
LOAN NUMBER 3368-LAO(SF)

LOAN AGREEMENT
(Special Operations)

(Road Sector Governance and Maintenance Project)

between

LAO PEOPLE'S DEMOCRATIC REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 11 MAR 2016

LAO 47085

**LOAN AGREEMENT
(Special Operations)**

LOAN AGREEMENT dated 11 MAR 2016 between LAO PEOPLE'S DEMOCRATIC REPUBLIC ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement; and

(B) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

(a) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) "DOR" means the Department of Roads of MPWT, or any successor thereto acceptable to ADB, which is responsible for the implementation of the Project;

(d) "DPWT" means the Department of Public Works and Transport in each of the Project Provinces, or any successor thereto acceptable to ADB, which is the Project implementing unit responsible for the carrying out of its portion of the Project;

(e) "Environmental Management Plan" or "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;

(f) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;

(g) "Ethnic Communities Development Plan" or "ECDP" means the ethnic communities or indigenous peoples development plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(h) "Goods" means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(i) "HIV/AIDS" means human immunodeficiency virus/acquired immune deficiency syndrome;

(j) "Indigenous Peoples Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;

(k) "Initial Environmental Examination" or "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(l) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(m) "MPWT" means the Ministry of Public Works and Transportation of the Borrower, or any successor thereto;

(n) "O&M" means operation and maintenance;

(o) "PAM" means the project administration manual for the Project dated 22 October 2015 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(p) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(q) "Procurement Plan" means the procurement plan for the Project dated 22 October 2015 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(r) "Project Executing Agency" for the purposes of, and within the meaning of the Loan Regulations means MPWT, or any successor thereto acceptable to ADB, which is responsible for carrying out the Project;

(s) "Project facilities" means the equipment to be procured and the facilities to be constructed, rehabilitated, operated and/or maintained under the Project;

(t) "Project Implementing Agency" means DOR;

(u) "Project Provinces" means the provinces of Salavan, Xekong and Attapeu of the Borrower, each a "Project Province";

(v) "RMF" means the Road Maintenance Fund established in 2001 to finance road maintenance which sits within the MPWT and supervised and directed by the Road Maintenance Advisory Board;

(w) "RMF Decree" means the law governing the overall management of the RMF;

(x) "RMF Regulation" means the relevant regulations with respect to financing mechanism, revenue collection, financial planning and financial management of the RMF under the RMF Decree;

(y) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);

(z) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of and compliance with the EMP and the ECDP (as applicable), including any corrective and preventative actions; and

(aa) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to nineteen million one hundred nineteen thousand Special Drawing Rights (SDR19,119,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 1% per annum during the grace period, and 1.5% per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in subsection (a) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 August and 15 February in each year.

Section 2.04. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal amount of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. Withdrawals from the Loan Account in respect of Goods, Works, and Consulting Services shall be made only on account of expenditures relating to:

- (a) Goods which are produced in and supplied from and Works and Consulting Services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement; and
- (b) Goods, Works, and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 September 2021 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. (a) The Borrower shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Loan proceeds and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

(c) The Borrower shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Borrower's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Borrower, unless the Borrower shall otherwise agree.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
23rd Singha Road
P.O. Box 46
Vientiane Capital
Lao People's Democratic Republic

Facsimile Numbers:

(856-21) 412 142
(856-21) 911 611.

For ADB

Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

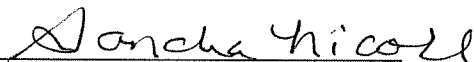
(632) 636-2444
(632) 636-2015.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

LAO PEOPLE'S DEMOCRATIC
REPUBLIC

By 
THIPPHAKONE CHANTHAVONGSA
Vice Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 
SANDRA NICOLL
Country Director
Lao Resident Mission

SCHEDULE 1

Description of the Project

1. The objective of the Project is to implement sustainable road maintenance in the provinces of Salavan, Xekong and Attapeu.
2. The Project shall comprise three outputs:
 - Output 1: **Improved governance and practice for road asset management** comprising the (i) revision of axle load monitoring regulation(s), (ii) revision of the RMF Regulation, (iii) development of web-based road asset management registry for public disclosure and (iv) upgrading of road asset management manuals and technical specifications.
 - Output 2: **Strengthened institutional capacity for road asset management** comprising (i) capacity building and training of the staff of MPWT, (ii) improving capacity of contractors to tender and manage contracts and (iii) improving capacity of community-based road maintenance.
 - Output 3: **Rehabilitation and maintenance of selected national and local roads in three provinces** which include (i) approximately 84 kilometers of roads in Salavan province, (ii) approximately 77 kilometers of roads in Xekong province and (iii) approximately 166 kilometers of roads in Attapeu province.
3. The Project also includes the provision of Consulting Services to provide assistance in Project implementation and financial audit.
4. The Project is expected to be completed by 31 March 2021.

SCHEDULE 2

Amortization Schedule

(Road Sector Governance and Maintenance Project)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 August 2024	398,313
15 February 2025	398,313
15 August 2025	398,313
15 February 2026	398,313
15 August 2026	398,313
15 February 2027	398,313
15 August 2027	398,313
15 February 2028	398,313
15 August 2028	398,313
15 February 2029	398,313
15 August 2029	398,313
15 February 2030	398,313
15 August 2030	398,313
15 February 2031	398,313
15 August 2031	398,313
15 February 2032	398,313
15 August 2032	398,313
15 February 2033	398,313
15 August 2033	398,313
15 February 2034	398,313
15 August 2034	398,313
15 February 2035	398,313
15 August 2035	398,313
15 February 2036	398,313
15 August 2036	398,313
15 February 2037	398,313
15 August 2037	398,313
15 February 2038	398,313
15 August 2038	398,313
15 February 2039	398,313
15 August 2039	398,313
15 February 2040	398,313
15 August 2040	398,313
15 February 2041	398,313
15 August 2041	398,313
15 February 2042	398,313
15 August 2042	398,313
15 February 2043	398,313
15 August 2043	398,313
15 February 2044	398,313
15 August 2044	398,313
15 February 2045	398,313

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 August 2045	398,313
15 February 2046	398,313
15 August 2046	398,313
15 February 2047	398,313
15 August 2047	398,313
15 February 2048	398,289
TOTAL	19,119,000

* The arrangements for payment are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

SCHEDULE 3**Allocation and Withdrawal of Loan Proceeds**General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest Charge

3. The amount allocated to Category 4 is for financing the interest charge on the Loan during the construction period of the Project.

Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Road Sector Governance and Maintenance Project)			
Number	Item	Total Amount Allocated for ADB Financing (SDR) Category	Percentage and Basis for Withdrawal from the Loan Account
1	Works	10,317,000	89.3% of total expenditure claimed
2	Consulting Services	3,987,000	89.3% of total expenditure claimed
3	Equipment	347,000	89.3% of total expenditure claimed
4	Interest During Construction	432,000	100% of amount due
5	Unallocated	4,036,000	
	Total	19,119,000	

SCHEDULE 4

Procurement of Goods, Works and Consulting Services

General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
 - (a) International Competitive Bidding;
 - (b) National Competitive Bidding; and
 - (c) Shopping.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

Domestic Preference

5. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works, provided that at the date of advertisement of the bid for domestic Works, the Borrower is eligible for domestic preference for Works according to ADB's policies in effect at the date.

National Competitive Bidding

6. The Borrower and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Borrower's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Borrower and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after approval of such change by the Borrower and ADB.

Conditions for Award of Contract

7. The Borrower shall not or shall cause MPWT or DOR not to award any Works contract which involves environmental impacts until, (a) the Borrower's Ministry of Natural Resources and Environment has granted environmental approval for the Project; and (b) MPWT has incorporated the relevant provisions from the EMP into the Works contract.

Consulting Services

8. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services.

9. The Borrower shall apply the following method for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan: Least-Cost Selection for independent financial auditor.

10. If required, the Borrower shall recruit the individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

11. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

12. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the Consulting Services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

ADB's Review of Procurement Decisions

13. Contracts procured under international competitive bidding procedures, first contract procured under national competitive bidding procedures and contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project; Environmental, Social, Financial and Other Matters

Implementation Arrangements

1. The Borrower and MPWT shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

2. The Borrower shall ensure that each of MPWT, DOR and DPWTs of the Project Provinces is equipped with qualified and experienced staff, reasonable office space, equipment and adequate financial resources required for the implementation of the Project.

Coordination among Government Agencies

3. The Borrower shall ensure that all relevant ministries, agencies and divisions involved in the Project, including MPWT and DPWTs, shall provide full cooperation to ensure efficient implementation of the Project.

Counterpart Funds

4. The Borrower shall ensure and shall cause MPWT to ensure that necessary counterpart funds for the Project are provided on a timely basis, including for taxes and duties.

Operation and Maintenance

5. The Borrower shall provide budgetary allocations to MPWT to ensure that adequate funds are available to MPWT to fund the incremental recurrent costs of operating and maintaining the Project and to sustain the Project facilities in sound, functional order after completion of the Project. Furthermore, the Borrower shall ensure that qualified and experienced staff are made available to MPWT and DPWTs to ensure that the Project facilities are maintained and in good working condition after completion of the Project.

Improved Governance and Practice for Sustainable Road Asset Management

6. The Borrower shall ensure or cause MPWT to ensure that all the policy actions are delivered as described below and the Borrower and MPWT shall discuss with ADB any issues and constraints encountered during implementation of the below policy actions and formulate appropriate measures to overcome or mitigate such issues and constraints:

- (i) Within 36 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that the measures for monitoring axle overloading, including addressing vehicle modifications, and institutional set-up or arrangements for proper enforcement of axle load control, are designed.

- (ii) Within 36 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that a revised regulation for monitoring axle overloading, including addressing vehicle modifications, is drafted.
- (iii) Within 48 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that a revised regulation for monitoring axle overloading shall be submitted for relevant government approval(s).
- (iv) Within 36 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that a long-term revenue generation and financing mechanism to improve the income level of the RMF is developed.
- (v) Within 36 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that measures to improve financial management of RMF is designed.
- (vi) Within 36 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that a revised RMF Regulation is drafted.
- (vii) Within 48 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that a revised RMF Regulation shall be submitted for relevant government approval(s).
- (viii) Within 36 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that the road asset management system is upgraded by developing a web-based platform for road asset management registry available for public disclosure.
- (ix) Within 36 months of the Effective Date, the Borrower shall approve or cause MPWT to approve and issue the updated performance-based maintenance contract documents, technical specifications for road construction and maintenance, road design manual and road maintenance manual, to standardize procedures for road maintenance planning, budgeting, design, procurement and implementation.

Institutional Capacity for Sustainable Road Asset Management

7. The Borrower shall ensure or cause MPWT to ensure that all the capacity strengthening actions are delivered as described below and the Borrower and MPWT shall discuss with ADB any issues and constraints encountered during the implementation of capacity strengthening action and formulate appropriate measures to overcome or mitigate such issues and constraints:

- (i) Within 60 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that the capacity of MPWT for sustainable road asset management is strengthened by providing capacity building and training for the management and staff of concerned departments

of MPWT and DPWTs for carrying out Output 1 of the Project described in paragraph 2 of Schedule 1, based on a needs assessment and requirements of staff of MPWT and DPWTs.

- (ii) Within 48 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that contractors' tendering and management capacity shall be improved by providing training for private contractors in all components of tender documents and the tendering process, including performance-based maintenance contracting.
- (iii) Within 48 months of the Effective Date, the Borrower shall ensure or cause MPWT to ensure that community-based asset management support services shall be developed to assist the DOR and DPWTs to facilitate full range of community development support services, including the establishment of and management of a village maintenance committee, and improvement of routine road maintenance and management skills to contribute to generation of local employment and ownership of the Project.

Safeguards

8. Environment. The Borrower shall ensure or shall cause MPWT to ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the IEE, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

9. Indigenous Peoples. The Borrower shall ensure or shall cause MPWT to ensure that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to indigenous peoples or ethnic communities; (b) the Indigenous People's Safeguards; and (c) all measures and requirements set forth in the ECDP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

10. Land Acquisition and Involuntary Resettlement. The Borrower shall ensure or shall cause MPWT to ensure that the Project does not have any land acquisition and involuntary resettlement impacts, all within the meaning of the SPS. In the event that the Project does have any such impact, the Borrower, through MPWT, shall take all steps required to ensure that the Project complies with all applicable laws and regulations of the Borrower and the SPS.

11. The Borrower shall ensure or shall cause MPWT to ensure that all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract.

12. Safeguards-Related Provisions in Bidding Documents and Works Contracts. The Borrower shall ensure or shall cause MPWT to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (i) comply with the measures relevant to the contractor set forth in the IEE, the EMP and the ECDP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (ii) make available a budget for all such environmental and social measures; and
- (iii) provide MPWT with a written notice of any unanticipated environmental, resettlement or indigenous peoples or ethnic communities risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP and the ECDP.

13. Safeguards Monitoring and Reporting. The Borrower shall do the following or shall cause MPWT to do the following:

- (i) submit semi-annual safeguards monitoring reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (ii) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the project that were not considered in the IEE, the EMP and the ECDP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
- (iii) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the ECDP promptly after becoming aware of the breach.

Prohibited List of Investments

14. The Borrower shall ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor Standards, Health and Safety

15. The Borrower shall cause MPWT to ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. MPWT shall include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; (e) do not restrict legally permissible means for expressing workers' grievances and protecting their rights regarding working conditions and terms of employment; and (f)

disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

16. The Borrower shall strictly monitor compliance with the requirements set forth in paragraph 15 above and provide ADB with regular reports.

Gender and Development

17. The Borrower shall ensure or shall cause MPWT to ensure that the principles of gender equity aimed at increasing Project benefits and impacts on women in the Project area consistent with ADB's Policy on Gender and Development (1998) are followed during implementation of the Project, including (a) equal pay to men and women for work of equal value; (b) enabling working conditions for women workers; and (c) taking necessary actions to encourage women living in the Project area to participate in the design and implementation of Project activities.

Governance and Anticorruption

18. The Borrower, MPWT and DOR shall (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

19. The Borrower, MPWT and DOR shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

Grievance Redress Mechanism

20. Within nine months of the Effective Date, the Borrower shall ensure or shall cause MPWT to ensure that a grievance redress mechanism, acceptable to ADB, is established for the Project, in accordance with the provisions of EMP and ECDP.

Project Website

21. Within six months of the Effective Date, the Borrower shall ensure or shall cause MPWT to ensure that a Project website is established to disclose how contracts are awarded, as further described in the PAM.