
GRANT NUMBER 0402-CAM (EF)

AMENDED AND RESTATED GRANT AGREEMENT
(Financed by the Government of Australia)
(Rural Roads Improvement Project II)

between

KINGDOM OF CAMBODIA

and

ASIAN DEVELOPMENT BANK

DATED 30 December 2015

CAM 42334

**GRANT AGREEMENT
(Externally Financed)**

AMENDED AND RESTATED GRANT AGREEMENT dated
30 Dec 2015 between KINGDOM OF CAMBODIA ("Recipient") and ASIAN
DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a loan agreement dated 27 October 2014 between the Recipient and ADB, as amended ("ADB Loan Agreement"), ADB had agreed to make a loan to the Recipient from ADB's Special Funds resources in the amount of thirty-four million nine hundred eighteen thousand Special Drawing Rights (SDR34,918,000) for the purposes of the Project described in Schedule 1 to the ADB Loan Agreement;

(B) the Government of Australia had agreed to make a grant to the Recipient in an amount equivalent of seven million six hundred thousand Australian Dollars (A\$7,600,000) to assist in financing a part of the Project and to be administered by ADB, upon the terms and conditions set forth in a grant agreement between the Recipient and ADB ("Initial Grant Agreement");

(C) the Nordic Development Fund had agreed to make a grant to the Recipient in an amount equivalent of four million Euro (EUR4,000,000) to assist in financing a part of the Project and to be administered by ADB, upon the terms and conditions set forth in a grant agreement between the Recipient and ADB;

(D) the Government of Korea had agreed to make a loan to the Recipient in an amount equivalent of forty-one million Dollars (\$41,000,000) to assist in financing a part of the Project, upon the terms and conditions set forth in a loan agreement between the Recipient and the Government of Korea;

(E) the Recipient has further applied to the Government of Australia for a grant in an amount equivalent of fifteen million Australian Dollars (A\$15,000,000), to be administered by ADB, for the purposes of cofinancing expenditures under the Project;

(F) the Recipient has also applied to the Strategic Climate Fund for a grant in an amount not exceeding the equivalent of nine million Dollars (\$9,000,000) to assist in financing a part of the Project and to be administered by ADB, upon the terms and conditions set forth in a grant agreement between the Recipient and ADB;

(G) the Recipient has also applied to SCF for a loan in an amount not exceeding the equivalent of seven million Dollars (\$7,000,000) to assist in financing a part of the Project and to be administered by ADB, upon the terms and conditions set forth in a loan agreement between the Recipient and ADB;

(H) the Recipient has also applied to Agence Française de Développement for a loan in an amount not exceeding the equivalent of forty million Dollars (\$40,000,000) to assist in financing a part of the Project and to be administered by ADB, upon the terms and conditions set forth in a loan agreement between the Recipient and AFD;

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(I) it is anticipated that pursuant to agreements between ADB and the Government of Australia ("Cofinancing Agreements"), the Government of Australia will provide, and ADB will administer, the grants provided for herein upon terms and conditions to be set out in the Cofinancing Agreements;

(J) it has been agreed between the Recipient and ADB that certain amendments are required to be made in the amount and allocation of the Grant and the amendments have been approved by the Recipient and ADB; and

(K) the parties agree that the Initial Grant Agreement is hereby amended and restated to provide for the approved amendments to the amount of Grant and allocation of the Grant;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All provisions of the Externally Financed Grant Regulations of ADB, 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. Wherever used in this Grant Agreement, the several terms defined in the Grant Regulations and ADB Loan Agreement 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) "ADB Loan" means the loan provided for in the ADB Loan Agreement;
- (b) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (c) "Consulting Services" means the services to be financed out of the proceeds of the Loan to implement activities as described in paragraph 2 of Schedule 1 to ADB Loan Agreement;
- (d) "Goods" means equipment and materials to be financed out of the proceeds of the Grant, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services; and
- (e) "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. (a) ADB agrees to make available to the Recipient grants from the Government of Australia in the amount of eighteen million five hundred twenty thousand Dollars (\$18,520,000), as such amount may be adjusted from time to time in accordance with subsection (b) hereinafter.

(b) The amount of the Grant shall be adjusted from time to time to account for currency fluctuations, such that the amount of the Grant, denominated in Dollars, shall be equivalent to twenty-two million six hundred thousand Australian dollars (A\$22,600,000) at the time that ADB converted the resources made available to ADB by the Government of Australia for the purposes of the Grant.

ARTICLE III**Use of Proceeds of the Grant**

Section 3.01. (a) 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.

(b) The Recipient agrees that the proceeds of the Grant may be used to pay ADB's administration fees and other charges pursuant to the Cofinancing Agreement. ADB shall be entitled to withdraw from the Grant Account and pay to itself, on behalf of the Recipient, the amounts required to meet payments, when due, of such administration fees and other charges.

Section 3.02. The proceeds of the Grant shall be allocated and withdrawn in accordance with the provisions of Schedule 1 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 4 to the ADB Loan Agreement.

Section 3.04. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 December 2020 or such other date as may from time to time be agreed between the Recipient and ADB.

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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 2 to this Grant Agreement and 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 for 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 fund 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 Government of Australia. 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 Government of Australia, and (ii) that ADB does not assume any obligations or responsibilities of the Government of Australia 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 is specified as an additional event 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: ADB Loan Agreement shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

ARTICLE VI

Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Grant Agreement for the purposes of Section 9.01(e) of the Grant Regulations: the execution and delivery of the ADB Loan Agreement on behalf of the Recipient shall have been duly authorized or ratified by all necessary governmental action.

Section 6.02. 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
St. 92 Sangkat Wat Phnom Penh
Khan Daun Penh
Phnom Penh
Cambodia

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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:

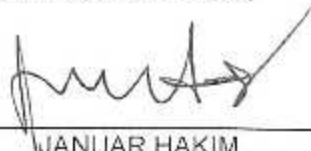
(632) 636-2444
(632) 636-2331.

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 the Grant 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 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.

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TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Rural Roads Improvement Project II)				
Number	Item	Total Amount Allocated for Australia Financing (\$)		Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Works	15,450,000		
1A	Improve 9 roads, 193.9 km (Tboung Khmum)		3,980,000	17% of total expenditure claimed*
1B	Improve 7 roads, 82.0 km (Takeo)		1,560,000	17% of total expenditure claimed*
1C	Improve 8 roads, 141.5 km (Kampong Speu)		2,260,000	17% of total expenditure claimed*
1D	Improve 9 roads, 125.9 km (Kampong Chhnang)		2,570,000	17% of total expenditure claimed*
1E	Improve 6 roads, 122.0 km (Siem Reap)		2,050,000	17% of total expenditure claimed*
1F	Improve 4 road, 122.7 km (Kampong Thom)		2,100,000	17% of total expenditure claimed*
1L	Improve 1 road, 6.4 km (Battambang)		120,000	17% of total expenditure claimed*
1M	Improve 2 roads, 22.2 km (Kampong Speu)		420,000	17% of total expenditure claimed*
1N	Improve 2 roads, 22.4 km (Takeo)		390,000	17% of total expenditure claimed*
3	Consulting Services	2,210,000		
3A	Detailed design and implementation supervision		350,000	7% of total expenditure claimed*
3B	Road Asset Management Program		750,000	29% of total expenditure claimed*
3C	Sustainable Community- based Road Safety Program		740,000	30% of total expenditure claimed*
3D	HIV/AIDS and human trafficking awareness and prevention program		370,000	31% of total expenditure claimed*
6	Unallocated**	860,000		
	Total	18,520,000		

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

** This amount also serves as a reserve for (i) currency fluctuations; and (ii) payment of ADB's administration fees and bank charges or other charges pursuant to the Cofinancing Agreement.

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SCHEDULE 2**Execution of Project; Other Matters**Money Laundering and Anti-Terrorism Financing

1. The Recipient shall ensure that (a) MRD and the Project Provinces comply with applicable laws and regulations of the Recipient on combating money laundering and financing of terrorism; and (b) the Grant proceeds are not used for the purpose of any payment to persons or entities, or for the import of goods, if such payment or import, to the Recipient's knowledge or belief, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

Visibility of Donor

2. The Recipient shall maximize opportunities to highlight the identity of the contribution of the Government of Australia to the Project (e.g., through related signage, documentation and public information about the Project, including the use of the logo of the Australian Government).

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