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LOAN NUMBER 3132-IND

LOAN AGREEMENT  
(Ordinary Operations)

(Jammu and Kashmir Urban Sector Development Investment Program – Project 3)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 30 DECEMBER 2014

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IND 41116

## **LOAN AGREEMENT (Ordinary Operations)**

LOAN AGREEMENT dated 30 December 2014 between INDIA acting by its President ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

### WHEREAS

(A) by a framework financing agreement dated 17 April 2007 between the Borrower and ADB, ADB had agreed to provide a multitranche financing facility to the Borrower for the purposes of financing projects under the Jammu and Kashmir Urban Sector Development Investment Program;

(B) by a periodic financing request dated 22 January 2014 submitted by the Borrower, the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) the Project will be carried out by the State of Jammu and Kashmir ("State") acting through its Economic Reconstruction Agency ("ERA"), and for this purpose the Borrower will make available to the State the proceeds of the loan provided for herein upon terms and conditions mutually satisfactory to ADB and the Borrower; 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 and in the Project Agreement of even date herewith between ADB on the one part and the State and ERA on the other part;

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) "Action Plan" means the plan as agreed between ADB and the EA to achieve the several milestones under institutional reforms and capacity development activities specified in paragraphs 20 and 21 of Schedule 5 to this Loan Agreement and attached as Appendix 1 to the PAM;

(b) "Component" means each of the component as the context may require as provided under Schedule 1 to this Loan Agreement;

(c) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(d) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(e) "EA" or the "Project Executing Agency" for the purposes of and within the meaning of the Loan Regulations means the State acting through the ERA or any successors thereto acceptable to ADB, that is responsible for carrying out the Project;

(f) "Environmental Assessment and Review Framework" or "EARF" means the environmental assessment and review framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB, and incorporated by reference in the FFA;

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

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

(i) "ERA" means the Economic Reconstruction Agency established by the State under the Registration of Society Act of 1941;

(j) "Facility" means the multitranche financing facility provided by ADB to the Borrower for purposes of financing projects under the Investment Program;

(k) "FFA" means the framework financing agreement dated 17 April 2007 between ADB and the Borrower with respect to the Facility;

(l) "Financing Arrangements" means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;

(m) "Goods" means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(n) "Indigenous Peoples Plan" or "IPP" means the indigenous peoples plan for the Project, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the IPPF and cleared by ADB;

(o) "Indigenous Peoples Planning Framework" or "IPPF" means the indigenous peoples planning framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB, and incorporated by reference in the FFA;

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

(q) "Initial Environmental Examination" or "IEE" means the initial environmental examination, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the EARF and cleared by ADB;

(r) "Investment Program" means the Jammu and Kashmir Urban Sector Development Investment Program;

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

(t) "JNNURM" means the Borrower's Jawahar Lal Nehru National Urban Renewal Mission Program launched on 03 December 2005;

(u) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2012, as amended from time to time);

(v) "O&M" means operations and maintenance;

(w) "PAM" means the project administration manual for the Project dated May 2014 and agreed between the Borrower, the State, ERA, and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(x) "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 22 January 2014;

(y) "PHED" means the Public Health & Engineering Department of the State;

(z) "PMCs" mean the Project management consultants;

(aa) "PMU" means the Project management unit established under Project 1 and Project 2 and that which shall continue for the Project;

(bb) "Procurement Guidelines" means ADB's Procurement Guidelines (2013, as amended from time to time);

(cc) "Procurement Plan" means the procurement plan for the Project as included in the PAM and agreed between the Borrower, the State and ERA, and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(dd) "Project 1" means the ongoing Jammu and Kashmir Urban Sector Investment Program – Project 1 financed under ADB Loan No. 2331;

(ee) "Project 2" means the ongoing Jammu and Kashmir Urban Sector Investment Program – Project 2 financed under ADB Loan No. 2925;

(ff) "Resettlement Framework" or "RF" means the resettlement framework for the Investment Program, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB, and incorporated by reference in the FFA;

(gg) "Resettlement Plan" or "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the RF and cleared by ADB;

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

(ii) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower through the EA 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;

(jj) "Subproject" means a subproject that is found eligible for financing under the Project in compliance with the 'Selection Criteria and Approval Procedure for Subprojects' attached as Schedule 4 to the FFA; and

(kk) "Works" means construction or civil works to be financed out of the proceeds of the Loan, 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 Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of sixty million Dollars (\$60,000,000), 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 0.10% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.10% 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 December and 15 June 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 make the proceeds of the Loan available to the State upon terms and conditions mutually satisfactory to ADB and the Borrower and shall cause the State to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project 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, or shall cause the State to, procure 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 the State to 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 31 March 2017 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 State to carry out the Project 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 by the State, all obligations set forth in Schedule 5 to this Loan Agreement and the Project Agreement.

Section 4.02. The Borrower shall make available, or cause to be made available, promptly as needed, the funds, facilities, services, as required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. The Borrower shall cause the State to 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 4.04. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.05. In so far as it relates to the Project, the Borrower shall take all actions which shall be necessary on its part to enable the State to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.06. (a) In so far as it relates to the Project, the Borrower shall exercise its rights under the Financing Arrangements in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) In so far as it relates to the Project, no rights or obligations under the Financing Arrangements shall be assigned, amended, abrogated or waived without prior notice to ADB.

## ARTICLE V

### Effectiveness

Section 5.01. 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 VI**

**Miscellaneous**

Section 6.01. The Secretary, Additional Secretary, Joint Secretary, Director, or Deputy Secretary, in the Department of Economic Affairs of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary to the Government of India  
Department of Economic Affairs  
Ministry of Finance  
North Block  
New Delhi – 110001  
India

Facsimile Number:

(91-11) 2309- 2511.

For ADB

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

Facsimile Numbers:

(632) 636-2444

(632) 636-2293.

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.

INDIA



By \_\_\_\_\_  
TARUN BAJAJ  
Joint Secretary (MI)  
Department of Economic Affairs

ASIAN DEVELOPMENT BANK



By \_\_\_\_\_  
RAJEEV P. SINGH  
Officer-in-Charge  
India Resident Mission

**SCHEDULE 1****Description of the Project**

1. The objective of the Project is improved access to quality urban services in Jammu and Srinagar cities in the State.
2. The Project shall comprise improved infrastructure in (i) water supply, (ii) urban transport, (iii) drainage, and (iv) solid waste management, all as more fully described in the PFR. The specific Components of the Project shall be

**Component A: Urban Infrastructure and Services Improvements**

- (a) Water Supply: Rehabilitation and strengthening of water supply system in Jammu and Srinagar;
- (b) Drainage: Construction of new storm water drains in Rawalpura Chanpura catchment area on National Highway bypass at Srinagar; and
- (c) Urban Transport: Construction of an off-street car parking facility in Jammu, construction of two numbers of grade separators and one lane budge in Srinagar.

**Component B: Project Implementation Support Costs**

- (a) Capacity Building Support to Srinagar and Jammu Municipal Corporation for efficient service delivery; and
  - (b) Incremental Recurrent Cost to support Project Management and Project Implementation activities through Project Management Unit and Project Implementation Units of ERA.
3. Component B as stated in paragraph 2 of this Schedule shall be assisted through the provision of Consulting Services as applicable.
  4. The Project is expected to be completed by 31 December 2016.

## SCHEDULE 2

### Amortization Schedule

#### (Jammu and Kashmir Urban Sector Development Investment Program – Project 3)

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 %)
15 December 2019	2.500000
15 June 2020	2.500000
15 December 2020	2.500000
15 June 2021	2.500000
15 December 2021	2.500000
15 June 2022	2.500000
15 December 2022	2.500000
15 June 2023	2.500000
15 December 2023	2.500000
15 June 2024	2.500000
15 December 2024	2.500000
15 June 2025	2.500000
15 December 2025	2.500000
15 June 2026	2.500000
15 December 2026	2.500000
15 June 2027	2.500000
15 December 2027	2.500000
15 June 2028	2.500000
15 December 2028	2.500000
15 June 2029	2.500000
15 December 2029	2.500000
15 June 2030	2.500000
15 December 2030	2.500000
15 June 2031	2.500000
15 December 2031	2.500000
15 June 2032	2.500000
15 December 2032	2.500000
15 June 2033	2.500000
15 December 2033	2.500000
15 June 2034	2.500000
15 December 2034	2.500000
15 June 2035	2.500000

15 December 2035	2.500000
15 June 2036	2.500000
15 December 2036	2.500000
15 June 2037	2.500000
15 December 2037	2.500000
15 June 2038	2.500000
15 December 2038	2.500000
15 June 2039	<u>2.500000</u>
<b>TOTAL</b>	<b>100.000000</b>

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.

##### Reallocation

3. 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, in consultation with and by notice to the Borrower and the EA, (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, in consultation with and by notice to the Borrower and the EA, reallocate such excess amount to any other Category.

##### Disbursement Procedures

4. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB.

##### Retroactive Financing

5. Withdrawals from the Loan Account may be made for reimbursement of eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with items to be retroactively financed for civil works, equipment and materials, Project management and implementation, and consulting services, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Jammu and Kashmir Urban Sector Development Investment Program – Project 3)</b>			
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated for ADB Financing (\$) Category</b>	<b>Basis for Withdrawal from the Loan Account</b>
1	Works	48,200,000	80% of total expenditure claimed
2	Consultancy support	1,000,000	100% of total expenditure claimed*
3	Incremental administration support	500,000	50% of total expenditures claimed
4	Unallocated	10,300,000	
	<b>Total</b>	<b>60,000,000</b>	

\*Excluding 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 National Competitive Bidding.
4. The method of procurement is subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may allow the EA to only modify the method 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 shall cause the EA to 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, EA, 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 ensure or cause the EA to ensure that no Works contract is awarded for a Subproject which involves environmental impacts until the EA has:
  - (a) obtained the final approval of the IEE from the relevant State authorities and ADB; and
  - (b) incorporated the relevant provisions from the EMP into the Works contract.
7. The Borrower shall ensure or cause the EA to ensure that no Works contract is awarded involving involuntary resettlement impacts for a Subproject until the Borrower through the EA has prepared and submitted to ADB the final RP for such Subproject based on the Subproject's detailed design, and obtained ADB's clearance of such RP.
8. The Borrower shall ensure or cause the EA to ensure that no Works contract is awarded for a Subproject which involves impacts on indigenous peoples until the Borrower

through the EA has prepared and submitted to ADB the final IPP and obtained ADB's clearance of such IPP.

#### Consulting Services

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

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

- (a) Quality- and Cost-Based Selection; and
- (b) Consultants Qualifications Selection.

11. The EA shall recruit the individual consultants for the Project as required in accordance with procedures acceptable to ADB for recruiting individual consultants.

#### Industrial or Intellectual Property Rights

12. (a) The EA 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 EA 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.

13. The EA 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

14. 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

#### Implementation Arrangements

1. (a) The Borrower, State and ERA 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 Borrower, State and ERA, and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

(b) The State and ERA shall ensure that towards smooth implementation of the Project, grievances if any from stakeholders, relating to any Subproject or Component implementation or use of funds are addressed effectively and efficiently.

#### Counterpart Funds

2. The State shall make available the Loan proceeds through ERA to the PMU under appropriate arrangements acceptable to ADB, and ensure:

- (a) sufficient counterpart funds from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project; and
- (b) adequate funds towards operations and maintenance of Project facilities, through budgetary allocations or other means, to be provided to the PMU, during and after Subprojects' completion.

#### Subprojects Selection Criteria and implementation

3. The State and ERA shall ensure that all Subprojects meet the selection criteria and are implemented, to the satisfaction of ADB, in accordance with the provisions set forth in Schedule 4 to the FFA.

4. The State and ERA will ensure that all engineering structures under the Project are designed in accordance with the Borrower's standard for earthquake resistance buildings.

#### Safeguards and Social

##### Environment

5. The Borrower shall ensure, or cause the EA to ensure, that the preparation, design, construction, implementation, operation and decommissioning of the Project, and all Subprojects' facilities comply with (a) all applicable laws and regulations of the Borrower and the State relating to environment, health, and safety; (b) the Environmental Safeguards; (c) the EARF; and (d) all measures and requirements set forth in the respective IEE and EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

6. The Borrower shall ensure or cause the EA to ensure that all land and all rights-of-way required for the Project, and all Project facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower and the State relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the RF; and (d) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

7. Without limiting the application of the Involuntary Resettlement Safeguards, the RF or the RP, the Borrower shall ensure or cause the EA to ensure that no physical or economic displacement takes place in connection with any Subproject until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

8. In the event of any Subproject involving Indigenous Peoples, the Borrower shall ensure or cause the EA to ensure that the preparation, design, construction, implementation and operation of the Subproject and all Project facilities comply with (a) all applicable laws and regulations of the Borrower and the State relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; (c) the IPPF; and (d) all measures and requirements set forth in the respective IPP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

9. The Borrower shall ensure or cause the EA to ensure, that all necessary budgetary and human resources to fully implement the EMP, the RP and the IPP as required, are made available.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

10. The Borrower shall ensure or cause the EA to 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 IEE, the EMP, the RP and the IPP (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 EA 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, the RP or the IPP;
- (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

11. The Borrower shall ensure or cause the EA to ensure, 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, the RP or the IPP as applicable, 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 breach of compliance with the measures and requirements set forth in the EMP, the RP or the IPP promptly after becoming aware of the breach.

#### Prohibited List of Investments

12. The Borrower shall ensure or cause the EA to ensure that no proceeds of the Loan under the Project are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of ADB's Safeguard Policy Statement (2009).

#### Other Social Measures

13. The EA shall ensure that civil works contracts under the Project follow all applicable labor laws of the Borrower and the State and that these further include provisions to the effect that contractors; (a) carry out HIV/AIDS awareness programs for labor and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS as part of health and safety measures for those employed during construction; and (b) follow and implement all statutory provisions on labor (including not employing or using children as labor, equal pay for equal work), health, safety, welfare, sanitation, and working conditions. Such contracts will also include clauses for termination in case of any breach of the stated provisions by the contractors.

Gender

14. The EA shall ensure that the Project is undertaken in conformity with the Gender Action Plan and the Communication Strategy as agreed between ADB, the Borrower, and the EA as included in the PAM.

Governance and Anticorruption; Procurement

15. The Borrower, State, and ERA shall comply with ADB's Anticorruption Policy (1998, as amended to date) and (i) shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, the State and ERA are included in all bidding documents and contracts financed by ADB in connection with the Project, including provisions specifying the right of ADB to review and examine the records and accounts of the State and ERA and all contractors, suppliers, consultants, and other service providers as they relate to the Subprojects and the Project, and as included in the PAM, (ii) shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project; (iii) 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 (iv) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.

16. ERA shall announce the Project and business opportunities associated with the Project on its website. The website shall disclose the following information in relation to goods and services procured for the Project: (a) the list of participating bidders, (b) the name of the winning bidder, (c) the amount of the contracts awarded, and (d) the goods and services procured.

17. The State and ERA shall continue to undertake the anticorruption and good governance measures as identified in table 1 under paragraph 5 to Schedule 3 to the FFA, during the implementation of the Project.

Institutional and Financial Reforms

18. The State shall follow the principles outlined under JNNURM in undertaking urban sector reforms in the State. In this regard without limiting the requirements of institutional reforms stipulated under Project 1 and Project 2, and the Action Plan, the State shall more particularly undertake activities included under Project 1 and Project 2 and the following activities:

- (a) enhance the O&M budget allocation under the State budget to address the requirements of O&M for assets created under the Project;
- (b) implement the modern accrual based accounting systems in the municipal corporation of Jammu and municipal corporation of Srinagar and require both corporations to publish their annual financial statements starting from FY 2014-15;
- (c) through a combination of increased efficiency of billing and collection, increased user charges, reducing water losses and allocating a proportion of property tax collections to water supply and sewerage operations, the water

supply service providers in Srinagar and Jammu shall recover 50% of the O&M costs for water supply by no later than 31 December 2015; and

- (d) as also required in particular under Project 1 and Project 2:
  - (i) by 2015 establish semi-autonomous entities or boards or other suitable institutional mechanism responsible for water supply, sewerage and drainage operations for Srinagar and Jammu cities respectively; these entities shall (1) operate on commercial principles and have their own independent budget; and (2) perform their tasks in accordance with a business plan approved initially by the State's Urban Environmental and Engineering Department, and, PHED and the corporations, and later when the corporations have gained capacity, such budgets shall be developed by the urban local bodies of the State along with the service levels to be maintained by the entities and water supply and sewerage charges that the entities shall be authorized to collect and retain; and
  - (ii) empower the municipal corporations of Jammu and Srinagar cities to collect property tax at rates within a range as laid down by the State in consultation with the corporations.

#### Capacity Development

19. As part of the capacity development activities included under Component B under Schedule 1 to this Loan Agreement, the EA shall ensure that the key staff of PHED are selected under proper and transparent selection criteria, within six months of the effective date, for training with newly recruited staff and that such staff are retained to the extent possible for at least two years from the date of such training or the duration of the Project (whichever is the longer).

#### Institutional Reforms Action Plan

20. The EA shall undertake all institutional reforms and capacity development activities specified in paragraphs 19 and 20 of this Schedule in accordance with the Action Plan as agreed between ADB and the EA.