
LOAN NUMBER 2410-IND

LOAN AGREEMENT
(Ordinary Operations)

(Uttarakhand Urban Sector Development Investment Program – Project 1)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 23 October 2008

LAL:IND 38272

LOAN AGREEMENT (Ordinary Operations)

LOAN AGREEMENT dated 23 October 2008 between INDIA acting by its President (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(B) the Project will be carried out by the State of Uttarakhand (hereinafter referred to as the State) acting through its Urban Development Department (hereinafter referred to as the Executing Agency or EA), 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 agreeable to ADB and the Borrower; and

(C) 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 and State;

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. (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.

Credit. (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 have the respective meanings therein set forth, and the following additional terms have the following meanings:

- (a) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (February 2007, as amended from time to time);
- (b) "EARF" means the Environmental Assessment and Review Framework as agreed between the Borrower, the State, and ADB and attached to Schedule 5 to the FFA;
- (c) "EIA" means environment impact assessment;
- (d) "EMP" means environment management plan as agreed between the Borrower, the State and ADB;
- (e) "Executing Agency" or "EA" for the purposes of the Loan Regulations means the State acting through the UDD;
- (f) "FAM" means the facility administration memorandum to be prepared and agreed between ADB, the Borrower and the State to facilitate implementation and processing of the Facility and related PFRs;
- (g) "FFA" means the Framework Financing Agreement dated 21 November 2007 between ADB and the Borrower, for the Facility;
- (h) "Facility" means the multitranche financing facility provided by ADB to the Borrower in accordance with ADB's policy Pilot Financing Instruments and Modalities (R194-05, 4 August 2005);
- (i) "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;
- (j) "IEE" means initial environmental examination;

- (k) "IPDF" means the indigenous peoples development framework as agreed between the Borrower, State and ADB and attached to Schedule 5 to the FFA;
- (l) "IPDP" means the indigenous peoples development plan prepared or to be prepared as applicable for a Subproject and agreed between the Borrower, the State and ADB;
- (m) "IPMU" means the Investment Program and Project Management Unit established by the EA as described in Paragraph 3 of Schedule 5 to the Loan Agreement and any successor thereto acceptable to ADB under Paragraph 10 of Schedule 5 to the Loan Agreement;
- (n) "IPPMS" means the investment program performance management system;
- (o) "Investment Program" means the entire program for the State urban development program as described under the FFA;
- (p) "O&M" means operations and maintenance;
- (q) "PFR" means the periodic financing request to be submitted by the Borrower for purposes of each loan under the Facility and for purposes of this Loan Agreement means the PFR dated 21 November 2007;
- (r) "PIU" means Project implementation unit;
- (s) "PMC" means the program management consultants;
- (t) "PPP" means public-private partnership;
- (u) "Procurement Guidelines" means ADB's Procurement Guidelines, February 2007, as amended from time to time;
- (v) "Procurement Plan" means the procurement plan for the Project as attached to the PFR, and agreed between the Borrower, the State, and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;
- (w) "Project" means as generally defined under the Loan Regulations and referred to as Project 1 under the Investment Program for this Loan Agreement;
- (x) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means the State of Uttarakhand acting through its Urban Development Department or any legal successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

- (y) "Project Facilities" means any equipment and facilities provided or to be provided or constructed under the Project;
- (z) "RF" means the resettlement framework as agreed between the Borrower, State and ADB and attached to Schedule 5 to the FFA;
- (aa) "RP" means the resettlement plan prepared or to be prepared as applicable for a Subproject and as agreed between the Borrower, State and ADB;
- (bb) "SEIA" means a summary EIA;
- (cc) "SIEE" means a summary IEE;
- (dd) "State" means the State of Uttarakhand of the Borrower;
- (ee) "Subproject" means such proposal that is prepared by the EA under the Project as detailed in Schedule 1 to this Loan Agreement, in compliance with the selection criteria attached to Schedule 4 to the FFA;
- (ff) "UDD" means the State's Urban Development Department;
- (gg) "UJS" means Uttarakhand Jal Shanstan, the State's water supply and sewerage service delivery and operations and maintenance utility;
- (hh) "ULB" means the urban local body as found to be eligible and included under the Project;
- (ii) "UPJN" means Uttarakhand Pey Jal Nigam, the State's water and sewerage infrastructure planning and construction utility; and
- (jj) "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 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(b) 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 June and 1 December 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 make the proceeds of the Loan available to the State upon terms and conditions mutually agreeable 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 Goods, Works and consulting services to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan among different categories of such Goods, Works and consulting services 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 Goods, Works and consulting services 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 Goods, Works or consulting services 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 Goods, Works and consulting services 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 31 December 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 State to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental, urban development and public utility 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 to the State, 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.

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 take all action which shall be necessary on its part to enable the State to perform its obligations under the Project Agreement, including the establishment and maintenance of levies and charges as stipulated in the Urban Governance, Finance and Service Delivery Improvement Action Plan set out in Schedule 1 to the FFA, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) The Borrower shall exercise its rights under the financing arrangements with the State in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the financing arrangements with the State shall be assigned, amended, abrogated or waived without the prior concurrence of ADB.

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 Secretary, Additional Secretary, Joint Secretary, Director or Deputy Director 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) 2309-2477
(91-11) 2309-2511.

For ADB

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

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:


(632) 636-2444
(632) 636-2305.

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.

INDIA

By  _____
GOVIND MOHAN
Director (Infra)
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By  _____
NARHARI RAO
Officer-in-Charge
India Resident Mission

SCHEDULE 1

Description of the Project

1. As part of the Facility under the Investment Program, this Project will assist in improved urban environment in the cities of Dehradun, Nainital and Haridwar and provide capacity development to targeted groups and bodies, as described below.
2. The Project comprises of the following components as more fully described in Appendix 1 of the PFR.

Part A: Urban Infrastructure and Services Improvement

(a) Water Supply:

The component includes water supply optimization programs in Dehradun, Nainital and Haridwar. More specifically, it includes (i) preparation of GIS based pipe network mapping, (ii) leak detection and water and power audit including hydraulic analysis of existing water supply networks; (iii) replacement of old pumping units; (iv) upgrading of water treatment plants; (v) construction of fully equipped water testing laboratory; (vi) replacement and reorganization of old rising and distribution water mains; (vii) installing bulk water meters with sluice valves; (viii) installing SCADA system in existing tube wells and pumping stations and (ix) installing domestic water meters; In addition, the component includes hydrogeological investigation and provision of mobile diesel generator set exclusively for Dehradun.

(b) Sewerage:

The component includes (i) design, supply, construction, testing and commissioning of sewage treatment plant at Dehradun including operation and maintenance for a period of five years following commissioning; (ii) Supply, laying, testing and commissioning of sewer network in unsewered area of Kargi zone of Dehradun including construction of manhole and inspection chambers; and (iii) design, supply, construction, testing and commissioning of sewage pumping stations and rising mains, if necessary, in Dehradun, including operation and maintenance for a period of five years following commissioning.

Part B: Capacity Development and Investment Program Management

- (a) Capacity development will comprise: (i) preparation and assistance in implementation of action plans to empower and strengthen the capacities of urban local bodies (ULBs); (ii) developing and assisting in the implementation of detailed actions plans including: (a) establishment of a regulator, (b) remove overlaps of functioning of UPJN and UJS, (c) involvement of ULBs in planning and provision of

water supply and sewage, (d) develop performance-based contractual arrangements between service providers, ULBs and the State, and (e) introduce improvements to the governance structure, organizational and operational systems of UJS; (iii) assistance in improving local revenues and financial management, including (a) undertaking tariff studies to restructure water tariffs into consumption-based volumetric tariffs and introduce a sewerage charge and solid waste management charges, and (b) studies and action plans to improve coverage, basis of value and collections of property tax; (iv) introduce and implement double entry accrual accounting system in ULBs, UPJN and UJS and other service providers as applicable; (v) promote PSP in infrastructure development through developing (a) measures to create an enabling framework, (b) strengthening skills for planning and managing PSP, and (c) identify suitable components and subprojects for PSP; (vi) training needs assessment, conducting seminars and workshops and provide “on-the-job” training for IPMU staff in Program implementation and reforming urban institutions; (vii) preparation of state-wide slum improvement policy; (viii) development of state-wide solid waste management policy and action plan; and (ix) support to ULBs in solid waste management public awareness and need for individual and community-level solid waste segregation.

- (b) Consulting services to assist EA and IA's in designing, managing and implementing the Investment Program and Project, provision of incremental administration and operation costs and provision of equipment and logistics.

3. The Project is expected to be completed by 30 June 2012.

SCHEDULE 2**Amortization Schedule****(Uttarakhand Urban Sector Development Investment Program – Project 1)**

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/Jun/2013	0.83
1/Dec/2013	0.87
1/Jun/2014	0.91
1/Dec/2014	0.96
1/Jun/2015	1.01
1/Dec/2015	1.06
1/Jun/2016	1.11
1/Dec/2016	1.16
1/Jun/2017	1.22
1/Dec/2017	1.28
1/Jun/2018	1.35
1/Dec/2018	1.42
1/Jun/2019	1.49
1/Dec/2019	1.56
1/Jun/2020	1.64
1/Dec/2020	1.72
1/Jun/2021	1.81
1/Dec/2021	1.90
1/Jun/2022	1.99
1/Dec/2022	2.09
1/Jun/2023	2.20
1/Dec/2023	2.31
1/Jun/2024	2.42
1/Dec/2024	2.54
1/Jun/2025	2.67
1/Dec/2025	2.80

Schedule 2

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1/Jun/2026	2.94
1/Dec/2026	3.09
1/Jun/2027	3.25
1/Dec/2027	3.41
1/Jun/2028	3.58
1/Dec/2028	3.76
1/Jun/2029	3.94
1/Dec/2029	4.14
1/Jun/2030	4.35
1/Dec/2030	4.57
1/Jun/2031	4.79
1/Dec/2031	5.03
1/Jun/2032	5.29
1/Dec/2032	5.54
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TOTAL	100.00
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Schedule 2

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 Goods, Works, services 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.

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, by notice to the Borrower/State, (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

4. Except as ADB may otherwise agree, the Loan proceeds for financing Goods, Works and consulting services and other items 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.

Imprest Accounts; Statement of Expenditures

5. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date, an imprest account at the Reserve Bank of India. A second generation imprest account (SGIA) may be opened by the IPMU in a commercial bank, current account acceptable to ADB. The imprest account and the SGIA shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The initial amount to be deposited and maintained at any point of time into the imprest account and SGIA shall not exceed the lower of (i) the estimated expenditure for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the Loan amount.

(b) The Borrower shall ensure that the IPMU will draw from the SGIA only the portion of expenditures eligible for ADB financing required to meet the immediate short term disbursement requirements of the Loan.

(c) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures under the Project and to liquidate advances provided into the imprest account, in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$100,000.

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 items to be retroactively financed, subject to a maximum amount equivalent to 20 percent of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Uttarakhand Urban Sector Development Investment Program – Project 1)			
CATEGORY			ADB FINANCING BASIS
Number	Item	Total Amount Allocated for ADB Financing \$ Category	Percentage of ADB Financing from the Loan Account
1	Civil Works	27,852,000	76 percent of total expenditure claimed
2	Equipment	14,351,000	100 percent of total expenditure claimed*
3	Training/Fellowships	605,000	100 percent of total expenditure claimed*
4	Surveys/Studies	1,016,000	100 percent of total expenditure claimed*
5	Consulting Services	8,034,000	100 percent of total expenditure claimed*
6	Incremental Recurrent Cost of Program and Project Management and Implementation	1,562,000	100 percent of total expenditure claimed*
7	Unallocated	6,580,000	
	Total	60,000,000	

*Exclusive of local taxes

SCHEDULE 4

Provisions on Procurement and Consulting Services

A. General

1. All Goods and Works, and consulting services, to be financed out of the proceeds of the Loan 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 Loan Agreement have the meanings provided in the Procurement Guidelines 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:

International Competitive Bidding
National Competitive Bidding
Limited International Bidding
Shopping

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

4. Domestic Preference. The Borrower may allow the State to grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works.
5. National Competitive Bidding. Prior to the commencement of any procurement activity under national competitive bidding, ADB and the State will review the Borrower's and the State's public procurement laws and regulations to ensure consistency with the Procurement Guidelines. Any necessary modifications or clarifications will be reflected in the Procurement Plan.

C. Conditions for Award of Contract

6. The Borrower shall ensure that the State shall not award any Works contract or commence works under any Works contract financed under the Loan until the activities referred to in paragraphs 12 to 14 of Schedule 5 to this Agreement have been complied, as appropriate.

D. Selection of Consulting Services

7. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall ensure that the State applies quality- and cost-based selection for selecting and engaging consulting services.

8. The Borrower shall ensure that the State 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:

Consultants' Qualifications Selection (CQS)
Least-Cost Selection (LQS)
Single-Source Selection (SQS)

E. Industrial or Intellectual Property Rights

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

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

10. The Borrower shall procure that the State 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.

F. ADB's Review of Procurement Decisions

11. All contracts procured under international competitive bidding, national competitive bidding, limited international bidding and shopping procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower, the State and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Execution

1. The Executing Agency (EA) for the Project shall be the State of Uttarakhand (State), acting through its Urban Development Department (UDD) and shall be responsible for overall implementation of the Project.

2. The Borrower shall cause that (i) the State and (ii) through the State, the UDD, the Investment Program Management Unit (IPMU), and all other bodies, committees and agencies involved in the implementation of the Project undertake activities and respective responsibilities as set out in this Loan Agreement and related documents, in a timely manner to achieve the objectives of the Project and the Facility.

3. Except as otherwise acceptable to ADB, the State acting through the EA shall ensure that:

(a) the IPMU will be established as a society under the Societies Registration Act 1860 and that the IPMU's charter or constitution (and any changes thereto) shall be in a form and substance satisfactory to ADB. The Chief Secretary of the State shall be appointed as the IPMU's president and Secretary, UDD, vice president. Day to day operations of the IPMU will be through an Investment Program Director (PD), who will also be the Project director. The PD, with a team of administrative, financial, technical, and social/environmental staff drawn from various relevant departments and utilities will be exclusively responsible for executing, managing, and supervising the Project implementation;

(b) the IPMU's general body of members (General Body) will comprise of Chief Secretary as its Chair and the secretaries of the relevant State departments and representatives of urban local bodies (ULBs), town committees and non-government organizations as its members. The function of the General Body is to provide policy guidance for overall Investment Program implementation;

(c) the IPMU shall have an executive committee (Executive Committee) which will be under the chair of the Secretary, UDD, and consisting, as members, of high-level officials of the State departments of Finance, Drinking Water, and Public Works and relevant ULBs. The Executive Committee will meet at least quarter yearly to provide overall guidance to the IPMU, review Project performance, and decide on all major issues of the Project management. Duties of Executive Committee will include (i) providing strategic guidance on and overseeing the implementation of the Project, including urban reform action plan; (ii) approving subprojects and Periodic Financial Requests (PFRs) under the Investment Program; (iii) ratification of the annual budget estimates; (iv) creation of posts and recruitment of staff; (v) ratification of procurement of services, works, and goods, and approval of disbursements; and (vi) ensuring compliance with safeguards and acquisition of land, and other similar matters.

Schedule 5

(d) IPMU, under the overall guidance of the Executive Committee, will (i) manage the Project and have overall responsibility for its implementation; (ii) assist Project implementation unit(PIU)'s in identifying and preparing sub-projects and appraise them in consultation with towns; (iii) compile Facility tranches and PFRs; in respect of the Investment Program (iv) appoint consultants; (v) ensure land acquisition and other safeguards; (vi) approve surveys, investigations, engineering designs and bid documents prepared by Project Implementing Units; (vii) review procurement of works and goods undertaken by PIUs; (viii) assist ULBs in implementing solid waste management, slum improvement, and minor road components; (ix) oversee contract administration; (x) guide in awareness campaigns and participation programs; (xi) organize and operate the project performance monitoring system; (xii) prepare disbursement requests and forward them to ADB through the Borrower; (xiii) prepare and submit timely reports to ADB; (xiv) review and facilitate the progress of the urban reform action plan compliance with loan covenants; and (xv) design and organize capacity building programs. IPMU will be assisted by Program Management Consultants (PMC) in managing the Project.

(e) IPMU will engage the UPJN as an implementation agency (IA) for the water supply and sewerage component of the Project and that UPJN will establish a PIU. The PIU will be accountable and report to the IPMU. The PIU will be headed by a senior engineer in the capacity of Superintending Engineer and be provided with qualified technical, procurement, social, and financial staff. All engineering design, procurement, construction supervision, and quality control of the works shall be carried out by the PIU which will be assisted by the PMC and detailed design and supervision construction consultants. The PIU will carry out their tasks through a dedicated cell created in each of their district units and have regular consultation with ULBs and other the town stakeholders.

(f) Notwithstanding the generality of the provisions of Sections 2.13 and 2.14 of the Project Agreement, the State through the EA shall ensure that the IPMU as and when registered as a society, shall continue to undertake all activities and obligations under this Loan Agreement and Project Agreement as applicable and in this regard make appropriate binding arrangements with such IPMU as registered.

4. The State through the EA shall ensure that ULBs will be given a major role in implementing the solid waste management and slum upgrading components of the Project, under the supervision and support of IPMU through a special cell within it.

5. The State through the EA shall ensure that Town-level committees chaired by the Mayor or chairperson will be formed in each of Dehradun, Nainatal and Haridwar, with representation of ward members, the district magistrate, collector, municipal commissioner, special area development authority, local representatives of UPJN, UJS, as well as civil society and business representatives. The town committees will review and concur the subprojects under the Project selected and formulated in their town, provide feedback on project implementation progress, ensure cooperation of concerned agencies at town level, and provide a forum for effective involvement of town stakeholders in Project implementation and civic awareness activities.

Counterpart Funding

6. (a) The Borrower shall make available to the State the proceeds of the Loan, in a timely manner in order for the timely implementation of the Project;

(b) The Borrower shall cause the State to make available the Loan proceeds through the EA to the IPMU under appropriate arrangements acceptable to ADB, and ensure:

- (i) sufficient counterpart funds from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project; and
- (ii) adequate funds are provided, through budgetary allocations or other means, to meet any shortfall between costs of, and revenue from, operations and maintenance of Project facilities.

(c) The Borrower shall cause the State to ensure that Project funds are utilized effectively and efficiently to implement the Project and achieve its objectives.

Subproject Selection Criteria

7. The State through the EA shall ensure:

(a) that Subprojects are selected and processed for approval, in accordance with the criteria and procedures included under Schedule 4 to the FFA, and in particular, to the subsector specific criteria set out in Section C of Schedule 4 to the FFA, to the satisfaction of ADB; and

(b) it shall post the procurement documents, the criteria for Subproject selection and details of sanctioned contracts/Subprojects on the Investment Program website.

Governance and Institutional Matters

8. The State will ensure that each of the reform measures listed in the Urban Governance, Finance, and Service Delivery Improvement Action Plan set out in Schedule 1 to the FFA, will be implemented in accordance with the time frame set against the relevant measure.

9. The State will ensure that contractual documents under any public private partnership (PPP) modality are provided to ADB for review and approval, prior to their use in any Subproject.

10. The State will ensure that within 1 month of the Effective Date:

(a) the IPMU will be registered as a society under the Societies Registration Act 1860, with its charter or constitution satisfactory to ADB and that the PIU in UPJN at Dehradun and the sub units of the PIU in Dehradun, Nainatal and Haridwar will have been established; and

(b) each of IPMU and PIU in UPJN at Dehradun and the subunits in Dehradun, Nainatal and Haridwar will have all the staff listed for each of them in Attachment 1 to Schedule 3 to the FFA, appointed and in place.

Environment

11. The State through the EA shall ensure that:

(a) the Project is carried out and all Project Facilities designed, constructed, operated, maintained, and monitored in compliance with the environmental laws and regulations of the Borrower, the State, ADB's *Environment Policy* (2002), and the environmental assessment and review framework (EARF);

(b) Subprojects encroaching any National Park or its buffer zone shall not be included in the Project; however, Subprojects in or close to the wild life sanctuaries or any other environmentally sensitive areas may be allowed subject to the EA obtaining all statutory clearances;

(c) an Initial Environmental Examination (IEE) as required, including an Environmental Management Plan (EMP) with budget identifying the cost of its implementation, with adequate public consultation for each Subproject, in accordance with the EARF shall be submitted to ADB for review and approval before award of related contract. In case of any Environmental Impact Assessment (EIA) or Summary IEE (SIEE) for any Subproject classified as A or B sensitive, this shall be subject to the 120 day public disclosure requirement under ADB's *Environment Policy* (2002);

(d) all mitigation measures identified in the IEE, SIEE, EIA or Summary EIA (SEIA) and the related EMP, as applicable, for each Subproject, shall be incorporated in Subproject design, and carried out during construction, and operations and maintenance (O&M), and disclosed to stakeholders;

(e) if there are any changes in specific locations or alignments of any Subproject facilities after completion of the process of IEE (or EIA) or due to detailed design or implementation that has an impact on the environmental assessment carried out thus far, then additional environmental assessment shall be carried out in accordance with ADB's *Environment Policy* (2002) and the EARF, and prior approval of ADB obtained before further physical implementation of the Subproject;

(f) all environmental clearances required by applicable laws, and regulations at Borrower, State, or local levels shall be obtained in a timely manner, prior to commencement of civil works for the relevant Subproject, and

(g) semi-annual progress reports on the implementation of the EMPs, measures under the IEE/EIA, and the environmental monitoring shall be carried out as a part of Project implementation for review and disclosure in accordance with ADB's *Public Communications Policy* (2005).

Land Acquisition and Resettlement

12. The State through the EA shall:

(a) undertake the Project in accordance with the Borrower's and State laws and regulations, ADB's *Policy on Involuntary Resettlement* (1995) and the Resettlement Framework (RF);

(b) ensure that to the extent possible, Subprojects will not require land acquisition or involuntary resettlement; however, if and acquisition and/or involuntary resettlement are required for any subproject; the EA shall ensure following:

- (i) a RP for the Subproject, acceptable to ADB is prepared, in accordance with applicable laws and regulations and the RF, and submitted to ADB for review and approval before award of related civil works contract proper consultation during preparation of the RP with the affected persons, as also disclosure of the RP to the affected persons including information on land acquisition and compensation process undertaken;
- (ii) all land, rights of way and other land-related rights required for the Subproject are acquired or made available;
- (iii) all affected persons are compensated and paid resettlement assistance in accordance with the agreed RP, before award of civil works contracts of the related subproject including any section-wise handover thereof, strictly in accordance with the stipulation in the related civil works contract. If during detailed design and implementation, any modification and/additional land acquisition or involuntary resettlement impacts are identified, the RP will be prepared (or modified if exiting) in accordance with applicable laws and regulations and the RF and prior approval of ADB obtained before further implementation of the RP and the Subproject;
- (iv) ensure that efficient grievance redressal mechanisms are in place in accordance with the related RP to assist affected persons resolve queries and complaints if any, in a timely manner; and

- (v) ensure that all compensation at replacement value for acquired assets made to affected persons well in advance for them to make alternative arrangements, before award of civil works contracts.

Indigenous Peoples

13. The State through the EA shall ensure that if any impact is identified during planning, design, or implementation of any Subproject on indigenous peoples, that an Indigenous Peoples Development Plan (IPDP) or integration of specific actions for the indigenous people in the RP is prepared in accordance with ADB's *Policy on Indigenous Peoples* (1998) and the Indigenous Peoples Development Framework (IPDF) and that the same is further (i) approved by ADB before award of related civil works contract, and (ii) implementation before commencement of related civil works contract. Any updating or revision of the IPDP due to change in detailed designs or during implementation shall be in accordance with applicable laws and regulations and the IPDF and prior approval of ADB obtained before further implementation of the IPDP and the Subproject.

Social Issues

14. The State through 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; (i) 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 (ii) follow and implement all statutory provisions on labor (including not employing or using children as labor and equal pay for equal work), health, safety, welfare, sanitation, and working conditions. Such contracts shall also include clauses for termination by the State or EA in case of any breach of the stated provisions by the contractors.

Performance Monitoring and Evaluation

15. The State through the EA shall ensure that:

(a) an Investment Program Performance Monitoring System (IPPMS) satisfactory to ADB is established within three months of Effective Date. IPMU will establish baseline values for each of the selected indicators and will conduct annual surveys to update the baseline values. The IPPMS will track the Investment Program, as well as Project and Subproject implementation activities, target dates, expected inputs, impacts, outcomes and outputs against each indicator to monitor and evaluate the performance of the Investment Program, the Project and Subprojects;

(b) without limiting the generality of Section 2.08 of the Project Agreement, IPMU will provide ADB with quarterly progress reports informing ADB of the progress of the Investment Program and the implementation progress of the Project and individual Subprojects. The reports will also provide summary financial accounts of the Project and each Subproject including summary financial account for each IA, expenditures to date, a report on benefit monitoring, and a report on safeguard compliance; and

(c) without limiting the generality of Section 2.08 of the Project Agreement, and after physical completion of the Project, but in any event not later than three months thereafter or such later date as ADB may agree for this purpose, it shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request that will cover Project and Subproject implementation, costs, monitoring and evaluation activities, safeguard compliance, and other information requested by ADB.

Review

16. Based on a review of quarterly progress reports provided under section 2.08 of the Project Agreement, ADB, Borrower and State representatives shall meet as required to discuss the progress of the Project, Facility and the Investment Program, any changes to implementation arrangements, or remedial measures required to be undertaken to achieve the overall objectives of specific Subprojects and components and of the overall Facility and Investment Program. In addition to regular reviews, including a midterm review for the Project, a detailed midterm review of the Facility will be undertaken within no later than four years of the Effective Date. The midterm review shall include a detailed evaluation of the scope of the Facility, implementation arrangements, any outstanding issues, environment, resettlement and other safeguard issues, achievement of scheduled targets, contract management progress, and other issues, as appropriate.