
GRANT NUMBER 0454-CAM(SCF)

GRANT AGREEMENT
(ADB Strategic Climate Fund)

(Integrated Urban Environmental Management in the Tonle Sap Basin Project)

between

KINGDOM OF CAMBODIA

and

ASIAN DEVELOPMENT BANK
acting as an implementing entity
of the Strategic Climate Fund

DATED 22 December 2015

CAM 42285

**GRANT AGREEMENT
(ADB Strategic Climate Fund)**

GRANT AGREEMENT 22 December 2015 between the KINGDOM OF CAMBODIA ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB"), acting solely in its capacity as an implementing entity of the Strategic Climate Fund ("SCF").

WHEREAS

(A) by a loan agreement of even date herewith between the Recipient and ADB ("ADB Loan Agreement"), ADB has agreed to provide a loan to the Recipient from ADB's Special Funds resources equivalent to twenty-six million three hundred eighty-two thousand Special Drawing Rights (SDR26,382,000) ("ADB Loan") for the purposes of the Integrated Urban Environmental Management in the Tonle Sap Basin Project ("Project") as described in Schedule 1 to the ADB Loan Agreement;

(B) ADB has established the ADB Strategic Climate Fund to receive, hold in trust and administer funds from the SCF;

(C) the Recipient has applied to ADB for a loan and a grant from SCF for the purposes of the Project;

(D) by a loan agreement of even date herewith between the Recipient and ADB ("SCF Loan Agreement"), ADB has agreed to provide from the ADB Strategic Climate Fund a loan of five million Dollars (\$5,000,000) ("SCF Loan") for the purposes of the Project; and

(E) ADB, acting in its capacity as an implementing agency of SCF in accordance with the Financial Procedures Agreement dated 18 March 2010 between the International Bank for Reconstruction and Development ("IBRD") and ADB, has agreed to make a grant to the Recipient from the ADB Strategic Climate Fund upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All the provisions of ADB's Externally Financed Grant Regulations, dated 8 April 2009 ("Grant Regulations"), are hereby made applicable to this Grant Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. Whenever used in this Grant Agreement, the several terms defined in the Grant Regulations and the ADB Loan Agreement, have the respective meanings therein set forth unless modified herein or unless the context otherwise requires.

ARTICLE II

The Grant

Section 2.01. ADB agrees to make available to the Recipient a grant from the ADB Strategic Climate Fund an amount of five million Dollars (\$5,000,000).

Section 2.02. The Recipient acknowledges that the Grant is funded out of resources made available by the IBRD, acting as trustee to SCF, to ADB as an implementing entity of the SCF. No withdrawals shall be made if, as a result of such withdrawal, the total amount of the Grant withdrawn from the Grant Account would exceed the amount available to ADB from resources provided to it for purposes of the Grant. Only the resources made available to ADB for the purpose of the Grant shall be considered for the enforcement of any obligations, claims or liabilities under or in connection with the Grant.

ARTICLE III

Use of Proceeds of the Grant

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

Section 3.02. The proceeds of the Grant shall be allocated and withdrawn in accordance with the provisions of the Attachment to Schedule 1 to this Grant Agreement, as such Schedule 1 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, items of expenditure to be financed out of the proceeds of the Grant in accordance with the provisions of Schedule 2 of this Grant Agreement.

Section 3.04. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 April 2023 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 5 to the ADB Loan Agreement.

Section 4.02. (a) The Recipient 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 international standards on auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Grant proceeds and compliance with the financial covenants of this Grant Agreement as well as on the use of the procedures for imprest funds and statement of expenditures) 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 Recipient shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Recipient'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 Recipient, unless the Recipient shall otherwise agree.

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

Section 4.04. The Recipient acknowledges and agrees that this Grant Agreement is entered into by ADB, not in its individual capacity, but as grant administrator for the Strategic Climate Fund. Accordingly, the Recipient agrees that (i) it may only withdraw Grant proceeds to the extent that ADB has received proceeds for the Grant from the Strategic Climate Fund, and (ii) that ADB does not assume any obligations or responsibilities of the Strategic Climate Fund in respect of the Project or the Grant other than those set out in this Grant Agreement.

ARTICLE V**Suspension**

Section 5.01. The following are specified as additional events for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations:

- (a) the ADB Loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date; and
- (b) the SCF Loan shall have come liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

ARTICLE VI**Effectiveness**

Section 6.01. The following are specified as additional conditions to the effectiveness of this Grant Agreement for the purposes of Section 9.01(e) of the Grant Regulations:

- (a) the ADB Loan Agreement shall have been duly authorized, executed and delivered on behalf of the Recipient and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Grant Agreement) shall have been fulfilled; and
- (b) the SCF Loan Agreement shall have been duly authorized, executed and delivered on behalf of the Recipient and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Grant Agreement) shall have been fulfilled.

Section 6.02. The following are specified as additional matters, for the purposes of Section 9.02(c) of the Grant Regulations, to be included in the opinion or opinions to be furnished to ADB:

- (a) the ADB Loan Agreement has been duly authorized, executed and delivered on behalf of the Recipient, and is legally binding upon the Recipient in accordance with its terms; and
- (b) the SCF Loan Agreement has been duly authorized, executed and delivered on behalf of the Recipient, and is legally binding upon the Recipient in accordance with its terms.

Section 6.03. A date 90 days after the date of this Grant Agreement is specified for the effectiveness of this Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Economy and 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

The Ministry of Economy and Finance
Street 92, Sangkat Wat Phnom
Khan Daun Penh, Phnom Penh
Cambodia

Facsimile Numbers:

(855-23) 427 798
(855-23) 428 424.

For ADB


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

Facsimile Numbers:

(632) 636-2444
(632) 636-2018.

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.

KINGDOM OF CAMBODIA

By 

H.E. DR. AUN PORNMONIROTH
Minister
Ministry of Economy and Finance

ASIAN DEVELOPMENT BANK

By 

JANUAR HAKIM
Authorized Representative

SCHEDULE 1**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 disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Grant proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Recipient, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant 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 Grant allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Recipient, reallocate such excess amount to any other Category.

Disbursement Procedures

4. 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				
Integrated Urban Environmental Management in the Tonle Sap Basin				
CATEGORY				SCF FINANCING
Number	Item	Total Amount Allocated For SCF Financing (\$)		Percentage and Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Works	3,480,000		
1A	Pursat Drainage		2,460,000	100% of total expenditure claimed* **
1B	Kampong Chhnang Sanitation Improvements		510,000	100% of total expenditure claimed*
1C	Pursat Sanitation Improvements		510,000	100% of total expenditure claimed*
2	Workshops	210,000		
2A	NGO Support to Community-led Environmental Improvements		200,000	100% of total expenditure claimed
2B	Climate Change Adaptation in Urban Development		10,000	100% of total expenditure claimed
3	Consulting Services	1,110,000		
3A	Climate Change Adaptation in Urban Development		200,000	100% of total expenditure claimed*
3B	NGO Support to Community-led Environmental Improvements		810,000	100% of total expenditure claimed*
3C	Surveys and Investigations		100,000	100% of total expenditure claimed* **
4	Unallocated	200,000		
	Total	5,000,000		

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

** ADB SCF Grant will be front-loaded.

SCHEDULE 2

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 Grant 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 Recipient 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 Recipient 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.

National Competitive Bidding

6. The Recipient and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Recipient's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Recipient 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 Recipient and ADB.

Conditions for Award of Contract

7. The Recipient shall not award any Works contracts:
 - (a) which involves environmental impacts until: (i) the Ministry of Environment has granted the final approval of the IEE; and (ii) the

Project Executing Agency has incorporated the relevant provisions from the EMPs into the Works contracts and;

- (b) which involves involuntary resettlement impacts, until the Recipient has prepared and submitted to ADB the final RPs based on the Project's detailed design, and obtained ADB's clearance of such RPs.

Consulting Services

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

9. The Recipient shall apply the methods for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan.

10. The Recipient shall recruit any individual consultants for such services as agreed with ADB in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

11. (a) The Recipient 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 Recipient 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 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

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