

---

GRANT NUMBER 0066-CAM(SF)

GRANT AGREEMENT  
(Special Operations)  
(Commune Council Development Project 2)

between

KINGDOM OF CAMBODIA

and

ASIAN DEVELOPMENT BANK

DATED 5 MARCH 2007

---

GAS:CAM 37256

**GRANT AGREEMENT  
(Special Operations)**

GRANT AGREEMENT dated 5 March 2007 between KINGDOM OF CAMBODIA (the "Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Recipient has applied to ADB for a grant for the purposes of the Project described in Schedule 1 to this Grant Agreement; and

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

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Grant Regulations; Definitions**

Section 1.01. All provisions of the Special Operations Grant Regulations of ADB, dated 7 February 2005 (the "Grant Regulations"), are hereby made applicable to this Grant Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. The definitions set forth in the Grant Regulations are applicable to this Grant Agreement unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "CBO" means the Capacity Building Office under the Recipient's Department of Local Administration and any successor thereto;

(b) "CCDP" means the ADB's Loan No. 1953 on Commune Council Development Project;

(c) "commune" means the lowest level administrative unit located in a province;

(d) "Consulting Guidelines" means ADB's "Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers" dated April 2006, as amended from time to time;

(e) "CR" means the civil registration;

(f) "Commune Council" means the elected council at the commune level;

(g) "DGA" means the Department of General Administration under the Recipient's Ministry of Interior and any successor thereto;

(h) "DoLA" means the Department of Local Administration under the Recipient's Ministry of Interior and any successor thereto;

(i) "GDLA" means the General Department of Local Administration under the Recipient's Ministry of Interior and any successor thereto;

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

(k) "MEF" means the Recipient's Ministry of Economy and Finance and any successor thereto;

(l) "MOI" means the Recipient's Ministry of Interior and any successor thereto;

(m) "MoLMUPC" means the Recipient's Ministry of Land Management, Urban Planning and Construction and any successor thereto;

(n) "MoWA" means the Recipient's Ministry of Women's Affairs and any successor thereto;

(o) "NCSC" means the National Committee for Support to Commune-Sangkat Councils;

(p) "OoCR" means the Office of Civil Registration under the MOI and any successor thereto;

(q) "PLAU" means the Provincial Local Administration Unit;

(r) "Procurement Guidelines" means ADB's "Procurement Guidelines" dated April 2006, as amended from time to time;

(s) "Procurement Plan" means the procurement plan for the Project dated 30 October 2006 and agreed between the Recipient and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(t) "Project Executing Agency" for the purposes, and within the meaning, of the Grant Regulations means MOI, or any successor thereto acceptable to ADB, which is responsible for overall execution of the Project;

(u) "Project facilities" means the facilities and equipment provided under the Project;

(v) "PTC" means the Project Technical Cell as described in paragraph 3 of Schedule 4 to this Grant Agreement; and

(w) "Works" means construction or civil works to be financed out of the proceeds of the grant.

## **ARTICLE II**

### **The Grant**

Section 2.01. ADB agrees to make available to the Recipient from ADB's Special Funds resources on terms and conditions set forth in this Agreement an amount of seven million eight hundred thousand Dollars (\$7,800,000).

## **ARTICLE III**

### **Use of Proceeds of the Grant**

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

Section 3.02. The goods and services and other items of expenditure to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant among different categories of such goods and services and other items of expenditure shall be in accordance with the provisions of Schedule 2 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Except as ADB may otherwise agree, all goods and services to be financed out of the proceeds of the Grant shall be procured in accordance with the provisions of Schedule 3 to this Grant Agreement.

Section 3.04. Withdrawals from the Grant Account in respect of goods and services shall be made only on account of expenditures relating to

- (a) goods which are produced in and supplied from and services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement, and
- (b) goods and services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 December 2009 or such other date as may from time to time be agreed between the Recipient and ADB.

## ARTICLE IV

### Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Grant Agreement.

Section 4.02. (a) The Recipient shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than 9 months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Grant proceeds and compliance with the financial covenants of this Grant Agreement as well as on the use of the procedures for imprest account/statement of expenditures), all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) The Recipient shall enable ADB, upon ADB's request, to discuss the Recipient's financial statements for the Project and its financial affairs related to the Project from time to time with the auditors appointed by the Recipient pursuant to Section 4.02(a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of the Recipient unless the Recipient shall otherwise agree.

Section 4.03. The Recipient shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Grant, and any relevant records and documents.

## ARTICLE V

### Effectiveness

Section 5.01. The following are specified as additional conditions to the effectiveness of this Grant Agreement for the purposes of Section 9.01(e) of the Grant Regulations:

(a) The Recipient shall have appointed the Director General of the General Department of Local Administration (GDLA) as the Project Director;

(b) The Recipient shall have appointed the Director of the Department of Local Administration (DoLA) as the Project Manager;

(c) The Recipient shall have appointed one senior staff from DoLA as the Project Administrator/Coordinator; and

(d) The Recipient shall have established a Project Technical Cell (PTC) in accordance with paragraph 3 of Schedule 4 to this Grant Agreement.

Section 5.02. A date ninety (90) days after the date of this Grant Agreement is specified for the effectiveness of the Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

## **ARTICLE VI**

### **Miscellaneous**

Section 6.01. The Ministry of Economy and Finance (MEF) of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

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

#### For the Recipient

Ministry of Economy and Finance  
The Royal Government of Cambodia  
Phnom Penh, Cambodia

Facsimile Number:

(855 23) 428-424.

#### For ADB


Asian Development Bank  
P.O. Box 789  
0980 Manila, Philippines

Facsimile Numbers:

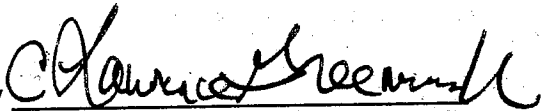
(632) 636-2444  
(632) 636-2331.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

KINGDOM OF CAMBODIA

By   
H. E. KEAT CHHON  
Authorized Representative

ASIAN DEVELOPMENT BANK

By   
C. LAWRENCE GREENWOOD, JR.  
Vice President (Operations 2)

## SCHEDULE 1

### Description of the Project

1. The objectives of the Project are to (i) provide selected Commune Councils with local assembly buildings, (ii) develop a computerized national civil registration system, and (iii) develop the capacity and awareness of the constituents, councilors, clerks and government officials on the concept of decentralization and deconcentration, public service, democratic rights and responsibilities.

2. The Project consists of the following components:

#### Component 1 – Commune Council Facilities

Provision of block grants to about 235 selected Commune Councils for the purpose of constructing a Commune Council building in each of the Commune Councils' area. Each of the Commune Councils will apply the block grant for Works, timber works and furniture.

#### Component 2 - Civil Registration System Development

Provision of equipment, furniture, computer hardware and software, office supplies, training and consulting services for the purpose of establishing a computer based national civil registration system for births, deaths and marriages, with secured central searchable and extendable database.

#### Component 3 – Capacity Development

(a) Training Fund:

Provision of Training Fund to support DoLA's Annual Training Plan (ATP) activities, including supporting the Capacity Building Office (CBO) to prepare the ATP, identifying ATP items to be supported under the Fund, reviewing and strengthening the content and methodology of training modules and materials for consistency with laws and concepts of democracy, reviewing and strengthening the gender content and methodology of training modules and materials, contracting training providers and monitoring implementation, undertaking small sample impact studies, including gender disaggregated data. Training will be provided to councilors, clerks and government officials, and may include but not limited to the following subjects (i) monitoring and evaluation for finance and administration (ii) conflict resolution, (iii) domestic violence, (iii) natural resources/ environmental management, (iv) health/education, (v) child rights and protection, and (vi) facilitation skills.

(b) Mass Media Fund:

Provision of Mass Media Fund for the purpose of supporting a 24-month multi media public awareness campaign to convey the concept of local democracy, including local democratic roles and responsibilities, Commune Council services, legal identity and civil registration, roles and responsibilities of

women councilors and of women and children focal points. The public awareness campaign will be publicized and broadcasted using mix media, including theatre, TV, radio, posters and leaflets.

3. The Project also includes the provision of consulting services. The Project is expected to be completed by 30 June 2009.

## SCHEDULE 2

### Allocation and Withdrawal of Grant Proceeds

#### General

1. The table attached to this Schedule sets forth the Categories of Goods, Works, services and other items to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category.)

#### Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories listed in the Table shall be financed out of the proceeds of the Grant on the basis of the percentages set forth in the Table.

#### Reallocation

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

(a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Recipient, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Grant then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Recipient, reallocate such excess amount to any other Category.

#### Disbursement Procedures

4. Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the Grant proceeds shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2001 (ADB's Loan Disbursement Handbook), as amended from time to time.

#### Imprest Account; Statement of Expenditures

5. (a) Except as ADB may otherwise agree, the Recipient shall establish immediately after the Effective Date, an imprest account at the National Bank of Cambodia.

Schedule 2

The imprest account shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Recipient and ADB. The currency of the imprest account shall be in Dollars. The initial amount to be deposited into the imprest account shall not exceed the equivalent of twenty (20) percent of the Grant amount.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest account, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Recipient and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed \$80,000.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS</b>				
<b>(Commune Council Development Project 2)</b>				
<b>CATEGORY</b>				<b>ADB FINANCING</b> <b>Percentage and</b> <b>Basis for Withdrawal</b> <b>from the Grant Account</b>
<b>Number</b>	<b>Item</b>	<b>Amount Allocated</b>		
		<b>\$</b>		
1	Block Grants – Commune Councils Facilities	4,583,000		
1A	Works		4,039,000	100 percent of total expenditure*
1B	Timber Works & Furniture		544,000	100 percent of total expenditure*
2	Equipment	645,000		100 percent of total expenditure*
3	Training Funds	400,000		100 percent of total expenditure*
4	Media Funds	400,000		100 percent of total expenditure*
5	Consulting Services	887,000		
5A	Project Management		115,000	100 percent of total expenditure*
5B	Capacity Development		772,000	100 percent of total expenditure*
6	Operation & Maintenance	176,000		100 percent of total expenditure*
7	Unallocated	709,000		
	Total	7,800,000		

\* exclusive of local taxes

### SCHEDULE 3

#### Procurement of Goods and Works, and Consulting Services

##### A. General

1. All Goods and Works, and consulting services, to be financed out of the proceeds of the Grant shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.

2. All terms used and not otherwise defined in this Grant Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

##### B. Procurement for 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:

National Competitive Bidding
Shopping
Community Participation in Procurement

The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Recipient may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

4. National Competitive Bidding. The procedures to be followed for national competitive bidding shall be those set forth for the “National Competitive Bidding” method in the Recipient’s Procurement Manual of September 2005 issued under Prakas 587 MEF of 19 September 2005. (Prakas on Promulgating of the Procurement Manual for Implementing the World Bank and the Asian Development Bank Assisted Projects) with the clarifications and modifications described in the following paragraphs required for compliance with the provisions of the Procurement Guidelines:

i. Application. Contract packages subject to National Competitive Bidding procedures will be those identified as such in the project Procurement Plan. Any changes to the mode of procurement from those provided in the Procurement Plan shall be made through updating of the Procurement Plan, and only with prior approval of ADB.

ii. Eligibility. Bidders shall not be declared ineligible or prohibited from bidding on the basis of barring procedures or sanction lists, except individuals and firms sanctioned by ADB, without prior approval of ADB.

iii. Advertising. Bidding of NCB contracts estimated at \$500,000 or more for goods and related services or \$1,000,000 or more for civil works shall be advertised concurrently with the general procurement notices on ADB's website.

iv. Anti-Corruption. Definitions of corrupt, fraudulent, collusive and coercive practices shall reflect the latest ADB Board-approved Anti-Corruption Policy definitions of these terms and related additional provisions.

v. Rejection of All Bids and Rebidding. Bids shall not be rejected and new bids solicited without the ADB's prior concurrence.

vi. Bidding Documents. The bidding documents provided with the Recipient's Procurement Manual shall be used to the extent possible. The first draft English language version of the procurement documents shall be submitted for ADB review and approval, regardless of the estimated contract amount, in accordance with agreed review procedures (post and prior review). The ADB-approved procurement documents will then be used as a model for all procurement financed by ADB for the Project, and need not be subjected to further review unless specified in the Procurement Plan.

vii. Member Country Restrictions. Bidders must be nationals of member countries of ADB, and offered goods, works and services must be produced in and supplied from member countries of ADB.

5. Community Participation in Procurement. The Recipient may use community participation in procurement for Works contracts for the constructions of Commune Council buildings in remote Communes, where no contractor has shown any interested in bidding for the work. Community Participation in Procurement shall be carried out in accordance with the agreed procedures set out in the Procurement Plan.

#### **D. Selection of Consulting Services**

6. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Recipient shall apply quality- and cost-based selection for selecting and engaging consulting services.

7. The Recipient shall recruit individual consultants for engineering/architecture, capacity building, data management, accounting, gender mainstreaming and mass media, in accordance with ADB's procedures for recruiting individual consultants.

#### **E. Industrial or Intellectual Property Rights**

8. (a) The Recipient shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Recipient shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate,

indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

9. The Recipient shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

## SCHEDULE 4

### Execution of Project and Operation of Project Facilities; Financial Matters

#### Project Executing Agency (EA)

1. The Ministry of Interior (MOI) shall be the EA and with the support of its Department of Local Administration (DoLA) shall be responsible for the overall execution of the Project.

#### Project Management

2. The Project management shall operate within the structure of MOI without the creation of a separate project management unit.

3. A Project Technical Cell (PTC) shall be established within MOI prior to the Effective Date. The PTC shall consist of a Project Director, Project Manager, Project Administrator/Coordinator and five other MOI staff. The Director-General of the General Department of Local Administration (GDLA) shall be appointed as the Project Director. The Director of DoLA shall be appointed as the Project Manager. A senior staff of DoLA shall be appointed as Project Administrator/Coordinator. Out of the five MOI staff, four staff shall be appointed from DoLA and one staff shall be appointed from the Office of Civil Registration (OoCR). The four DoLA staff shall, respectively, be responsible for Component 1, Component 3, Project Accounting and Local Finance issues. The staff from the OoCR shall be responsible for Component 2.

4. The Project Manager with the support of the Project Administrator/Coordinator shall lead Project implementation and shall (i) prepare and submit reports to the Project Director, who will in turn report to ADB, (ii) liaise with MEF, and (iii) ensure that all Project activities are in accordance with ADB procedures and requirements. PTC shall receive support from a team of consultants, consisting of a Project Team Leader, an accountant and other national consultants. Component 1 shall be implemented by the Commune Councils with support from DoLA and a consultant team. Component 2 shall be implemented by OoCR, with the support of the Project Administrator/Coordinator, the DoLA Project Accountant and consultants. The implementation of Component 2 shall be coordinated with other civil registration partners, for example, PLAN International and the United Nations Children Fund (UNICEF). Component 3 shall be implemented by the Capacity-Building Office (CBO), with the support of consultants.

#### Counterpart Contributions

5. The Recipient shall provide the required counterpart contributions for the Project implementation on time and ensure prompt availability of the contribution during each year of Project implementation.

Commune Council Eligibility and Selection Criteria

6. The Recipient and MOI shall ensure that only Commune Councils listed as priority in the provincial listing, prepared based on the following weighted factor formula for prioritizing communes, as agreed between the Recipient and ADB, shall be prioritized and eligible for consideration:

- a. existence and condition of the existing commune council office; and
- b. commune population and commune poverty ranking.

7. To receive funding under Component 1, the Recipient and MOI shall further ensure that the prioritized and eligible communes satisfy all the requirements set out in the Implementation Handbook developed under the Commune Council Development Project (CCDP).

Commune Councils' Bank Account

8. To ensure the smooth transfer of the block grants to each of the selected Commune Councils, immediately upon approval of the block grants and the signing of the Block Grant Agreement between the Recipient and each of the Commune Councils, each of the Commune Councils shall establish a bank account at a local branch of a commercial bank acceptable to ADB.

9. The Recipient and MOI shall ensure that the block grants are transferred directly from the imprest account to each of the Commune Councils' bank accounts specially opened at a local branch of a commercial bank for receiving and managing their block grant transfers.

Environment

10. The Recipient and MOI shall ensure that in constructing the Commune Council buildings, each of the Commune Councils is responsible for ensuring that the Recipient's environmental laws and regulations, ADB's Environment Policy (2002) and best environmental practices are incorporated into all Project designs and implementation.

Involuntary Resettlement

11. The Recipient and MOI shall ensure that it shall not approve any block grant that entails land acquisition or involuntary resettlement including land donation. It shall not approve any block grant that involves involuntary resettlement according to ADB's *Policy on Involuntary Resettlement* (1995). To be eligible for block grants the Commune Councils are required to confirm that the land planned for use as the Project facilities is (a) registered in their ownership and (b) not being used or occupied for economic or residential purposes. These undertakings shall be checked by the contracted architect engineers during their initial site visits.

Gender

12. To ensure that women benefit equally from the Project and interventions avoid gender bias, the Recipient and MOI shall ensure that the Project shall be carried out in

accordance with ADB's Policy on Gender and Development (1998). The Recipient shall further ensure that the agreed Gender Action Plan (GAP) for this Project is implemented in a timely manner over the entire Project period, and that adequate resources are allocated for this purpose. Implementation of the GAP will be closely monitored, and the progress shall be reported in the quarterly reports to ADB.

#### Indigenous People

13. Although the Project does not envisage any adverse impact on indigenous peoples, the Recipient and MOI will ensure that Project shall be prepared and implemented in accordance with ADB's *Policy on Indigenous Peoples* (1998), in order to increase the quality and access of information through the mass media activities received by indigenous peoples.

#### Civil Registration

14. The Recipient and MOI shall ensure that OoCR shall recruit additional and sufficient number of young and educated male and female staff, with a minimum of first year university education or its equivalent, to be trained to manage the computerized civil registration database.