
GRANT NUMBER 0554-RMI(SF)

GRANT AGREEMENT
(Special Operations)
(Majuro Power Network Strengthening Project)

between

REPUBLIC OF THE MARSHALL ISLANDS

and

ASIAN DEVELOPMENT BANK

DATED 7th Dec 2017

RMI 49450

**GRANT AGREEMENT
(Special Operations)**

GRANT AGREEMENT dated 7th Dec 2017 between REPUBLIC OF THE MARSHALL ISLANDS ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Recipient has applied to ADB for a grant for the purposes of the Project described in Schedule 1 to this Grant Agreement;

(B) the Project will be carried out by the Marshalls Energy Company Inc. ("MEC"), and for this purpose the Recipient will make available to the MEC the proceeds of the grant provided for herein upon terms and conditions satisfactory to ADB; and

(C) ADB has agreed to make a grant to the Recipient from ADB's Special Funds resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and the MEC;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All the provisions of ADB's Special Operations Grant Regulations, dated 1 January 2017 ("Grant Regulations"), are hereby made applicable to this Grant Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 2.01(m) is deleted and the following is substituted therefor:

"Project Agreement" means the project agreement of even date herewith between ADB and the MEC, as such agreement may be amended from time to time; and such project agreement includes all schedules to the Project Agreement;

(b) The term "Project Executing Agency" appearing in Sections 6.01(a), 8.01(c), 8.01(e), 8.01(i), 9.01(b) and 9.02(b) of the Grant Regulations shall be substituted by the term "MEC".

Section 1.02. Wherever used in this Grant Agreement, the several terms defined in the Grant Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Grant 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 Grant in support of paragraph 2 of Schedule 1 to this Grant Agreement;
- (c) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (d) "MEC" means the Marshalls Energy Company Inc. established under the laws and regulations of the Recipient and has its registered address at P.O. Box 1439, Majuro, Marshall Islands;
- (e) "PAM" means the project administration manual for the Project dated 22 September 2017 and agreed between the Recipient and ADB, as updated from time to time in accordance with the respective administrative procedures of the Recipient and ADB;
- (f) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);
- (g) "Procurement Plan" means the procurement plan for the Project dated 22 September 2017 and agreed between the Recipient and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;
- (h) "Project Executing Agency" for the purposes of, and within the meaning of, the Grant Regulations means the Ministry of Finance of the Recipient or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;
- (i) "SPS" means and ADB's Safeguard Policy Statement (2009); and
- (j) "Works" means construction or civil works to be financed out of the proceeds of the Grant, 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 Grant

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources an amount of two million Dollars (\$2,000,000).

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. The Recipient shall make the proceeds of the Grant available to the MEC upon terms and conditions satisfactory to ADB and shall cause the MEC to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement and the Project Agreement.

Section 3.02. The proceeds of the Grant shall be allocated and withdrawn in accordance with the provisions of Schedule 2 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Except as ADB may otherwise agree, the Recipient shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Grant in accordance with the provisions of Schedule 3 to this Grant Agreement.

Section 3.04. Withdrawals from the Grant Account in respect of Works and Consulting Services shall be made only on account of expenditures relating to:

- (a) 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) Works and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 July 2020 or such other date as may from time to time be agreed between the Recipient and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Grant Agreement and the Project Agreement.

Section 4.02. The Recipient shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

Section 4.04. The Recipient shall take all actions which shall be necessary on its part to enable the MEC to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

ARTICLE V

Effectiveness

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

ARTICLE VI

Termination

Section 6.01. The Grant Agreement and all obligations of the parties thereunder shall terminate on a date 15 years after the date of this Agreement.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Finance of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

Ministry of Finance
P.O. Box D
Majuro, Marshall Islands 96960

Facsimile Number:

(692) 625 3607

For ADB

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

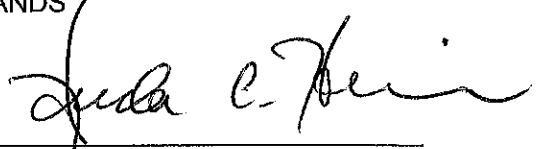
Facsimile Numbers:

(632) 636-2444
(632) 636-2446.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant 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.

REPUBLIC OF THE MARSHALL
ISLANDS

By


Authorized Representative
HILDA C. HEINE

ASIAN DEVELOPMENT BANK

By


Authorized Representative

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to reduce the MEC's consumption of diesel fuel for power generation.
2. The Project shall comprise:
 - (a) installation of advanced metering infrastructure on the Majuro distribution network; and
 - (b) preparation and endorsement of MEC business process reengineering and the management improvement action plans.
3. The Project is expected to be completed by 31 January 2020.

SCHEDULE 2**Allocation and Withdrawal of Grant 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 Grant and the allocation of amounts of the Grant 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 Grant Account

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

Disbursement Procedures

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

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS		
Item	Total Amount Allocated for ADB Financing (\$)	Basis for Withdrawal from the Grant Account
Works (Advanced Metering Infrastructure [AMI]) and Consulting Services (AMI and AMI Control Center, Commissioning Services & Training)	2,000,000	100% of total expenditure claimed*
TOTAL	2,000,000	

* Exclusive of taxes and duties imposed within the territory of the Recipient.

SCHEDULE 3

Procurement of Works and Consulting Services

General

1. The procurement of Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. Except as ADB may otherwise agree, Goods and Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement method and the selection method set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Recipient may only modify the procurement method and the selection method or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.
3. All terms used in this Schedule and not otherwise defined in this Grant Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Works

4. Goods and Works shall be procured on the basis of the procurement method set forth below: international competitive bidding.

Consulting Services

5. Except as ADB may otherwise agree, the Recipient shall apply quality- and cost-based selection for Consulting Services.

Industrial or Intellectual Property Rights

6. (a) The Recipient shall ensure that all 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 Recipient shall ensure that all contracts for the procurement of 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.
7. The Recipient 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

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

SCHEDULE 4

Execution of Project; Financial Matters

Implementation Arrangements

1. The Recipient and the MEC 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 Recipient and ADB. In the event of any discrepancy between the PAM and the Grant Agreement and the Project Agreement, the provisions of the Grant Agreement and the Project Agreement shall prevail.

Environment, Indigenous Peoples and Involuntary Resettlement

2. The Recipient shall ensure, and cause the MEC to ensure, that the Project does not have any environmental, indigenous peoples or involuntary resettlement impacts, all within the meaning of the SPS. In the event that the Project does have any such impact, the Recipient shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Recipient and with the SPS.

3. Without limiting paragraph 2 above, the Recipient shall ensure, and cause the MEC to ensure, that (a) the installation of the advanced metering infrastructure will not require additional land; (b) landowners on whose land such installation will take place will be notified prior to installation; and (c) MEC has confirmed through due diligence that there is no outstanding land tenure issues in relation to such installation sites.

Prohibited List of Investments

4. The Recipient shall ensure that no proceeds of the Grant 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

5. The Recipient shall ensure, and cause the MEC to ensure, that the core labor standards and the Recipient's applicable laws and regulations are complied with during Project implementation. The Recipient 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 Recipient'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; and (e) 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.

6. The Recipient shall strictly monitor compliance with the requirements set forth in paragraph 5 above and provide ADB with regular reports.

Gender and Development

7. The Recipient shall ensure that the principles of gender equality aimed at increasing Project benefits and impact on women in the Project area are followed during implementation of the Project. These include: (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.

Counterpart Support

8. Notwithstanding the generality of Section 6.05 of the Grant Regulations, the Recipient shall ensure that the MEC has sufficient funds to satisfy its liabilities arising from any works, goods and/or consulting services contract.

Operational Covenants

9. The Recipient shall ensure that physical assets financed under the Grant are: (a) transferred to the MEC and recorded as assets owned by the MEC; (b) treated as an increase in the Recipient's equity in MEC for accounting purposes; and (c) depreciated on the MEC's balance sheet according to an appropriate depreciation schedule for the relevant asset classes as part of the MEC's regulated asset base for determination of the MEC's costs and revenue requirements.

10. The Recipient shall ensure that all assets previously financed by ADB, or through co-financing arrangements with other financiers and administered by ADB, and are being operated by the MEC, are transferred to the MEC as assets owned by the MEC and accounted for in the manner described in subparagraphs 9(b) and (c) of this Schedule.

11. The Recipient shall implement and enforce measures, such as those contained in the business process reengineering and management improvement action plans to be produced under the project, with the intent, *inter alia*, to provide for a tariff policy and rate structure that establishes the MEC's authorized revenue based on verifiable, prudent and reasonable costs, while providing the MEC an opportunity to recover its costs associated with providing electricity service and incentivizing the MEC to control and minimize its costs.

Governance and Anticorruption

12. The Recipient and the MEC 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.

13. The Recipient and the MEC 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.