
GRANT NUMBER 0499-BHU(SF)

GRANT AGREEMENT
(Special Operations)
(Thimphu Road Improvement Project)

between

KINGDOM OF BHUTAN

and

ASIAN DEVELOPMENT BANK

DATED OCT 31 2016

BHU 44240

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**GRANT AGREEMENT
(Special Operations)**

GRANT AGREEMENT dated OCT 31 2016 between the KINGDOM OF BHUTAN ("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; and

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

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All provisions of the Special Operations Grant Regulations of ADB, dated 7 February 2005 ("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 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 as described in paragraph 2(b) of Schedule 1 to this Grant Agreement;

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

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

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



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

(g) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

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

(i) "PAM" means the project administration manual for the Project dated 5 August 2016 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;

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

(k) "Procurement Plan" means the procurement plan for the Project dated 5 August 2016 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;

(l) "Project Executing Agency" for the purposes of and within the meaning of the Grant Regulations, means the Department of Engineering Services of the Ministry of Works and Human Settlement of the Recipient, or any successor thereto acceptable to ADB, which is responsible for carrying out the Project;

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

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

(p) "Thimphu Thromde" means the Thimphu municipality of the Recipient;
and

(q) "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 four million two hundred sixty thousand Dollars (\$4,260,000).

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. The Recipient shall cause the proceeds of the Grant to be applied exclusively to the financing of expenditures on the Project in accordance with the provisions of this Grant 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 30 June 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 Project 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 financial reporting standards 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 Grant 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 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

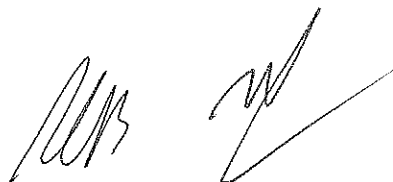
(c) The Recipient shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Recipient's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative 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 Works and any relevant records and documents.

ARTICLE V

Effectiveness

Section 5.01. 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 VI

Miscellaneous

Section 6.01. 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 6.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

Ministry of Finance
Royal Government of Bhutan
Thimphu, Bhutan

Facsimile Number:

+975 2 323-154
+975 2 334-994

For ADB

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

Facsimile Numbers:

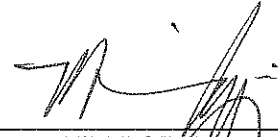
(632) 636-2444
(632) 636-2293.

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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 BHUTAN

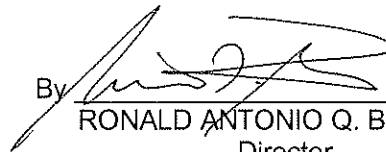
By



NIM DORJI
Secretary
Ministry of Finance

ASIAN DEVELOPMENT BANK

By



RONALD ANTONIO Q. BUTIONG
Director
Regional Cooperation and
Operations Coordination Division
South Asia Department

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to improve road safety in Thimphu Thromde.
2. The Project shall comprise:
 - (a) repairing, resurfacing and improvement of roads in Thimphu Thromde (including repairing existing drains, constructing new drains, repairing existing footpaths and constructing new footpaths along the designated roads and improvement of existing parking spaces); and
 - (b) strengthening of capacity for asset management and operations and maintenance, including provision of consultant support required.
3. The Project is expected to be completed by 31 December 2019.

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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 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.



TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Thimphu Road Improvement Project)			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Basis for Withdrawal from the Grant Account
1	Civil Works, Workshops and Seminars (Staff Training, Workshops, Seminars and Study Tours), and Unallocated	4,260,000	83.3% of total expenditure claimed
	Total	4,260,000	




SCHEDULE 3**Procurement of Goods, 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, 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. This method is 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. Works shall be procured on the basis of procurement method set forth below: international competitive bidding and national competitive bidding.

Conditions for Award of Contract

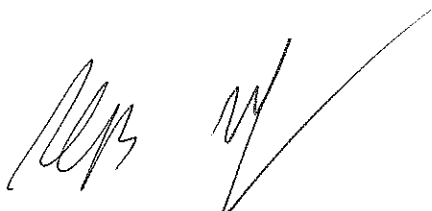
5. The Recipient shall not award any Works contract which involves environmental impacts until:
 - (a) the National Environment Commission or other designated authority of the Recipient has granted the final approval of the IEE; and
 - (b) the Recipient has incorporated the relevant provisions from the EMP into the Works contract.

Consulting Services

6. The Recipient shall recruit the individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

7.
 - (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.

8. 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

9. 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.

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SCHEDULE 4

Execution of Project; Financial Matters

Implementation Arrangements

1. The Recipient and the Project Executing Agency 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 this Grant Agreement, the provisions of this Grant Agreement shall prevail.

Environment

2. The Recipient shall ensure or cause the Project Executing Agency to ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project comply with (a) all applicable laws and regulations of the Recipient 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.

Land Acquisition, Involuntary Resettlement and Indigenous Peoples

3. The Recipient shall ensure that the Project does not have any Indigenous Peoples Safeguards and Involuntary Resettlement Safeguards impacts. 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 ADB's Safeguard Policy Statement.

Human and Financial Resources to Implement Safeguards Requirements

4. The Recipient shall make available or cause the Project Executing Agency to make available necessary budgetary and human resources to fully implement the EMP, any resettlement plan and any indigenous peoples' plan.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

5. The Recipient shall ensure or cause the Project Executing Agency to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP, any resettlement plan and any indigenous peoples' plan (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;



- (c) provide the Recipient with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, any resettlement plan and any indigenous plan;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

6. The Recipient shall do the following or cause the Project Executing Agency to do the following:

- (a) submit semi-annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) 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, any resettlement plan or any indigenous peoples' plan, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP, any resettlement plan or any indigenous peoples' plan promptly after becoming aware of the breach.

Prohibited List of Investments

7. 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

8. The Recipient and the Project Executing Agency shall 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; (e) allow freedom of association; 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.

9. The Recipient and the Project Executing Agency shall strictly monitor compliance with the requirements set forth in paragraph 8 above and provide ADB with regular reports.

Gender and Development

10. The Recipient and the Project Executing Agency 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.

Climate Risk and Vulnerability

11. The Recipient and the Project Executing Agency shall ensure that risk mitigating measures from the climate risk and vulnerability assessment (to strengthen climate resilience and support robust operations during extreme weather conditions) are incorporated in the detailed engineering design for the Works.

Counterpart Support

12. Notwithstanding the generality of Section 6.05 of the Grant Regulations, the Recipient shall ensure that (a) the Project Executing Agency has sufficient funds to satisfy its liabilities arising from any Works and/or Consulting Services contract; and (b) Thimphu Thromde has allocated adequate resources for the operations and maintenance of roads, including those improved under the Project.

Governance and Anticorruption

13. The Recipient and the Project Executing Agency 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.

14. The Recipient and the Project Executing Agency 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.

