
LOAN NUMBER 2514-FIJ

LOAN AGREEMENT
(Ordinary Operations)

(Third Road Upgrading (Sector) Project – Supplementary)

between

REPUBLIC OF THE FIJI ISLANDS

and

ASIAN DEVELOPMENT BANK

DATED 19 March 2010

LAL:FIJ 28261

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 19 March 2010 between the REPUBLIC OF THE FIJI ISLANDS (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) by a loan agreement (Loan No. 1530-FIJ: Third Road Upgrading (Sector) Project) dated 17 October 1997 between the Borrower and ADB, as amended and restated on 15 November 2002 and further amended on 25 June 2007 (hereinafter referred to as the Initial Loan Agreement), ADB agreed to make a loan in the amount equivalent to forty million dollars (\$40,000,000) (hereinafter referred to as the Initial Loan) to the Borrower from ADB's ordinary capital resources for the purposes of the project described in Schedule 1 to the Initial Loan Agreement and this Loan Agreement (hereinafter referred to as the Project);

(B) the Borrower has applied to ADB for a supplementary loan for the purposes of financing cost overruns incurred under the Project; and

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

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, 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 thereof (said Ordinary Operations Loan Regulations as so modified being hereinafter called the Loan Regulations):

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

Commitment Charge; Credit. (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 amount of the credit against the interest payable by the Borrower.

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

(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:

(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, unless the context otherwise requires, the several terms defined in the Loan Regulations and the Initial Loan Agreement have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "Contract WSC13/06" means the works contract for completion of earthworks, drainage and subbase that was entered into between the Ministry of Works and Transport and B.W Holdings Ltd on 6 July 2006.

(b) "Contract WSC 14/06" means the works contract for supply of subbase and base course that was entered into between the Ministry of Works and Transport and Standard Concrete Industries Ltd on 6 July 2006.

(c) "DNR" means the Department of National Roads within the Ministry of Works and Transport of the Borrower or any successor thereto;

(d) "EMP" means an environment management plan;

(e) "Procurement Guidelines" means ADB's Procurement Guidelines (2007, as amended from time to time);

(f) "Procurement Plan" means the procurement plan for the Project dated 9 March 2010 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines and other arrangements agreed with ADB;

(g) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means DNR or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project; and

(h) "Works" means construction or civil works to be financed out of the proceeds of the Loan, and 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 twenty six million and eight hundred thousand Dollars (\$26,800,000), 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 18 years, and a grace period as defined in paragraph (c) of this Section.

(c) The term "grace period" as used in paragraph (b) of this Section 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 LIBOR and 0.60% as provided by Section 3.02 of the Loan Regulations, less a credit of 0.40% 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 sixty (60) days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 1 April and 1 October 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 paragraph (a) of this Section 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 Works to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan among different categories shall be 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, all Works to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where Works have 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 Works financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2012 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 administrative, financial, engineering, environmental and road asset management 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, the funds, facilities, services, and other resources which are 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) 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 ADB. 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, 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 6 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 Loan proceeds and compliance with the financial covenants of this Loan Agreement), 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 Borrower shall enable ADB, upon ADB's request, to discuss the Borrower's financial statements for the Project and its financial affairs related to the Project from time to time with the auditors appointed by the Borrower pursuant to Section 4.05(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 Borrower unless the Borrower shall otherwise agree.

Section 4.06. The Borrower shall enable ADB's representatives to inspect the Project and Works financed out of the proceeds of the Loan, and any relevant records and documents.

Section 4.07. The Borrower shall ensure that the Project facilities are operated, maintained and repaired in accordance with sound administrative, financial, engineering, environmental, road asset management and maintenance and operational practices.

ARTICLE V

Effectiveness

Section 5.01. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Minister 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

Ministry of Finance
Ro Lalabalavu House
Suva, Fiji

Facsimile Number:

(679) 3300-834.

For ADB

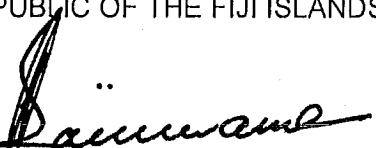
Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2445.

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 and to be delivered at the principal office of ADB, as of the day and year first above written.

REPUBLIC OF THE FIJI ISLANDS

By 
JOSAIA VOREQE BAINIMARAMA
Prime Minister and Minister of Finance

ASIAN DEVELOPMENT BANK

By 
RICHARD KEITH LEONARD
Regional Director
South Pacific Subregional Office

SCHEDULE 1

Description of the Project

1. The objectives of the Project are to improve (i) the efficiency of the road sector through road upgrading and rehabilitation; and (ii) the management of road assets and sector resources.

2. The Project consists of the following parts:

Part A: Civil Works Subprojects

- (i) civil works for upgrading about 100 km of gravel roads selected from the 19 roads identified under FRUP III;
- (ii) civil works for the rehabilitation and strengthening of about 80 km of existing sealed roads; and
- (iii) civil works for road safety improvements to the existing road infrastructure under the FRSAP.

Part B: Road Maintenance and Laboratory Equipment

Provision of specialized road maintenance and laboratory equipment.

Part C: Consulting Services

Provision of consulting services for:

- (i) detailed engineering design work and construction supervision for road upgrading Subprojects;
- (ii) supporting the PMU;
- (iii) strengthening DNR technical services; and
- (iv) supporting asset management and engineering for road rehabilitation Subprojects.

3. The Project is expected to be completed by 31 December 2011.

SCHEDULE 2

Amortization Schedule

(Third Road Upgrading (Sector) Project – Supplementary)

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.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 April 2011	1.043446
1 October 2011	1.095618
1 April 2012	1.150399
1 October 2012	1.207919
1 April 2013	1.268315
1 October 2013	1.331731
1 April 2014	1.398317
1 October 2014	1.468233
1 April 2015	1.541645
1 October 2015	1.618727
1 April 2016	1.699664
1 October 2016	1.784647
1 April 2017	1.873879
1 October 2017	1.967573
1 April 2018	2.065952
1 October 2018	2.169249
1 April 2019	2.277712
1 October 2019	2.391597
1 April 2020	2.511177
1 October 2020	2.636736
1 April 2021	2.768573
1 October 2021	2.907002
1 April 2022	3.052352
1 October 2022	3.204969
1 April 2023	3.365218
1 October 2023	3.533479
1 April 2024	3.710153
1 October 2024	3.895660

Schedule 2

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 April 2025	4.090443
1 October 2025	4.294965
1 April 2026	4.509714
1 October 2026	4.735199
1 April 2027	4.971959
1 October 2027	5.220557
1 April 2028	5.481585
1 October 2028	5.755636
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.

Schedule 2

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 Works and other items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan 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)

Percentages of ADB Financing

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

Interest and Commitment Charge

3. The amount allocated to Category 2 is for financing interest and commitment charge 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 and commitment charge.

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 then 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 for financing Works shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2007 (ADB's Loan Disbursement Handbook), as amended from time to time.

Retroactive Financing

6. Withdrawals from the Loan Account may be made for reimbursement of reasonable 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 Works for Contract WSC 13/06 and Contract WSC 14/06, subject to a maximum amount equivalent to \$5,000,000.

Condition of Withdrawals from Loan Account

7. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for Works until DNR shall have recruited consultants with competence and experience acceptable to ADB for construction supervision. The positions to be occupied on a full time basis shall include a supervising engineer, a resident engineer, a materials engineer, and a senior works inspector.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Third Road Upgrading (Sector) Project – Supplementary)			
CATEGORY			ADB FINANCING BASIS
Number	Item	Total Amount Allocated for ADB Financing \$ Category	Percentage of ADB Financing from the Loan Account
1	Works	22,600,000	77.5 percent of total expenditure claimed
2	Interest and Commitment Charge	400,000	100 percent of amount due
3	Unallocated	3,800,000	
	Total	26,800,000	

SCHEDULE 4**Procurement of Works****A. General**

1. All Works to be financed out of the proceeds of the Loan shall be subject to and governed by the Procurement Guidelines.
2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines.

B. Procurement for Works

3. Except as ADB may otherwise agree, Works shall only be procured on the basis of the method of procurement set forth below:

International Competitive Bidding

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 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.

C. Industrial or Intellectual Property Rights

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

(b) The Borrower shall ensure that all contracts for the procurement of Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

D. ADB's Review of Procurement Decisions

5. All contracts procured under international competitive bidding procedures 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 and Operation of Project Facilities; Safeguards

A. PROJECT IMPLEMENTATION ARRANGEMENTS

Project Executing Agency

1. DNR shall be the Project Executing Agency responsible for execution of the Project. The Permanent Secretary of the Ministry of Works and Transport shall be the individual with overall responsibility for implementation of the Project.

Project Management Unit

2. The PMU shall handle daily activities under DNR's Director of Roads and Airfields, including procurement of Works and administration of consulting services.

3. The PMU shall be adequately staffed and resourced, including a qualified financial officer and an experienced project management engineer, exclusively for the Project. DNR shall recruit and retain, during the implementation of the Project, consultants with competence and experience acceptable to ADB for construction supervision, including supervision of the force account works. The terms of reference of such consultants shall be determined by agreement between ADB and DNR.

B. SAFEGUARDS

Environment

4. DNR shall: (a) design, construct, operate and maintain the roads in accordance with applicable laws and regulations of the Borrower and ADB's Environment Policy (2002); (b) ensure that EMPs for remaining Works contract packages (except Works contract packages the bidding documents of which have been issued by DNR and approved by ADB prior to the Effective Date) are updated and approved by ADB prior to the bidding of those Works contract packages; (c) incorporate all environmental mitigation, monitoring and reporting measures specified in the updated EMPs in the relevant bidding documents, and Works contract specifications; and (d) report to ADB any unanticipated negative environmental impacts, and take proper action to mitigate the impacts.

5. DNR shall (a) ensure that Works contractors are monitored closely to ensure compliance with all environmental impact mitigation, monitoring, consultation requirements in the EMPs; and (b) prepare and submit to ADB a consolidated report on a quarterly basis for all EMPs being implemented during the Project implementation period.

Social Measures

6. The Borrower shall ensure that any land acquisition or involuntary resettlement required for the Project is managed in accordance with applicable laws and regulations of the Borrower and ADB's *Involuntary Resettlement Policy* (1995).

Schedule 5

7. DNR shall ensure that provisions are stipulated in all Works contracts to require contractors employed under the Project to incorporate minimum workplace occupational safety norms, including the core labor standards as identified in the fundamental International Labor Organization conventions. DNR shall ensure that Works contractors comply with applicable labor laws and do not employ child labor in any aspect of their activities. DNR shall ensure that contractors provide appropriate training, and information materials, for workers on HIV/AIDS prevention, and that contractors and their workers observe local protocols concerning acceptable behavior toward the local population. DNR shall require contractors not to differentiate wages between men and women for work of equal value. All Works contracts shall include specific clauses to this effect, and compliance shall be strictly monitored during Project implementation.

8. The Borrower shall ensure that the Project is carried out in accordance with all applicable anti-corruption laws and regulations of the Borrower and ADB's Anticorruption Policy (1998, as amended to date). The Borrower agrees that ADB reserves the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project. In particular, the Borrower shall ensure that (a) relevant provisions of ADB's Anticorruption Policy (1998, as amended to date) are included in the bidding documents for the Project; (b) all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of DNR and all contractors, suppliers, consultants, and other service providers as they relate to the Project; and (c) a Project website is developed by DNR within two months of the Effective Date; and maintained to disclose the audited Project financial accounts, Project progress and procurement activities.

C. OPERATION AND MAINTENANCE

9. Without affecting the generality of Section 4.02 of this Loan Agreement, the Borrower shall ensure that throughout the implementation of the Project, adequate budgetary allocations of the required counterpart funds are made, approved, and released in a timely manner in order to ensure the proper implementation of the Project.

10. Without affecting the generality of Section 4.03 of this Loan Agreement, DNR shall ensure that the Project facilities are built in accordance with the technical design specifications and that construction supervision, quality control, and contract management are implemented in accordance with internationally accepted standards.

D. OTHER MATTERS

11. In the event that the Borrower is successful, in whole or in part, in recovering the cost overrun from the original contractor, then such sums will be applied, to the extent necessary, to priority road rehabilitation as defined by the road asset management system and to ensure adequate funding of road maintenance.

Schedule 5

12. DNR shall establish and maintain a Project performance monitoring system to monitor the progress of the Project in achieving the planned outcome and outputs. The Project performance monitoring system shall include three major activities: (a) benchmarking, to assist Project planners and implementers design and implement projects that respond to the needs of the intended beneficiaries, and to provide a basis for an objective assessment of the Project impact; (b) monitoring during the Project implementation to ensure that the Project indeed benefits the intended beneficiaries; and (c) post-Project evaluation to assess the overall effectiveness of the Project.

13. ADB and the Borrower shall undertake semi-annual and midterm reviews of the Project to consider (a) compliance with the covenants of this Loan Agreement; (b) physical achievements against milestones; (c) Loan disbursements and financial progress; and (d) Project implementation issues requiring resolution or action. DNR shall review the estimates of the Project costs at quarterly intervals and reassess the Project benefits if such costs increase by more than ten percent (10%) of the base costs.