
LOAN NUMBER 3077-PNG

LOAN AGREEMENT
(Ordinary Operations)

(Highlands Region Road Improvement Investment Program – Project 2)

between

INDEPENDENT STATE OF PAPUA NEW GUINEA

and

ASIAN DEVELOPMENT BANK

DATED 25 February 2014

PNG 40173

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 25 February 2014 between the INDEPENDENT STATE OF PAPUA NEW GUINEA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a Framework Financing Agreement dated 19 November 2008 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Highlands Region Road Improvement Investment Program;

(B) by a periodic financing request dated 6 September 2013, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) by a loan agreement of even date herewith between the Borrower and ADB ("Special Operations Loan Agreement"), ADB has agreed to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to twenty six million eighty four thousand Special Drawing Rights (SDR26,084,000) in connection with the Project; and

(D) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 3.03 is deleted and the following is substituted therefor:

Commitment Charge; Credit; Maturity Premium.

(a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the credit against the interest payable by the Borrower.

(c) The Borrower shall pay a maturity premium at the rate specified in the Loan Agreement, which maturity premium shall remain fixed for the term of the Loan. ADB shall add the maturity premium to the interest payable by the Borrower.

(b) Section 3.06 is deleted and the following is substituted therefor:

Rebate. (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(c) Section 3.07 is deleted and the following is substituted therefor:

Surcharge. (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

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) "CEMP" means the site-specific construction EMP;
- (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 and supporting the Project;
- (d) "DEC" means the Department of Environment and Conservation of the Borrower or any successor thereto;
- (e) "DOW" means the Department of Works of the Borrower or any successor thereto acceptable to ADB;
- (f) "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (g) "EMP" means the environmental management plan for each Subproject, including any update thereto, incorporated in the IEE;
- (h) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;
- (i) "FAM" means the Facility administration manual for the Project dated 15 October 2013 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;
- (j) "FFA" means the framework financing agreement dated 19 November 2008 between ADB and the Borrower with respect to the Facility;
- (k) "Goods" means equipment and materials, including related services such as transportation, insurance, installation, commissioning, training, and initial

maintenance, to be financed out of the proceeds of the Loan and supporting the subprojects described in paragraph 1 of Schedule 1 to this Loan Agreement, but excluding Consulting Services;

(l) “HCRN” means the Highlands Core Road Network of the Borrower, comprising the roads listed in Table A4 of the Report and Recommendation of the President (R292-08) in respect of the Investment Program;

(m) “HRMG” means the Highlands Road Management Group, or any successor thereto, in DOW which is the project implementation unit for ongoing ADB loans;

(n) “IEE” means the initial environmental examination for each Subproject, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(o) “Investment Program” means the Highlands Region Road Improvement Investment Program;

(p) “Involuntary Resettlement Monitoring Report” means each report prepared and submitted by the Borrower, and cleared by ADB, that describes the Project Executing Agency’s compliance, in executing the relevant part or parts of the Project, with the Involuntary Resettlement Safeguards;

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

(r) “km” means kilometer;

(s) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2012, as amended from time to time);

(t) “NRA” means the National Roads Authority of the Borrower or any successor thereto acceptable to ADB;

(u) “NRSC” means the National Road Safety Council of the Borrower or any successor thereto acceptable to ADB;

(v) “PFR” means the periodic financing request submitted or to be submitted by the Borrower, for the purposes of each loan under the Facility, and for the purpose of this Loan Agreement means the periodic financing request dated 6 September 2013;

(w) “PIU” means the project implementation units of NRA, DOW or NRSC, as applicable, as described in paragraph 3 of Schedule 5 to this Loan Agreement;

(x) “Procurement Guidelines” means ADB’s Procurement Guidelines (2013, as amended from time to time);

(y) “Procurement Plan” means the procurement plan for the Project dated 15 October 2013 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;

(z) "RF" means the resettlement framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(aa) "RP" means the resettlement plan for each Subproject, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(bb) "Project 1" means Project 1 of the Investment Program;

(cc) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the DOW or any successor thereto acceptable to ADB;

(dd) "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 RP, including any corrective and preventative actions;

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

(ff) "Subproject" means each subproject referred to in Schedule 1 of this Loan Agreement, which meets the subproject selection criteria set forth in Schedule 4 of the FFA; and

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

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of sixty nine million Dollars (\$69,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 20 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) 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 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

- (a) LIBOR;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.20% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.20% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 May and 15 November in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines

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. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

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. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2018 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound applicable technical, financial, business, and development practices.

(b) 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. The Borrower shall make available, promptly as needed and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other resources, as required, in addition to the proceeds of the Loan, for the carrying out of the Project and for the operation and maintenance of the Project facilities.

Section 4.03. (a) Whenever applicable, in the carrying out of the Project, the Borrower shall cause competent and qualified consultants and contractors,

acceptable to ADB to be employed to an extent and upon terms and conditions satisfactory to the Borrower and ADB.

(b) The Borrower shall cause the Project to be carried out in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to the Borrower and ADB, as applicable. The Borrower shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 4.04. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.05. (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 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 Loan proceeds and compliance with the financial covenants of this Loan Agreement 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 4.06. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.07. The Borrower shall ensure that any facilities relevant to the Project are operated, maintained and repaired in accordance with sound applicable technical, financial, business, development, operational and maintenance practices.

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(l) of the Loan Regulations: the Borrower shall have failed to perform any of its obligations under the Special Operations Loan Agreement.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: the event specified in Section 5.01 of this Loan Agreement.

ARTICLE VI

Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations: the Special Operations Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and shall have become legally binding upon the Borrower in accordance with its terms, subject only to effectiveness of this Loan Agreement.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 10.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: that the Special Operations Loan Agreement has been duly executed and delivered on behalf of the Borrower, and shall have become legally binding upon the Borrower in accordance with its terms, subject only to effectiveness of this Loan Agreement.

Section 6.03. 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 10.04 of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Treasury of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Secretary, Department of Treasury
P.O. Box 542
Waigani, National Capital District
Papua New Guinea

Facsimile Numbers:

+675 312-8803
+675 312-8808.

For ADB

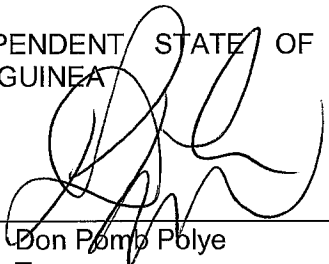
Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

+632 636-2444
+632 636-2446.

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

INDEPENDENT STATE OF PAPUA
NEW GUINEA

By 
Don Pompo Polye
Treasurer

ASIAN DEVELOPMENT BANK

By 
Marcelo Minc
Country Director

SCHEDULE 1

Description of the Project

1. The Project shall consist of the following subprojects, as more fully described in the PFR:

- (a) *Roads Subprojects*. Civil works for improvements to the following approximately 118 km of priority national roads of the HCRN, with design considerations for all road users including pedestrians and public motor vehicles:
 - (i) Kotna-Lapramp, approximately 31 km;
 - (ii) Ialibu-Kagua, approximately 31 km; and
 - (iii) Mendi-Tambul, approximately 56 km.
- (b) *Sustainable Maintenance Subproject*. Maintenance arrangements for 500 km of the HCRN, including the approximately 118 km of road sections rehabilitated under the Roads Subprojects under performance based management contracts.
- (c) *NRA Capacity Subproject*. For planning and implementation of long term performance based contracts, NRA's capacity shall be strengthened to prepare annual work plans and maintenance of the HCRN.
- (d) *DOW Efficiency Subproject*. DOW capacity shall be strengthened for more efficient capability to (i) implement and deliver road improvements with attention to safeguards; and (ii) improve the asset management system of the HCRN under the existing Road Asset Management System.
- (e) *NRSC Road Safety Capacity Subproject*. The NRSC shall be strengthened to create an accident database for the HCRN, identify and propose remedial measures at accident blackspots, and conduct road safety audits.

Consulting Services will be provided to support the above activities.

2. The Project is expected to be completed by 31 December 2017.

SCHEDULE 2**Amortization Schedule****(Highlands Region Road Improvement Investment Program – Project 2)**

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

Date Payment Due	Installment Share (Expressed as a % based on 10% annuity)
15 May 2019	0.827816
15 November 2019	0.869207
15 May 2020	0.912667
15 November 2020	0.958301
15 May 2021	1.006216
15 November 2021	1.056526
15 May 2022	1.109353
15 November 2022	1.164820
15 May 2023	1.223061
15 November 2023	1.284214
15 May 2024	1.348425
15 November 2024	1.415846
15 May 2025	1.486639
15 November 2025	1.560971
15 May 2026	1.639019
15 November 2026	1.720970
15 May 2027	1.807019
15 November 2027	1.897369
15 May 2028	1.992238
15 November 2028	2.091850
15 May 2029	2.196442
15 November 2029	2.306264
15 May 2030	2.421578
15 November 2030	2.542657
15 May 2031	2.669789
15 November 2031	2.803279
15 May 2032	2.943443
15 November 2032	3.090615

Date Payment Due	Installment Share (Expressed as a % based on 10% annuity)
15 May 2033	3.245146
15 November 2033	3.407403
15 May 2034	3.577773
15 November 2034	3.756662
15 May 2035	3.944495
15 November 2035	4.141720
15 May 2036	4.348806
15 November 2036	4.566246
15 May 2037	4.794558
15 November 2037	5.034286
15 May 2038	5.286000
15 November 2038	5.550311
Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal

in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

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 and Commitment Charges

3. The amount allocated to Category 4 is for financing interest and commitment charges on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest charges.

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 (Highlands Region Road Improvement Investment Program – Project 2)				
Number	Item	Total Amount Allocated for ADB Financing (USD)		Basis for Withdrawal from the Loan Account
		Category	Subcategory	
1	Works	48,630,000		
1A	Kotna – Lapramp		12,430,000	38% of total expenditure claimed
1B	Ialibu – Kagua		11,460,000	38% of total expenditure claimed
1C	Mendi – Tambul		24,740,000	38% of total expenditure claimed
2	Consulting Services	8,100,000		100% of total expenditure claimed *
3	Project Administration	3,270,000		
3A	DOW PIU		1,160,000	42% of total expenditure claimed
3B	NRA PIU		420,000	40% of total expenditure claimed
3C	Accounting and External Audits		200,000	67% of total expenditure claimed *
3D	DOW safeguard support		1,490,000	100% of total expenditure claimed *
4	Financing Charges	2,040,000		100% of amounts due
5	Unallocated	6,960,000		
	Total	69,000,000		

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

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 for Goods.
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.

National Competitive Bidding

5. 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

6. The Borrower shall not award any Works contract for a Subproject that involves environmental impacts until DOW and/or NRA has:
 - (a) obtained an environmental permit, if required, from the DEC; and
 - (b) incorporated the relevant provisions from the EMP into the Works contract.
7. The Borrower shall not award any Works contract for a Subproject that involves involuntary resettlement impacts until the Borrower has prepared and submitted to ADB the final RP for such Subproject based on the Subproject's detailed design, and has obtained ADB's clearance of such RP.

Consulting Services

8. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection or individual consultant selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

9. (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.

10. 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

11. 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 Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project; Financial Matters

Implementation Arrangements

1. The Borrower, DOW, NRA and NRSC shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the FFA and the FAM. Any subsequent change to the FFA or the FAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the FFA or the FAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail. The Borrower shall cause DOW to be the Project Executing Agency and the implementing agency for the subprojects listed in paragraphs 1(a) and (d) of Schedule 1 to this Loan Agreement, NRA to be the implementing agency for the subprojects listed in paragraphs 1(b) and (c) of Schedule 1 to this Loan Agreement, and NRSC to be the implementing agency for the subproject listed in paragraph 1(e) to this Loan Agreement.

Counterpart Support

2. The Borrower shall make available adequate budgetary allocations of the required counterpart funds in respect of the Project on a timely and regular basis. The Borrower will meet any financing shortfall to ensure that the Project and the Subprojects are fully implemented.

Long-Term Maintenance

3. The Borrower shall (a) ensure a five-year performance-based maintenance provision is incorporated in the bidding documents and contracts for Works in respect of the 118 km of roads to be improved under the Project and an additional 382 km of HCRN roads; and (b) by the end of 2013 (i) ensure that the maintenance described in (a) above is adequately funded; and (ii) implement a fuel levy, the proceeds of which shall support road maintenance. The Borrower and NRA shall take the necessary actions to continue to improve maintenance resources through road user charges, road damage charges, tax credit scheme and other measures in order that such resources shall meet maintenance funding requirements.

Environment

4. The Borrower, through DOW, NRA and NRSC, shall (a) ensure that the preparation, design, construction, implementation, operation and decommissioning of each Subproject and all Project facilities comply with (i) all applicable laws and regulations of the Borrower relating to environment, health, and safety; (ii) the Environmental Safeguards; (iii) the EARF; (iv) all measures and requirements set forth in the respective IEE and EMP; and (v) any corrective or preventative actions set forth in a Safeguards Monitoring Report; and (b) ensure or cause DOW, NRA and NRSC to ensure, that Works do not commence until and unless (i) the contractor has received induction training on environmental management delivered by HRMG or the supervision consultant; (ii) the CEMP has been reviewed and cleared by HRMG and supervision consultants; and (iii) environmental clearance permits as required have been obtained from DEC.

Land Acquisition and Involuntary Resettlement

5. The Borrower, through DOW, NRA and NRSC, shall ensure that (a) all land and all rights-of-way required for each Subproject and all Project facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract; (b) all land acquisition and resettlement activities are implemented in compliance with (i) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (ii) the Involuntary Resettlement Safeguards; (iii) the RF; and (iv) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report; and (c) the Department of Lands and Physical Planning or other relevant government authority of the Borrower shall approve updated compensation rates for land acquisition.

6. Without limiting the application of the Involuntary Resettlement Safeguards, the respective RF or the RP, the Borrower, through DOW, NRA and NRSC, shall ensure that no physical or economic displacement takes place in connection with the Subprojects until:

- (a) compensation at replacement cost based on market price and other entitlements have been provided to affected people in accordance with the respective RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the respective RP.

7. The Borrower, through DOW, NRA and NRSC, shall submit to ADB for disclosure on its web site, and disclose on DOW, NRA or NRSC web sites, as appropriate, semi-annual Safeguards Monitoring Reports.

8. The following shall occur: (a) relevant information including an information brochure in local language shall be disseminated to affected persons (APs) and local stakeholders; (b) DOW shall establish a grievance redress mechanism to receive and address project related concerns or grievances that may arise during project implementation; (c) APs shall be informed by DOW how they can access to the grievance redress mechanism; (d) DOW shall ensure that APs receive their compensation before the start of civil works affecting land or property; (e) the project shall comply with both ADB safeguard requirements and PNG laws and regulations applicable to land acquisition and resettlement; and (f) for implementation of the resettlement plans, DOW shall (i) appoint a land officer at PIU; (ii) set up an environment and social unit (ESU) within PIU including social/resettlement specialists; and (iii) coordinate with the Department of Lands and Physical Planning, provincial authorities, and other relevant agencies to implement land acquisition and resettlement activities.

9. A third party acceptable to ADB shall verify the memorandum of agreement between DOW and landowners in respect of use of land for road widening.

Indigenous Peoples

10. The Borrower shall ensure that each Subproject does not have any indigenous peoples impacts within the meaning of the Safeguard Policy Statement. In the event that a Subproject does have any such impact, the Borrower shall take all steps required to ensure that the Subproject complies with the applicable laws and regulations of the Borrower, the Safeguard Policy Statement and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

11. The Borrower, through DOW, NRA and NRSC, shall make available necessary budgetary and human resources to fully implement the respective EMP and RP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

12. The Borrower, through DOW, NRA and NRSC, shall ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures and requirements relevant to the contractor set forth in the respective IEE, EMP and RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Borrower 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 respective IEE, EMP or RP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

13. The Borrower, through DOW, NRA and NRSC, shall 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 any Subproject that were not considered in the respective IEE, EMP or the RP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in respective EMP or RP promptly after becoming aware of the breach.

Prohibited List of Investments

14. The Borrower, through DOW, NRA and NRSC, 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

15. The Borrower, through DOW, NRA and NRSC shall ensure that Works contracts and bidding documents under each Subproject include specific provisions requiring contractors (a) to comply with all applicable national laws and international treaty obligations on (i) prohibition of child labor as defined in national legislation for construction and maintenance activities; (ii) equal pay for equal work of equal value; and (iii) elimination of forced labor; (b) disseminate information on sexually transmitted diseases including HIV/AIDS to employees and local communities; and (c) provide safe working conditions for both male and female workers.

Gender

16. The Borrower, through DOW, NRA and NRSC, shall (a) ensure that ADB's Policy on Gender and Development (1998) is followed during implementation of the Project; and (b) encourage local contractors to employ 30% women staff in road improvement and maintenance. Specific provisions to this effect shall be included in the bidding documents. The DOW shall reflect progress in achieving the employment targets for women in the Project progress reports and Project completion report.

Health and Safety

17. The Borrower, through DOW, NRA and NRSC shall ensure that Works contracts follow all applicable health and safety laws and regulations of the Borrower.

Governance and Anticorruption

18. The Borrower, through DOW, NRA and NRSC, 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, through DOW, NRA and NRSC, 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.