



GREEN CITY KIGALI: A NEW MODEL FOR URBAN DEVELOPMENT IN RWANDA

ANNEX 9A: LEGAL DUE DILIGENCE



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Acronyms and Abbreviations

| | |
|-----------|---------------------------------------------------------------------------|
| AE | Accrediting Entity (agency responsible for a GCF project) |
| BMZ | German Government Federal Ministry of Economic Co-operation & Development |
| CoK | City of Kigali |
| EA | Equivalent Assessment (a comparison of laws and policies) |
| EE | Executing Entity (operational responsibility for a GCF project) |
| EDPRS2013 | Economic Development & Poverty Reduction Strategy 2013 |
| ESIA | Environmental and Social Impact Assessment |
| FONERWA | Rwanda Fund for the Environment |
| GCF | Green Climate Fund |
| GGCRS | Green Growth and Climate Reduction Strategy 2011 |
| GoR | Government of Rwanda |
| KfW | Kreditanstalt Für Wiederaufbau (German Development Bank) |
| LED | Local Economic & Development Framework |
| ME | Ministry of Environment |
| MINECOFIN | Rwandan Ministry of Finance |
| MINIRENA | Ministry of Natural Reserves of Rwanda |
| NDA | National Designated Authority (main agency for applications to GCF) |
| NHP | Rwandan National Housing Policy 2015 |
| PPF | Project Preparation Facility (GCF grant to develop concept) |
| RAP | Resettlement Action Plan |
| RPF | Resettlement Policy Framework |
| RPPA | Rwandan Public Procurement Authority |
| SDG | UN Sustainable Development Goals |
| SESA | Strategic Environment & Social Assessment |
| VFM | Value for Money |
| WASAC | Rwandan Water and Sanitation Corporation |
| WB | World Bank |

1. Accreditation

1.1. The Ministry of Environment (ME) previously known as MINIRENA (Ministry of Natural Reserves of Rwanda) was granted direct access accreditation most recently by the Green Climate Fund (GCF) in May 2019 by an amended master agreement (AMA). This was on the basis that the requirements for general fiduciary standards and specialised fiduciary standards for project management were substantially met. Initially GCF, when making the accreditation, imposed conditions requiring processes to facilitate the making and reporting of complaints and that MINIRENA undertakes an Equivalent Assessment (EA) of Rwandan policies and law compared to the GCF project specific performance standards. Both of these conditions have since been met. It is also noted that the EA found that Rwandan policies and laws in respect of gender requirements were aligned with GCF policies. The National Designated Authority (NDA) is the Rwandan Environment Management Authority.

1.2. The EA referred to above reviewed performance standards 2-8 with the exception of performance standard 7 which is not applicable to the Rwandan contract context. These were as follows:

- PS2 Labour and Working Conditions
- PS3 Resource Efficiency and Pollution Prevention
- PS4 Community Health, Safety and Security
- PS5 Land Acquisition and Involuntary Resettlement
- PS6 Biodiversity, Conservation and Sustainable Management of Living Natural Resources
- PS8 Cultural Heritage

1.3. These performance standards excluding 7 which does not apply, were all found to be substantially included in the regulations and procedures that would govern the implementation of projects. This finding would be extended to this current project and ensures that the implementation of any GCF project meets the required performance standards.

1.4. At the time of writing six projects had been approved or were at submission stage to a total value of GCF Financing of US\$50.8m and six 'Readiness Activities' of which approvals totalled US\$3.7m of which US\$1.7m had been disbursed. Approvals at Project Preparation Facility Stage (PPF) included a grant in August 2019 to assist with the development of the overall Green City Kigali project including feasibility of climate resilient and low carbon elements leading to later specific funding applications.

2. Application for this Project

2.1. The Executing Entity (EE) for this project is the Rwanda Fund for Environment (FONERWA) under the auspices of the accrediting entity (AE). The guidelines for a GCF application require the inclusion of a report on legal due diligence which should include:

- i) Any government or regulatory approvals, licenses or permits required for implementing and operating the project/programme, the relevant issuing authority and the date of issuance or expected date of issuance (*See 5.11 under Planning and Building Permits and Regulations*). This annex sets out the legal framework that will govern the works of the building code and contract procurement regulations. In addition, low level detailed permits and

consents may be required for specific elements such as connections to mains water, road closures, connections to mains electricity and similar. These are referred to but not individually listed.

- ii) Describe applicable taxes (or exemptions thereof) and foreign exchange regulations relating to the project/programme.
- iii) Details of any insurance policies or requirements relating to the project/programme.

2.2. This project is principally a construction project over a 5 year timescale and on certain sections of the 600 hectare site at Kinyinya Hill, part of the City of Kigali (CoK) Rwanda. Key elements are the upgrading and expansion of access roads and pathways, water provision and sanitation at the existing settlement of Ngaruyinka, technical assistance, and enabling solar energy and roof water heating for new affordable housing on the Kinyinya Hill pilot project site. This will utilise a number of different construction methods and materials, will involve on-going relationships with a number of agencies and service providers to provide licenses, permits, consents and support as well as regulatory oversight. It is not possible to detail the minutiae of each requirement and to give specific timings. Hence this annex looks at the key legal and regulatory framework and practical structures of such projects. The annex comments on the consultations and applications that the project managers will need to arrange; provides comfort that these are procedures which are in place and have been tested previously on similar projects; and highlights areas where actions will need to be taken to manage and control the process.

2.3. In summary all elements of the project are sustainable and have previously been tested as practical operations in both the public and private sectors in Rwanda and should not be an obstacle to the completion of the project.

3. Government of Rwanda Policy Background

3.1. The overarching background to this project is through Vision 2020. This was initiated by the government with medium term strategic goals to transform Rwanda from a low income agriculturally based economy into a middle income politically stable united nation without discrimination by 2020. The Vision included gender, environmental protection and sustainable development goals. This was updated in September 2020 to Vision 2050 which emphasised achieving upper middle income status by 2035 and integrated the Sustainable Development Goals (SDGs) into the Rwanda National Development Agenda.

3.2. The Economic Development and Poverty Reduction Strategy 2013 (EDPRS) which was later superseded by the National Strategy for Transformation 2017-24 emphasised the government's commitment to test and promote a new approach to urbanisation, and in particular a commitment to infrastructure and financing options for affordable housing. The wider Kinyinya Hill development is to act as a demonstrator (pilot) scheme for sustainable city development and to reflect high environmental standards and sustainable green innovation.

3.3. In 2010 the Ministry of Natural Resources published the National Land Use Development Masterplan. This was supplemented by the National Land Use Planning Guidelines published in December 2017 and in the following year the Urbanisation and Rural Settlement Sector Strategic Plan 2018-2024. From these are drawn the requirements of the Rwandan Housing Authorities Building Control

Regulations (May 2012) and later the Rwandan Building Code (2019) and Urban Planning Code through a Ministerial Order of 18 May 2015. It is these detailed requirements and guidelines such as spatial planning standards, that this project will need to satisfy the enabled regulatory authority i.e. the City of Kigali (CoK) of appropriate compliance.

- 3.4. The National Housing Policy 2015 (NHP) concentrated on the upgrading of informal homes to higher green and energy efficient standards including enhancing the City of Kigali (CoK) capacity for planning assistance. The guidelines from this policy published in 2018 set a target of 70% of all new homes to be affordable.
- 3.5. The National Strategy on Climate Change in Low Carbon Development 2011 emphasised access to locally sourced materials, passive house building standards with low operational costs, walkable cities and encouraged training and investment to achieve these objectives.
- 3.6. On 4 September 2020 the City of Kigali (CoK) published its Masterplan 2020-2050 which followed on from the National Plans of Vision 2020 and Vision 2050. The key challenges were to house a population that would increase from 1.6m to 3.8m during this period and replacing existing unsatisfactory homes by building around 30,000 new homes per annum. To achieve this, a number of minimum density standards have been set.
- 3.7. The implementation of the policies described above have been supported by research and funding. This includes putting in place the infrastructure fund of \$250m to support the cost of infrastructure for new affordable housing schemes, an initiative in conjunction with the World Bank (WB) to reduce the cost of mortgages for low income families as well as support through planning and tax exemption for the construction of affordable housing. The contribution of €30m (\$36m) by KfW on behalf of the German government support programme to underpin part of the costs for the development of affordable housing on the Kinyinya Hill pilot site is part of this support programme.
- 3.8. This GCF application is to take forward the objectives of the policies described above by increasing the climate resilience of existing settlements on part of the Kinyinya Hill site and enabling the new affordable housing on Kinyinya Hill to access renewable energy sources through the use of solar panels and roof based water heating systems. The project will need to meet the requirements of the policies and demonstrate compliance with the codes.

4. Overview of the Requirements for Implementation of the Project

- 4.1. The project as described includes the following key elements:
 - i) The upgrade of infrastructure and homes in and around the village of Ngaruyinka, on a site of approximately 18ha, including improved roads, water supply, solid water management, community buildings and storm water management.
 - ii) The provision of technical assistance to support the scale up and replication of resilient, low emission approaches.
 - iii) Opportunities for climate responsive investment for solar energy and roof located water heating systems on approximately 1430 affordable housing units for low and middle income households to be built as part of the pilot project.

- 4.2. The construction of the affordable homes for the pilot site is being supported by a grant of 30 million euros (US\$36m) for green infrastructure through the German Development Bank (KfW), on behalf of the German Government's Federal Ministry of Economic Cooperation and Development (BMZ) with support from the Rwandan government through the executing agency (FONERWA).
- 4.3. The timetable is for detailed design and preconstruction work to be completed by 2023 and construction by phases of both projects between 2023-2028.
- 4.4. The day-to-day operational management of the pilot site project is through the creation of a Community Benefit Company - Green City Kigali Company - dedicated to the construction and management of the project, where relevant and in conjunction with private developer counterparties, and including community representation on its board. The operational management of the GCF funded project will be the direct responsibility of FONERWA as EE and implemented through a PMU.
- 4.5. In addition to the procedures and safeguards that are included in Rwandan law, policies, the requirements of regulatory bodies and interpretation of those by Rwandan courts, KfW as a responsible international development agency and the Green Climate Fund require additional safeguards in particular with respect to gender issues, compensation to informal settlers of land and reductions in the climate impact of urbanisation that would extend to this project. Much of this is included in the brief to SWECO, the feasibility consultants for the overall Green City Kigali project, and whose brief includes the preparation of this GCF application. SWECO are responsible to the executing entity FONERWA.
- 4.6. As would be expected, there are various permits and approvals required in the proposed project. Consultation is required and necessary with local residents, the settling of planning approvals, compensation arrangements, procurement for a number of different services and construction, satisfaction of planning and building permits and various other licences and any specific requirements due to the topography and location. All of these have been previously carried out as part of local projects or internationally funded projects and been successfully completed. Most of these particularly in relation to construction and the future management of buildings, tenancies and services cannot be formally consented and settled until either the detailed design and planning are completed or works commencing. However there is no apparent reason that, providing the law and regulations are complied with, these will not be granted. Relevant authorities have reviewed the project's planned activities in the Feasibility Study and the Land Development Plan prepared for the project. Hence from a legal and regulatory point of view, the project is feasible. It is helpful that the project is working within a previously agreed Masterplan which has set out the overall strategy for the use of the site and the due diligence carried out on the pilot site.
- 4.7. It should be noted that where possible, and to support the project, preparatory work has taken place to demonstrate both the need for and the viability of the project alongside. Also the gathering of data and arrangements to ensure policies and regulations are fully complied with. This is referred to below and in other sections of this application and includes the setting up of the community upgrading committee as part of the consultation process which is a gender-balanced committee with ten members based in the village of Ngaruyinka. The masterplanning exercise for the whole site in Kinyinya including the collection of data regarding the upgrade site, the

existing sanitation and storm water management on the upgrade site and the outline proposals for the upgrading.

5. Key Issues for the Project, Policies, Laws and Regulations

Procurement

- 5.1. A key requirement for the project will be the procurement of services, construction and arrangements for the long-term management of both the physical and social aspects being provided by the project. There are comprehensive regulations covering all phases of the procurement process which for public procurement is overseen by the Rwandan Public Procurement Authority (RPPA) which relates to the procedures which was previously determined by Law Number 12/2007 which was amended in part for public procurement by Law Number 05/2013 which is now supplemented by Law Number 62/2018 dated 25/08/18. The RPPA was established by Law Number 25/2011 which determined its mission, organisation and functioning. These regulations include publication of opportunities, notification of all decisions prior to contract execution and various other regulations to ensure both the suitability of those applying, the quality of goods or services being provided and value for money. It is expected that all material procurements that are part of this project will comply with these regulations.
- 5.2. The other key requirement is in Law 11/2016 establishing the Association of Procurement Professionals.
- 5.3. Ministerial orders setting out further details on public procurement are 10/02/14 supplemented by 002/20/10 dated 19/05/20 which set out the current regulations.
- 5.4. The guidance notes and Standard Bidding Documents set out application and procedures for five levels of procurement:
- Small Works (lump sum contracts)
 - Large Works
 - Small Consultancy and Services
 - Consultancy Services
 - Procurement of Related Goods and Services
- 5.5. In addition to the accompanying guidelines separate instructions relate to Value for Money (VFM), buy 'Made in Rwanda' and e-procurement. For certain types of contracts, advice needs to be provided by an approved procurement consultant and bidders need to be approved and on the appropriate framework. Any funding will require that the project complies with the guidelines.

Compensation

- 5.6. Compensation where government has carried out expropriation of land, buildings or other elements in the public interest is covered in Law Number 32/2015 Article 3. If any residents of existing settlement have to be relocated, permanently or temporarily, due to the works, the requirement of this law will be applicable. However, the RAP has identified a number of residential and commercial houses to be displaced and hence, prepared for adequate compensation and relocation of displaced parties.

Gender

- 5.7. Various policies, laws and regulations have been introduced by the Government of Rwanda to empower women including inheritance rights, employment and business opportunities, ownership rights and similar which are relevant to this project. Some of these are included in the Green Growth and Climate Resilience Strategy (GGCRS 2011). In particular these projects may create tenancy and property ownership opportunities, opportunities in the construction services industries including training opportunities. It is expected that the arrangements for managing this project will comply with all these requirements.
- 5.8. Rwanda has adopted laws to ensure equality and these include Law No. 27/2021 of 10/06/2021 governing land in Rwanda (the Land Law). Based on this law, impact related to physical and socio-economic displacement was analysed to understand the significance related to losing land and assets as the upgrading of Ngaruyinka Village project activities require land temporarily, permanently, partially or totally. Specific measures will be taken to ensure women's views are incorporated and captured during the socio-economic surveying process and safeguards put in place to protect the women's rights throughout the resettlement process, particularly compensation. Example of gender-related mitigation measures focus on those specifically designed for improving the livelihoods of Project-affected women will be developed.

Land Title

- 5.9. In pursuance of the 2005 Land Law, and following a cabinet agreed strategy on land tenure reform in March 2008, the Government of Rwanda has created an efficient and technically capable arrangement as to identified title and charges on land holdings and this should enable the proper identification of ownership, use of funds and similar issues relating to title to be properly traced and established. This should also facilitate issues regarding planning and compensation. In June 2012 the National Land Registry completed a project to map all of the country's 10.4m parcels of land and prepared title documents for 8m landholders. By mid-2017 more than 7m landowners had collected their titles. The 2005 Land Law has been further updated in 2021 via Law N° 27/2021 Governing Land.

Planning and Building Permits and Regulations

- 5.10. Rwanda has a detailed and efficient planning, building and ESS enforcement process which in relation to this project is the main responsibility of the City of Kigali (CoK) and Rwanda Environmental Management Agency (REMA) through Rwanda Development Board (RDB). These policies and regulations include many requirements in respect of the quality of building materials, health and safety on construction sites, energy efficiency, sanitation and storm water management, included in the infrastructure the provision of services for education, youth, community and health as well as the provision of affordable housing. There is already an illustrative masterplan for the wider Kinyinya Hill site and advance work on the planning and construction of the pilot site and options for the upgrading project through a land development plan (schematic design). It is expected that the work done to date and future work will ensure suitable planning, services, construction methods, appropriate health and safety arrangements for the implementation of the project. The key regulatory code is the Rwandan Building Code (2019) and Urban Planning Code (2015), which is referred to in 3.3 above, as

well as zoning and land use regulations as set out in the City of Kigali Masterplan 2050 (2020) specific to the planning area.

5.11. The table below shows summarises the planning and permit requirements:

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|----------|--------------------------------------------------------------------------------------|--------------------------------|--------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Ref. No. | Contract (Description) | Items | Permit required (yes/no) | Referred Authority | Specific process | Expected date of issuance |
| 1 | Construction of all roads, solar street lighting, and stormwater management systems. | roads | no | RTDA/COK | To be consulted during validation meetings of detailed design process only. No specific permit required. However, it is advised to submit for approval the Masterplan of the Upgrade area (18ha) along with items 7 and 9 of this list, for conformity with the COK Masterplan. Same for the Stormwater management systems. | NA |
| | | solar street lighting | no | | NA | NA |
| | | stormwater management systems | no | RTDA/COK | To be consulted during validation meetings of detailed design process only. No specific permit required. | NA |
| 2 | Expansion of central water supply. | central water supply | no | WASAC | To be consulted during validation meetings of detailed design process only. They can also decide to do inspections during construction. No specific permit required. | NA |
| 3 | Construction of rainwater harvesting systems | rainwater harvesting systems | no | WASAC | To be consulted during validation meetings of detailed design process only. They can also decide to do inspections during construction. No specific permit required. | NA |
| 4 | Construction of biogas system. | biogas system | no | WASAC | To be consulted during validation meetings of detailed design process only. They can also decide to do inspections during construction. No specific permit required. | NA |
| 4 | Supply and installation of solar water heaters for pilot homes | solar water heaters | no | | NA | NA |
| 5 | Supply and installation of solar PV for pilot homes | solar PV | no | | NA | NA |
| 6 | Construction of solid waste management systems (composting facility and | solid waste management systems | no | COK | To be consulted during validation meetings of detailed design process only. No specific permit required. | NA |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|----------|---------------------------------------------------------------------------------------|--------------------------------------------------------------|--------------------------|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Ref. No. | Contract (Description) | Items | Permit required (yes/no) | Referred Authority | Specific process | Expected date of issuance |
| | waste/recycling collection) | | | | | |
| 7 | Construction of TVET Building | Construction of TVET Building | yes | COK | Construction permit: Upon completion of Detailed design as required in the Rwanda Building Code. Pre-consultation with COK is recommended to avoid multiple submissions/revisions. COK to participate to validation meetings as well. | Upon completion of Detailed design, estimated for month 13 of the project |
| | | | | | Occupation permit: Upon completion of Construction of premises. | Upon completion of Construction |
| | | | no | RTB | To be consulted during validation meetings of detailed design process only. No specific permit required. | |
| 8 | Equipping of TVET building | Equipping of TVET building | no | RTB/NESA | To be consulted during validation meetings of detailed design process only. No specific permit required. | NA |
| 9 | Market improvements and construction of community facilities (playground, field, etc) | Market improvements and construction of community facilities | yes | COK | Construction permit: Upon completion of Detailed design as required in the Rwanda Building Code. Pre-consultation with COK is recommended to avoid multiple submissions/revisions. COK to participate to validation meetings as well. | Upon completion of Detailed design, estimated in month 13 of the project |
| | | | | | Occupation permit: Upon completion of Construction of premises. | Upon completion of Construction |
| 10 | ESIA certificate | ESIA | Yes | RDB | An Environmental permit is required before construction | Between two weeks to one month after ESIA report review and approval |
| 11 | RAP implementation | RAP | No | FONERWA/GCK with CoK, Gasabo District and local committee | No formal authorization is required. However, the project developer required to ensure collaboration with the local institutions and committees as mentioned in the RAP Report | 8 months after compensation and relocation approval (construction works to start after successful completion of the expropriation process) |

Research and Data

- 5.12. Included in the work carried out to date SWECO on behalf of FONERWA has instigated a high level Environment and Social Impact Assessment (ESIA) for the wider 600ha site at Kinyinya Hill and a Resettlement Policy Framework (RPF) in respect of the site. In addition, a Strategic Environmental and Social Assessment (SESA) has been undertaken in light of the project's impact on future local and national development policy as regards sustainable climate mitigative and adaptive urbanization.
- 5.13. Work is currently underway on an ESIA and RAP for the project in addition to the ESMP to develop the management requirements for the environmental and social fabric and infrastructure of the wider site. These will both ensure compliance with national regulations and GCF requirements.
- 5.14. In order to comply with the Local Economic Development Framework (LED) for Kinyinya Hill, there have been interactions with the statutory bodies and the public and private sector to ensure that the policy objectives of creating increased economic activity especially for low income households, the use of local resources and the encouragement of inward investment is achieved.

6. Project Feasibility and Risk Management

- 6.1. Listed below are the main implementation stages and the activities required to ensure that the project is successfully implemented from a legal and governance standpoint. As there are a number of discrete elements to this project, these are not in chronological order as many elements will run in parallel. FONERWA as the EE will have ultimate responsibility for all elements of the project but the detailed operational resources will be responsible for those that FONERWA appoints to be the executing body on their behalf whether from internal or external resources.

| | Action | Risk |
|-----|--------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| i) | The existing SWECO contract does not extend to the implementation of the GCF project | FONERWA will need to identify either internal resources or external consultants to manage the project. This is a complex construction project and an opportunity for both skills transfer and setting templates for the future so it is important that those appointed have sufficient skills and experience. |
| ii) | Upgrading works | Completing detailed designs, costings, procurement processes for the works to the roads, water, sanitation, other services required for upgrading the identified settlement including consultation and involvement with the local community and general management of the construction process including complying with complaints procedures, gender requirements and similar. This is a complex and detailed requirement and needs to ensure that those tasked have suitable skills. |

| | Action | Risk |
|-------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| iii) | Upgrading requirements | Ensuring contracts with all the service providers, building licenses requirements, availability and time lags for the necessary materials and the contractual arrangements for the works. These need to be planned, monitored and documented. For upgrading works if a contribution is required from homeowners/residents this needs to be quantified and explained. Arrangements need to be in place for vulnerable households. |
| iv) | VAT and WHT Tax Support | Ensuring confirmation with the Ministry of Finance (MINECOFIN) that the payment for works is inter-government transfers as matched funding and not relevant to VAT requirements or exempt from VAT/WHT or VAT/WHT can be recovered. |
| v) | Due diligence on procurement of upgrade works | As part of the procurement that the due diligence on contracts includes gender and equality issues, financial and technical capacity as well as contractual arrangements covering changes in works orders, substitution of materials, delays and similar. |
| vi) | Overseeing of upgrade works | Ensuring that there is regular monitoring of the progress and quality of the works, liaising with the local community (to include employment opportunities for the local community). |
| vii) | Future Maintenance of the upgrade works | Ensuring through CoK, WASAC, REG and other responsible authorities that the upgrade works are maintained. |
| viii) | In conjunction with the local community arrange for the future management of the upgrade works to ensure the long term benefits | Arrangements should be put in place for the long term servicing of the provision and monitoring of the benefit of these works to the local community. |
| ix) | Solar panels and roof solar water heating for affordable homes (pilot site) design | That there is an agreed design which meets the energy efficiency requirements that will be a standard fitting available on the affordable home or a criteria with which all fittings have to comply. |
| x) | Solar panels and roof heating implementation | That there is a procurement of a single contractor or a panel of contractors to fit the attachments and that this procurement includes all the required gender, training and equality aspects and the way that the opportunity is marketed to the owners of the affordable homes and they are able to see the benefits both in terms of climate and energy costs from having these attachments fitted and that there is oversight of the contract between the home owners and the providers to ensure that the occupiers get value for money. |

| | Action | Risk |
|-----|------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| xi) | Availability of the affordable homes for works | The construction timetable for the affordable housing on the pilot site is designed to run in parallel with the GCF programme. It is possible that if the later phases of the construction of the affordable homes is delayed, these will not be completed until post-2028. Some of these homes may be pre-sold prior to completion of construction and households will be able to enter into the contract prior to the 2028 end date. Arrangements should be considered to hold over any balance of the funds for these homes or as an extension of the timeline should there be delays. |

Wider Issues

- xii) Ongoing management of the financial model, cash flows and the project achieving its goals.
- xiii) Ensuring health and safety meets, at a minimum, local regulation but targets being a role model for the management and implementation of such works.
- xiv) Support for those being trained and given opportunities in the project.
- xv) Working with the local communities so that they appreciate the benefits and opportunities that the project provides, involve the community in the implementation and provides opportunities for them to feed back any concerns or ideas. This should include a publicised complaints and dispute resolution arrangement and for procured contracts should be included in both the requirements and the monitoring arrangements. For wider issues complainants could seek redress through due legal process.
- xvi) At a high level arranging for interventions where any issues with planning, licenses, maintenance arrangements or other key areas will potentially interrupt the process or quality of the project outcomes.
- xvii) Ensuring that all the agencies involved are aware of the GCF funding conditions and there is a proper process for audit and reporting back.
- xviii) Proper accounting so that it can be identified the transactions for which GCF funding have been utilised and there is proper documented evidence of the spend.
- xix) Proper concern for the environment during construction so avoiding potential adverse earth movement, noise pollution, air and dust contamination, social disturbance and similar.

7. VAT, WHT and Taxation

- 7.1. As FONERWA is a government agency and this is project which will be carried out by them as the EE, and there is no contribution from residents or similar other than a possible cost contribution (the fee arrangement for ongoing services for the home

owners on the pilot site will be direct to the providers) there should be no corporate tax issues. As the projects can all be classified as infrastructure for low income affordable housing, then where necessary the Ministry of Finance (MINECOFIN) through the taxation and revenue division should be able to confirm that this is not relevant to inter-government transfers as matched funding or that exemptions, support or recovery for VAT/WHT on works will apply as detailed in 6.1 (iv).

7.2. The procurement requirements require due diligence that contractors meet their legal tax obligations.

7.3. Any withholding tax requirements if any of the GCF is repaid would not be applicable as this would be a refund not an interest, dividend, fee or other payment for services.

8. Insurance

8.1. The EE is a government agency so would not normally require separate insurance cover for its activities. However, as part of the project there will be requirements for a number of relevant insurance policies of which the key policies are described below. Where these are block policies purchased separately from a specific contract then these will need to be procured separately under the procurement rules described previously.

| 8.2. | Cover | Policy |
|------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Professional Indemnity Cover | Commissioning of services from private sector or other non-governmental sources e.g. architects ensuring that all contracts awarded include suitable cover requirements. |
| | Construction Contracts | That all contracts awarded require contractors to have suitable cover for damage during construction, injury or hurt to both workers and public as well as environmental damage. That should include appropriate cover against default by the contractor. All contracts must conform to Rwanda legal requirements as regards defects liability post construction. |
| | Existing Home Owners Property | That all providers of works and services have adequate insurance for hurt and damage. Where contractors are fixing to existing property that home owners' insurance policies and terms of any mortgage loans are complied with. |

8.3. The project will need publicised channels to deal with complaints and claims and procedures to manage these (see Annex 7).

8.4. All of the insurance policies described above should be available on the insurance market to reputable contractors and suppliers.

9. Foreign Exchange Regulations

9.1. Any GCF funds remitted to the AE and then either held by the AE or transferred to the EE or remitted directly to the EE will be in a reserve currency and initially received into a government bank account. To make payments later to suppliers and

contractors, these monies will in the main be converted to local currency. It is possible that with imported materials, there may be advantages to making international payments in reserve currency.

- 9.2. It is unlikely because of the structure of this GCF application that monies will be repaid, however should this arise it is likely that local currency (RWF) will need to be converted back to reserve currency and this might result in FX gains or losses which it would be difficult, because of uncertainty as to timing and value, to hedge.
- 9.3. Since 2019 the RWF has been freely convertible subject to any FX transactions being made to or from an account at an authorised bank which has a responsibility to ensure the identity of the sender and recipient is known and recorded. For sums in excess of \$10,000 details have to be provided to the Central Bank and where this is an 'outward' payment the Central Bank has to acknowledge that this information has been received and there is no objection before a transfer is made. This is for the purpose of identifying any suspected money laundering. Such approvals are meant to be at short notice (hours) but recently there have been reports that the process is taking several days.
- 9.4. For this GCF project the regulations should not cause any significant issues. The funds will be received into a government bank account which will be with an authorised bank or the Central Bank. Any disbursements will be either direct or through inter-government transfers to a similar account held by the AE or EE and any payments for supplies or works will be to the accounts of the provider certified by the contractual and procurement process.
- 9.5. There will always be FX risk that the amount in local currency (RWF) will be at a different translation computation than originally envisaged. The Rwandan government or its agencies may have the possibility of selling forward to dilute the risk but that can never be certain because it depends on the market. It is assumed that any GCF funds received will only be drawn down as disbursements are required and that any 'front ended' funding will be held in the reserve currency until required. This will assist in the management if the local currency devalues against the reserve currency.