between property owners/landowners and other related land uses in the larger Nairobi Metropolitan Region.
 - 2.5.5.5. Capacity and transparency of institutions at the national and county level to resolve controversies between landowners and/or land users (people who may own the houses, or use the land, but do not own the land and do not have land title deeds), commuter rail development activities in Nairobi Metropolitan Region. This assessment should also take into account possible controversies involving people with collective attachment to the land.
 - 2.5.5.6. Coordination between commuter rail development, environment and natural resource management, occupational health and safety, and emergency response institutions.
 - 2.5.5.7. Accountability and independence of decision makers and authorities with competence for granting environmental permits, and occupational health and safety permits, to commuter rail development activities.
 - 2.5.5.8. Organizational and institutional capacity of stakeholders affected by (including local communities) and vulnerable peoples to activities associated with development of proposed masterplans and investment plans.
- 2.5.5.9. The consultant will conduct a round of consultations on the interim report through national workshops. The workshops must serve to capture the perceptions and inputs of relevant stakeholders on environmental, social, health and safety priorities related to commuter rail development activities, and on the corresponding proposed government interventions or policies needed to address them. The Consultant must ensure that the perceptions of vulnerable stakeholders are taken into account and incorporated into the analysis.

Upon completion of the workshops, the consultant will revise the first interim report and submit it for review by KRC and the World Bank.

2.6. Formulation of Recommendations

- 2.6.1. The consultant will identify the necessary changes in or additions to policy, legislation, regulations and guidelines, and the SESA will deliver a policy, legislative, and regulatory matrix comprising recommendations and an action plan for their implementation and monitoring.
- 2.6.2. The consultant will draft a plan for capacity building, including changes in or additions to the existing institutional structure and institutional development, also formulated as a matrix of recommendations and an action plan. The plan will also include recommendations and actions on strengthening conflict resolution (especially between vulnerable groups/local communities and KRC).
- 2.6.3. The SESA will include, as a planning tool, an Environmental and Social Management Framework. The consultant will draft a set of technical recommendations. These will consist of, but not be limited to, a freestanding set of specific guidelines for development planning, ESIA and impact management in the sector, including guidance in:
 - Identifying associated facilities and projects during the different phases of Commuter rail developments (e.g. surveying, Geotechnical exploratory drilling, development and construction, Operations, Maintenance)
 - Identifying and managing cumulative / synergistic / secondary impacts and effects
 - Conducting alternative analysis (e.g. location, technology, management, optimization)
 - Screening projects for the potential for involuntary resettlement (see also section 2.7.7),
 - Screening for impacts on vulnerable groups and other local communities,
 - Developing actionable environmental and social management plans that can be operationalize (including quantitative indicators to measure objectively),
 - Any recommended additions to Kenyan environmental and social standards to fill gaps in the Commuter Railstandards governing the sector,
 - Any recommended changes or updates to existing Kenyan environmental and social standards governing the sector
 - Identifying the possible need for additional safeguards instruments to be prepared, if necessary

The consultant should apply best international practices, experience and judgment in identifying other appropriate technical outputs.

The consultant will compile the other outputs of this phase into a second interim report for review by KRC and other institutions, MoTIHUD and the World Bank. Phase 2.4 is expected to require ten(10) weeks.

2.7. Final Consultations, Review and Approval

- 2.7.1. The consultant will combine the interim reports and key elements of the scoping report into a draft report for dissemination to stakeholders by KRC. Task 2.5.1 is expected to require twelve (12) weeks, allowing time for review of the draft report by stakeholders prior to the workshops.
- 2.7.2. The consultant will present the draft report at three workshops at locations to be agreed with KRC. Preliminary information indicates the regional workshops would be conducted within Nairobi. The main objective of the workshops is to obtain stakeholder comments on the SESA. KRC will

- facilitate organizing the workshops.
- 2.7.3. Following the workshops, the consultant will revise the draft report based on stakeholder inputs, document the consultations and their results in the report, and submit a draft final report to KRC, with a copy to the World Bank, for review and approval. Tasks 2.5.2 to 2.5.3 are expected to require eight (8) weeks, allowing time for conducting the three workshops and addressing stakeholders' inputs.
 - 2.7.4. The consultant will prepare the final report, incorporating revisions suggested by KRC and, via KRC, by the World Bank. Task 2.5.4 is expected to require eight (8) weeks, allowing time for review of the draft final report by KRC and the World Bank.
 - 2.7.5. The Consultant may be required to participate in key follow-up discussions necessary to further disseminate and explain the findings and recommendations of the SESA, particularly to the KRC, relevant lead agencies, CSOs, and the World Bank.

2.8. Specific Issues to be addressed by the SESA

The SESA should focus on the issues presented in this section in addition to the information and requirements presented in sections 2.1 to 2.7 above. The consultant will consider, assess, and incorporate during execution of the SESA the following key issues. The SESA draft and final reports will specifically address and include the following:

2.8.1. Legal, Regulatory and Institutional Reforms

Kenya has a substantial system in place with regards to environmental, health and safety regulations, but those are not commuter /urban rail specific. A high priority on the Government's agenda is the implementation of a comprehensive, clear and workable environmental, social, health and safety regulatory framework for the development of Kenya's masterplans and investment plans for Nairobi and Mombasa. Moreover, Kenya is going through a major process of institutional reforms. As part of that, national and regional legislation (in each of the 47 counties) is being enacted. (e.g. Public Participation Law).

The SESA will provide the necessary input for the development of the required policy reforms, legal and regulatory framework, impact and strategic sector assessments, and guidelines and procedures for the implementation of recommended reforms for the key institutions involved in the commuter rail industry (e.g. KRC, MoTIHUD, Ministry of the Environment and Forestry and NEMA). This input will take into account the analysis of the legal and regulatory work undertaken to date in the Kenya Railways development as well as institutional and policy recommendations prepared for the government in the context of that work. Further, the SESA will assess and make recommendations for the necessary inter-agency coordination for effective policy development and implementation.

The SESA will consider the necessary issues for master plans and investment plans that must be implemented to address industry specific air (carbon dioxide and carbon monoxide emitted by diesel engines), water and effluents, wastes (hazardous and non-hazardous e.g. oils), and land use impacts associated with the proposed master plans and investment plans. These plans could range from the implementation of mandatory emissions limits on railway operations from locomotives, to other voluntary programs and actions. These activities need to encompass good international industry practices (e.g. World

Bank Group Environment Health and Safety Guideline) to reduce environmental releases and enhance social well-being.

The SESA will integrate and present the necessary support information to build or enhance the short and long-term capacity of key environmental, social, occupational health and safety institutions in development of the proposed masterplans and investment plans and ESIA/EIA best practices. The SESA will consider, and its outcome will support the expansion of coordinating and supervising agencies such as the Ministry of the Environment and Forestry (MoEF), the National Environmental Management Authority (NEMA), and the Directorate of Occupational Safety and Health (DOSHS) in the Ministry of Labor and Social Protection. The SESA will complete institutional reviews in which a functional diagnosis is made of the institutions, with a focus on mandates, objectives and responsibilities, organizational management structures, processes and procedures, as well as human, technical and financial capabilities, while considering the growth of the Urban Commuter Railway sector. These reviews will further inform the human and institutional capacity building for the years to come. The SESA outcome will include the necessary policies / plans / programs (PPP) for capacity building and training of the personnel, and equipment necessary for the agencies to operate effectively.

In summary, the SESA deliverables must result in the necessary input for the masterplans and investment plans (national and counties, where applicable), regulations and organizations, to well position the institutions (e.g. MoEF, NEMA, DOSHS) to provide greater capacity for policy development, regulatory certainty and consistency in commuter rail development oversight through enhanced policies/plans/programs, assessment /statements, data collection and analysis, improved information sharing and partnerships, and focused compliance assistance and enforcement.

2.8.2. Stakeholder Involvement, Engagement and Consultation

The consultation process will be guided by the national laws and regulations that require public consultation for all the development initiatives i.e. policies, plans, programmes and projects. These will also be guided by the WB OP/BP 4.01 (Environment Assessment) consultation requirements for Category A projects on public consultations, during the EA process, the borrower consults project-affected groups and local nongovernmental organizations (NGOs) about the project's environmental and social aspects and takes their views into account. The borrower initiates such consultations as early as possible. For Category A projects, the borrower consults these groups at least twice: (a) shortly after environmental screening and before the terms of reference for the EA are finalized; and (b) once a draft EA report is prepared. In addition, the borrower consults with such groups throughout project implementation as necessary to address EA-related issues that affect them.

The SESA will identify initial barriers to public involvement in Kenya, will consider measures to eliminate those barriers, will deliver a plan and implement it, for effective stakeholder engagement, including:

- Access to information by a wide majority of the public
- Adequateness of awareness of roles by the public
- Adequateness of consultation where there is involvement, and
- Adequacy of language use in reports and presentations to communities and the general public

The SESA will reach out to diverse national and local stakeholders interested in or potentially affected by the development of the proposed masterplans and investment plans for sustainable commuter rail system for Nairobi and Mombasa. The consultations will seek to improve understanding of stakeholders' issues, identify key drivers and barriers, increase performance, and address the environmental and social implications of commuter rail development.

The SESA will require adequate planning, methodology and resources, including the following initiatives for proper stakeholder involvement:

- Actively involving experts and opinion leaders in SESA process
- Use of appropriate/ comprehensible / non-technical language
- Create awareness and encourage participation by the public
- Conduct the engagement at the location of interested / affected parties (communities), and if/when necessary facilitate transportation to a stakeholders meeting

Any participatory incentives need to be given in good faith not merely as a way to have sizable public audience to rubber-stamp the SESA.

The consultant will describe the methodology that will be used to identify and map the stakeholders. If the consultant has any protocols that have been effective in similar projects, he shall describe them.

2.8.3. Environmental and Social Safeguards in Commuter RailGoK Contracts

The SESA will identify the existing environmental, social, occupational health and safety requirements that are included in the Commuter Rail development contracts between the GoK and the contractors and railway operators/companies, if already in place. The SESA will consider the environmental, social, occupational health and safety safeguards that need to be incorporated in the Nairobi Commuter Railway Development Contracts.

The SESA will provide the information necessary and specific recommendations of the environmental, social, occupational, health and safety minimum requirements that the KRC should include in the development of the proposed masterplans and investment plans.

2.8.4. Quality and Standard of Environmental Impact Assessment (EIA) and Impact Statement

The SESA will assess the general quality of Environmental and Social Impact Assessment (ESIA) and Impact Statement in Kenya by reviewing prior ESIA reports.

The SESA outcome will provide input regarding the deficiencies in the ESIA reports and statements and will provide recommendations to improve the ESIA reports and statements (ESIA reports and Statements to be provided by NEMA).

2.8.5. ESIA follow-up

The SESA will assess the follow-up and enforcement of ESIA reports for the development of the proposed

masterplans and investment plans. It will provide the necessary input and recommendations for adequate compliance monitoring and enforcement, including the information that need be included in the reports submitted by companies / operators to NEMA.

The SESA will assess the existing mechanisms that NEMA uses for funding the monitoring, follow up and regulatory enforcement of similar projects. The SESA will provide the necessary input and recommendations to assure funding at the institutional level (e.g. NEMA, DOSH) for independent and effective monitoring and auditing of resultant projects that will be developed from the proposed masterplans and investment plans by the regulatory agencies.

2.8.6. Biodiversity and Sustainable Management Living Natural Resources

The SESA will consider biodiversity and the policies, plans and programs necessary to sustainably manage and mitigate impacts on biodiversity and ecosystem services throughout the development of the masterplans and investment plans. Ecosystem services valued by humans are often underpinned by biodiversity. Impacts on biodiversity can therefore often adversely affect the delivery of ecosystem services.

The main objectives of the PPP related to biodiversity are:

- To protect and conserve biodiversity.
- To maintain the benefits from ecosystem services.
- To promote the sustainable management of living natural resources through the adoption of practices that integrates conservation needs and development priorities.

The SESA will assess biodiversity, and it will recognize that protecting and conserving biodiversity, maintaining ecosystem services, and sustainably managing living natural resources are fundamental to sustainable development. The requirements for biodiversity will be guided by the Convention on Biological Diversity, which defines biodiversity as "the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species, and of ecosystems."

Ecosystem services are the benefits that people, including businesses, derive from ecosystems. Ecosystem services are organized into four types: (i) provisioning services, which are the products people obtain from ecosystems; (ii) regulating services, which are the benefits people obtain from the regulation of ecosystem processes; (iii) cultural services, which are the nonmaterial benefits people obtain from ecosystems; and (iv) supporting services, which are the natural processes that maintain the other services.

2.8.7. Water Resources

Surface and underground water and energy are inextricably linked and mutually dependent, with each affecting the other's availability. Water is needed for energy development and generation, and energy is required to supply, use, and treat drinking water and wastewater.

There is an increase in water use associated with railway development, and a considerable amount of water is used, for example, to clean locomotives & facilities, and for general consumption within the railway

facilities like in train stations.

Also, development of The Nairobi commuter master plan will result to considerable production of large volumes of wastewater produced from washing, cleaning and other railway industry specific processes that must be disposed of or treated to allow for its reuse. The SESA will identify and address the link between energy and water as essential to ensuring a sustainable supply of each.

The SESA will consider, identify and describe water resource (surface and underground) PPP considerations. The main objectives of the PPPs will be to protect water resources from the adverse impacts of Nairobi Commuter rail development activities and to promote the equitable sharing of benefits and proper use of both surface and underground water resources.

2.8.8. Large-sized migratory species and cross-regional impacts

Large-sized migratory species and cross-regional impacts, with the potential to occur across much of Nairobi Metropolitan region where future commuter railway developments activities may occur, will be addressed in the SESA. It is a well-known fact, that Nairobi is the only city with a national park in the whole world with varying flora and fauna. The impacts of railway development in Nairobi may or (may be not) trigger regional migrations.

The SESA outcome should provide not only the basis for policy development, but also and very important, it should be a key input for developing the proposed masterplans and investment plans for sustainable commuter rail system for Nairobi and Mombasa to identify strategic options to optimize the social and environmental benefits and minimize the impacts of the rail development.

2.8.9. Resettlement Policy Framework

The development of Nairobi commuter rail in Nairobi Metropolitan Region is likely to have social impacts on land access, restriction of access to assets and natural resources, displacement and/or loss of livelihood among others (potential to trigger the World Bank's safeguards policy on Involuntary Resettlement, O.P 4.12).

The consultant will review current resettlement practices in other sectors in Kenya, especially within the road sector in urban areas, their applicability to the commuter railway development, and compliance with OP/BP 4.12 (Involuntary Resettlement). As guided by the provision of this policy and learning from these experiences and international best practices, the consultant will provide recommendations for the development of the proposed masterplans and investment plans and recommendations on involuntary resettlement.

The SESA will provide a comprehensive diagnosis of typical and Commuter Rail sector land acquisition leading to resettlement and/or restrictions of access to resources and livelihoods. The SESA will provide an appropriate basis for development of policies to mitigate potential social risks consistent with OP/BP 4.12 (Involuntary Resettlement) and international good practice.

2.8.10. Emergency Response and Crisis Management

The SESA will assess the capacity for Emergency Response and Crisis Management, and key information for development of Emergencies Contingency Plan and actions to strengthen the GoK's capacities in these areas.

The SESA will identify the existing government agencies in Kenya with responsibility (defined mandates, roles and responsibilities), and existing built in capacity (or lack of) for contingency planning and responding to Commuter Railway based events.

The SESA will make recommendations regarding the proposed plans/programs and institutional for developing a comprehensive accident (and other Commuter railway industry major events) Preparedness, Emergency Response and Crisis Management.

2.8.11. Climate Change Related Risks and Impacts

The SESA will consider climate risks and impacts that can provide key information regarding vulnerabilities and risks faced by the specific sector planned activities. The use of screening tools will enhance the capacity to understand and integrate climate change factors into project planning, especially at the initial stages of project preparation.

The SESA will generate recommendations with respect to a variety of adaptation measures. At this point, it will be important to narrow down the selection to those measures that are more suitable to the local conditions and expected to generate the best development outcomes.

2.8.12. Gender Considerations

The SESA will undertake a gender assessment that will enable them identify and analyze any potential gender-specific impacts and opportunities for the development of the proposed masterplans and investment plans including how men and women may differently experience risks and benefits of the sector.

The SESA will propose implementable, culturally appropriate actions to minimize gender-specific impacts while optimizing opportunities in the development of the proposed masterplans and investment plans and operations.

2.8.13. Communities and Vulnerable Groups

The SESA will recognize that commuter railway development often bring benefits to communities, including employment, services, and opportunities for economic development. However, development of the proposed masterplans and investment plans can also increase the potential for community exposure (including vulnerable groups within the community) to risks and impacts arising from the projects activities. The SESA will consider the Policies, Plans and Programs to avoid or minimize the risks and impacts to community health, safety, and security that may arise from project activities.

The main objectives of the PPPs will be:

- É To avoid or minimize risks to and impacts on the health and safety of the Affected Communities during the life cycle for the development of the proposed masterplans and investment plansdevelopment, from both routine and non-routine circumstances
- É To ensure that the safeguarding of personnel and property is carried out consistently with relevant human rights principles and in a manner that avoids or minimizes risks to the Affected Communities

The SESA will address the status of vulnerable groups as appropriate, including religious and ethnic minorities(if applicable)and, in some societies, women (refer to the gender considerations section above).

As part of the social assessment of vulnerable inhabitants in the Nairobi Commuter Raildevelopment areas, the SESA will include baseline information regarding education, literacy and poverty levels of the population among the criteria to be assessed. Finally, the SESA will identify measures for avoidance or mitigation of adverse impacts, as well as for culturally appropriate benefit-sharing.

2.8.14. Cultural Heritage

The SESA will recognize the importance of cultural heritage for current and future generations. Consistent with the Convention Concerning the Protection of the World Cultural and Natural Heritage, the SESA will consider the policies, programs and plans (PPP) necessary for the protection of cultural heritage in the course for thedevelopment of the proposed masterplans and investment plans.

The main objectives of the PPPs will be:

- É To protect cultural heritage from the adverse impacts for the development of the proposed masterplans and investment plans and support its preservation.
- É To promote the equitable sharing of benefits from the use of cultural heritage

Cultural heritage refers to (i) tangible forms of cultural heritage, such as tangible moveable or immovable objects, property, sites, structures, or groups of structures, having archaeological (prehistoric), paleontological, historical, cultural, artistic, and religious values; (ii) unique natural features or tangible objects that embody cultural values, such as sacred groves, rocks, lakes, and waterfall; and (iii) certain instances of intangible forms of culture that are proposed to be used for commercial purposes, such as cultural knowledge, innovations, and practices of communities embodying traditional lifestyles.

Cultural heritage PPP considerations will apply regardless of whether or not it has been legally protected or previously disturbed.

3. CONSULTANT TEAM AND CONSULTANTS' QUALIFICATIONS

A consultancy firm is sought to carry out this SESA study for the proposed development of the masterplans and the investment plans for sustainable commuter rail system for Nairobi and Mombasa. The firm should demonstrate experience and qualifications in environmental and social assessments of policies, plans, strategies, plans and programmes of each expert proposed to be part of the SESA study team. The firm's team will work closely with the KRC, MoTIHUD, NEMA and the World Bank as well as with other relevant stakeholders.

The firm must include the following professionals / specialists, with the minimum qualifications of the team members as follows:

- Environmental /SESA experts Team Leader -specialist with at advanced degree qualifications in relevant field (environmental sciences or environmental engineering), a minimum of fifteen years of experience in developing , conducting or training SESAs and /or similar environmental and social assessments ; at least one of these assignment as Team Leader.Experience in environment sector policies and regulations. Must be very knowledgeable and familiar with the environmental laws and regulations in Kenya, and experience with the World Bank Safeguards Policies.
- Social development expert - specialist with advanced degree in relevant field (sociology or anthropology) with at least ten years of experience working in applying environment and/social assessment, Experience with conducting SESAs and or Social Impact Analysis, using participatory approaches .Must be very knowledgeable and familiar with the social related policies and regulations existing in Kenya (land acquisition, resettlement, compensation, gender related issues, inclusion of vulnerable groups, etc.), and proven expertise in community development.
- Transport Engineer - with advanced degree in transport /or railway engineering with at least ten years of proven operational experience dealing the technical aspects of commuter railway operations, infrastructural development and maintenance.
- Safety and occupational health professional - specialist, with at least eight years of experience working in safety and occupational health in Kenya. Must be very knowledgeable and familiar with the safety and occupational health policies and regulations existing in Kenya.
- Civil society / community engagement professional - specialist with at least five yearsø experience in public participation in Kenya, including community and grass-root engagement and consultation.Must be knowledgeable and have expertise with the similarities and differences for effective community consultation and participation across the different ethnic groups. Must be familiar with existing policies and regulations regarding stakeholder communication / consultation / engagement, and preferably with experience in communication policymaking.
- Economist professional ó specialist with at least five yearsø experience in economic alternative analysis, environmental and social costs, externalities, and mitigation costs.
- Land Use Expert- with an advanced degree in urban/regional planning or equivalent and have the relevant professional qualifications in the area of expertise. He or she must have at least eight years of proven knowledge of railway or transport projects involving land use planning in key urban areas.
- Traffic Safety Engineer- with advanced degree in transport /or railway engineering with at least eight years of proven operational knowledge of railway traffic engineering principles and practices and knowledge of railway traffic operations and safety analysis and study techniques. He must have carried traffic safety assessment in at least in one major railway or highway project.

4. DELIVERABLES AND SCHEDULE

Deliverables	Schedule
Scoping/Inception Report	end of week 10
First Interim Report	end of week 22

Second Interim Report	end of week 32
Draft Report	end of week 44
Draft Final Report	end of week 52
Final Report	end of week 60

5. PROPOSAL REQUIREMENTS

The proposal for the SESA must be prepared in accordance with procurement legislation. It should also contain the information listed below:

- **SCOPE OF WORK.** The scope of work should include a description of the specific activities that will be performed in order to accomplish the required phases and tasks identified in the TOR. This should include any proposed site visits/reconnaissance, documents to be reviewed, interviews, stakeholder meetings, etc. If the Consultant believes that additional tasks or components within a required task are necessary or warranted, these should be stated and delineated as "Optional Tasks".
- **PROJECT TEAM AND QUALIFICATIONS.** The SESA consultant team must include the firms and specialists indicated in the TOR. This should include the names of the consultant team members, their qualifications including relevant technical capabilities, and specific previous experience must be detailed as requested in the TOR. The consultant Team Leader (main point of contact, and must be one of the specialists) must be identified as well.
- **SCHEDULE.** A proposed detailed schedule for execution of the SESA must be presented (refer to Section 4 of TOR for a tentatively proposed schedule). The schedule must indicate the proposed start and completion dates for each required phase, task, and activities listed in the TOR, and any important or specific project milestones (e.g. deliverables, reports).
- **ESTIMATED COSTS.** A breakdown of the estimated costs by phase or task must be presented (i.e., tabular format) and should include Direct Labor Costs (number of hours or days per staff and their associated unit costs) and Indirect Labor Costs (i.e., travel, per diem, etc.). Any assumptions related to the estimated costs must be clearly stated. If any additional Optional Tasks are recommended, then a separate cost estimate must be provided for the additional optional tasks.
- **MAJOR ASSUMPTIONS:** The Consultant shall describe all the major assumptions made in order to estimate the cost of their proposal.
- **ANTICIPATED DIFFICULTIES:** The Consultant shall describe all anticipated difficulties and make recommendations regarding how they will be overcome such difficulties during execution of the scope of work.
- **ADDED VALUE:** The consultant shall describe why the proposed team does conform is the best consultant team to perform the SESA of this Project.

6. CONTACTS

Issued by:

Philip J Mainga
Ag. Managing Director
Kenya Railways Corporation
Address:PO BOX 30121 ó 00100, Nairobi, Kenya.

Annex 1

Scoping Report - Table of Content –Provided as an example only

1. Introduction
2. Overview of the Railway development in Kenya including Nairobi commuter and Government Licensing Plan
3. Policy Context
4. SESA Approach and Method
5. Baseline Data
6. Potential Environmental, Social, Occupational Safety and Health Effects
7. Stakeholders
8. Data Gaps
9. Scoping Questions

Appendix A: Legislation and Policy Context

Appendix B: Institutions and Installed Capacity

Appendix C: References

Appendix D: Glossary

Annex 2

SESA Report - Table of Content – Provided as an example only

Non-Technical Summary

Nairobi Commuter Railway development activities- An Overview

What is Strategic Environmental and Social Assessment?

Applying Strategic Environmental and Social Assessment to the Nairobi Commuter Rail Master Plan- What has been assessed?

Which Environmental and Social Topics have the Nairobi Commuter Rail Master Plan

What has been Assessed Against?

What are the Likely Significant Effects of the Nairobi Commuter Rail Master Plan and the Reasonable Alternatives?

What are the Secondary, Cumulative and Synergistic Effects of the Nairobi Commuter Rail Master Plan?

Proposed Mitigation Measures

Proposals for Monitoring

Introduction

Overview

Context

Purpose of this Report

Strategic Environmental and Social Assessment

Applying SESA to Nairobi Commuter Rail Master Plan development

Consultation and Stakeholder Engagement

Public Consultation on the Interim/Draft SESA Report

Revised SESA Report Scoping Consultation

Habitats Regulations Assessment

SESA Report Structure

Commenting on this SESA Report

Masterplans and Investment plans

Introduction

Context and Objectives

Draft Plan Objectives and Scope

Commuter Rail Master Plan Licensing Regulatory Context and Background

Prospectivity

Potential Activities

Summary of Potential Activities, Resulting Effects and Controls

Potential Activity Scenarios

Alternatives to the Draft Master Plan

Development of railway Infrastructure

Restrictions on the Development of the master plan

Summary

Context and Baseline

Introduction

Review of Policies, Plans and Programs (National, regional/counties)

Collecting Baseline Evidence

Key Issues Relevant to Nairobi Commuter Rail Master Plan

Limitations of the Data

SESA Methodology

Scope of the Assessment

Focus

Environmental, Social, Occupational Safety and Health Topics

Geographic Scope

Short, Medium and Long-Term Timescales

Approach to Assessing the Effects

Assessment Objectives and Guide Questions

Completing and Recording the Assessment

Assessment of Activities

Assessment of Plan Alternatives

Definitions of Significance

Mitigation

Assessment of Secondary, Cumulative and Synergistic Effects

Technical Difficulties

Uncertainties

Assumptions

Assessment of Effects of the development of Commuter Master Plan and Reasonable Alternatives

The Environmental and Social Effects of Nairobi Commuter Rail Development

Likely Significant and Other Environmental and Social Effects

The Environmental and Social Effects of Nairobi Commuter Rail Development

Likely Significant and Other Environmental and Social Effects

The Environmental and Social Effects of Railway Operations

Likely Significant and Other Environmental and Social Effects

Environmental and Social Effects of the Reasonable Alternatives to draft Master Plan

Summary

Mitigation and Enhancement

Secondary, Cumulative and Synergistic Effects

Cumulative Effects of New Licensed Activities

Conclusions and Monitoring

What are the Environmental and Social Effects of the Nairobi Commuter Master Plan?

Proposals for Monitoring

Next Steps

Appendix 1 Scoping Consultation Feedback

Appendix 2 Nairobi Commuter Rail Development activities, controls and mitigation

Appendix 3 Other Relative Initiatives

Appendix 4 Environmental Baseline

Appendix 4a Biodiversity, habitats, flora and fauna

Appendix 4b Geology and soils

Appendix 4c Landscape

Appendix 4d Water Environment

Appendix 4e Air quality

Appendix 4f Climatic factors

Appendix 5 Social Baseline

Appendix 5a Population and human health, education, literacy, poverty levels

Appendix 5b Material assets (infrastructure, other natural resources)

Appendix 5c Cultural heritage, including architectural and archaeological heritage

Appendix 5d Vulnerable Communities
Appendix 6 Occupational Safety and Health Baseline
Appendix 6a Workers and safety
Appendix 6b Occupational Health in industry
Appendix 6c Health related injuries
Appendix 7 Tools for screening of Climate change related risks and impacts
Appendix 8 Conservation Sites
Appendix 9 Legal, Regulatory and Institutional Reforms (National and Regional/Counties)
Appendix 10 Stakeholder Involvement, Engagement and Consultation
Appendix 11 Environmental and Social Safeguards in Commuter rail Development Contracts in Nairobi
Appendix 12 Quality and Standard of Environmental Impact Assessment (EIA) and Impact Statement
Appendix 13 EIA follow-up
Appendix 14 Large-sized migratory species and cross-regional impacts
Appendix 15 Resettlement Policy Framework
Appendix 16 Emergency Response and Crisis Management
Appendix 17 Gender Considerations