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GRANT NUMBER 0143-LAO (SF)

GRANT AGREEMENT  
(Special Operations)

(Small Towns Water Supply and Sanitation Sector Project)

between

LAO PEOPLE'S DEMOCRATIC REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 6 MARCH 2009

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GAS:LAO 36339

**GRANT AGREEMENT  
(Special Operations)**

GRANT AGREEMENT dated 6 March 2009 between LAO PEOPLE'S DEMOCRATIC REPUBLIC (hereinafter called the "Recipient") and ASIAN DEVELOPMENT BANK (hereinafter called "ADB").

WHEREAS

(A) the Recipient has applied to ADB for a grant for the purposes of financing the project as described in Schedule 1 to this Grant Agreement (hereinafter called the "Project");

(B) the Recipient has also applied to the Government of Australia for a grant (hereinafter called the "Government of Australia Grant") to jointly finance the Project, and the Government of Australia Grant, when approved, will be administered by ADB in accordance with the terms and conditions agreed between the Government of Australia and ADB;

(C) a grant in the amount of five hundred thousand Dollars (\$500,000), to be administered by ADB, has been secured from the Gender and Development Cooperation Fund (hereinafter called the "GDCF" and its grant hereinafter called the "GDCF Grant") to finance a part of the Project; and

(D) 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 (hereinafter called 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 shall have the following meanings:

- (a) "CIPP" means a community information and participation program;
- (b) "Cofinanciers" means the Government of Australia and the GDCF;
- (c) "Consulting Guidelines" means ADB's *Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers* dated February 2007, as amended from time to time;
- (d) "DHUP" means the Department of Housing and Urban Planning in the MPWT, as defined hereunder, and any successor thereto;
- (e) "DPWT" means the Department of Public Works and Transport in a provincial government of the Recipient, and any successor thereto;
- (f) "Goods" means equipment and materials to be financed out of the proceeds of the Grant, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding consulting services;
- (g) "HIV/AIDS" means the human immunodeficiency virus and the acquired immune deficiency syndrome;
- (h) "IEE" means an initial environmental examination;
- (i) "LACP" means a land acquisition and compensation plan;
- (j) "Loan Disbursement Handbook" means ADB's *Loan Disbursement Handbook* dated January 2007, as amended from time to time;
- (k) "LWU" means the Lao Women's Union;
- (l) "MOA" means a memorandum of agreement entered into by and between a participating PNP, as defined hereunder, and the relevant provincial government;
- (m) "MOF" means the Ministry of Finance of the Recipient, and any successor thereto;
- (n) "MOH" means the Ministry of Health of the Recipient, and any successor thereto;

(o) "MPWT" means the Ministry of Public Works and Transport of the Recipient, and any successor thereto;

(p) "NCRWSSP" means the ADB-financed Northern and Central Regions Water Supply and Sanitation Sector Project, Grant No. 0016-LAO (SF);

(q) "O&M" means operation and maintenance;

(r) "OPWT" means the District Office for Public Works and Transport, and any successor thereto;

(s) "Part" means a part of the Project as described in Schedule 1 to this Grant Agreement;

(t) "Participating Province" means any of the provinces of the Recipient in which one or more Subprojects, as defined hereunder, are undertaken under the Project;

(u) "PCU" means the Project Coordination Unit as more fully described in Paragraph 4 of Schedule 4 to this Grant Agreement;

(v) "PIU" means a Project implementation unit established for the purposes of the Project, as more fully described in Paragraph 5 of Schedule 4 to this Grant Agreement;

(w) "PNP" means a provincial water supply enterprise, known locally as a "provincial nam papa";

(x) "PPME" means Project performance monitoring and evaluation;

(y) "PPSC" means a Project steering committee at the provincial level, as more fully described in Paragraph 3 of Schedule 4 to this Grant Agreement;

(z) "Procurement Guidelines" means ADB's *Procurement Guidelines* dated February 2007, as amended from time to time;

(aa) "Procurement Plan" means the procurement plan for the Project dated 18 November 2008 and agreed between the Recipient and ADB, as updated from time to time in accordance with the Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(bb) "Project Executing Agency" for the purposes of, and within the meaning of, the Grant Regulations means MPWT, which is responsible for the overall implementation of the Project;

(cc) "Project Facilities" means the facilities to be constructed and the equipment to be procured pursuant to this Grant Agreement;

(dd) "PSC" means the Project Steering Committee, as more fully described in Paragraph 2 of Schedule 4 to this Grant Agreement;

(ee) "SLA" means, in connection with carrying out a Subproject, as defined hereunder, a Subproject loan agreement entered into by and between the MOF and a PNP;

(ff) "SOE" means a state-owned enterprise;

(gg) "Subproject" means a subproject to be undertaken under the Project and financed out of the Grant proceeds, for developing new, or rehabilitating existing, water supply systems, as well as associated activities;

(hh) "WASA" means the Water Supply Authority established by Decree No.66/PM, dated 20 May 1999, as amended by Decree No. 191/PM, dated 1 July 2005, issued by the Prime Minister of the Recipient, and the MPWT Decision No. 13266/MPWT, dated 22 October 2008;

(ii) "Works" means construction or civil works to be financed out of the proceeds of the Grant, 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;

(jj) "WSD" means the Water Supply Division of the DHUP; and

(kk) "WSRC" means the Water Supply Regulatory Committee, the roles and responsibilities of which are set forth in the Prime Minister's Decree No. 191/PM, dated 1 July 2005, and the MPWT Decision No. 13265/MPWT, dated 22 October 2008.

## **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 Grant Agreement an amount of twenty three million Dollars (\$23,000,000).

### ARTICLE III

#### Use of Proceeds of the Grant

Section 3.01. (a) The Recipient shall relend part of the proceeds of the Grant to the PNPs of the Participating Provinces under SLAs upon terms and conditions satisfactory to ADB, including but not limited to, an interest rate of 6.4% per annum and a maturity period of 25 years, with a 6-year grace period. For each Subproject, the amount to be relent by the Recipient to the PNP concerned under the relevant SLA shall be 30% of the capital cost of the relevant water supply system as required for such Subproject and agreed by ADB in advance.

(b) 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, Works, consulting 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, Works, consulting 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, Works and consulting 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, Works and consulting services shall be made only on account of expenditures relating to

- (a) Goods which are produced in and supplied from and Works and consulting 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, Works and consulting 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 2014 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 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 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

### Suspension and Cancellation

Section 5.01. The following is specified as an additional event for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations or cancellation of the Grant pursuant to

Section 8.02 of the Grant Regulations: the Government of Australia Grant or any portion thereof shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

## **ARTICLE VI**

### **Effectiveness**

Section 6.01. 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 VII**

### **Miscellaneous**

Section 7.01. The Minister of Finance of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

#### For the Recipient

Ministry of Finance  
PO Box 46  
23 Singha Road  
Vientiane, Lao PDR

Facsimile Numbers:

(856-21) 41 21 42  
(856-21) 90 09 26.

For ADB

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

Facsimile Numbers:

(632) 636-2444  
(632) 636-2228.

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.

LAO PEOPLE'S DEMOCRATIC REPUBLIC

By   
\_\_\_\_\_  
VIENGTHONG SIPHANDONE  
Vice-Minister of Finance

ASIAN DEVELOPMENT BANK

By   
\_\_\_\_\_  
GIL-HONG KIM  
Country Director  
Lao PDR Resident Mission

## SCHEDULE 1

### Description of the Project

1. The expected impact of the Project is to expand access to safe piped water supply and sanitation services for the urban population in order to improve the quality of life of small town residents and enhance the role of small towns as economic, market, manufacturing and service centers for their surrounding rural areas.

2. The scope of the Project comprises:

Part 1: Strengthening Urban Water Supply and Sanitation Sector

- (a) Strengthening the institutional capacity of WSRC, WASA, WSD, and DPWT to enable them to effectively plan, regulate and manage the sector;
- (b) Improving the performance and sustainability of the PNPs, as corporate entities under the Enterprise Law of the Lao PDR (2005), through developing their capacity in business and financial management, commercial orientation, and operational efficiency; and
- (c) Developing a human resources development strategy, including a merit-based and employment-linked scholarship program, for the urban water supply sector to help the WSD: (i) improve coordination among different donor-supported capacity development programs within the overall sector human resources development framework; (ii) evaluate the effectiveness and achievement of relevant program outcomes; and (iii) ensure that the lessons identified through such evaluations are incorporated into new programs.

Part 2: Development and Rehabilitation of Water Supply Systems

Developing new water supply systems and rehabilitating piped water supply systems in the Subproject towns.

Part 3: Improvement of Drainage and Public Sanitation

- (a) Improving drainage system in Subproject towns where new water supply systems are developed under Part 2, including the construction or improvement of primary drains, secondary drains, roadside drains, culverts and outlets with priority being given to primary, secondary, and roadside drains in commercial centers or densely populated areas; and
- (b) Improving public sanitation in the Subproject towns where new water supply systems are developed under Part 2, especially in market places.

Part 4: Enhancing Community Action and Participation

Carrying out the community action and participation program to facilitate community development and participatory planning to improve the environmental conditions of households and villages and promote integrated health and hygiene awareness, including:

- (a) Implementing the CIPP to strengthen the capacity of communities by giving them control over decisions and actions related to water, sanitation and environmental improvements; and
- (b) Providing funding and technical assistance for communities in the villages to improve household sanitation facilities and undertake priority small-scale community improvements related to water, sanitation and environmental conditions.

Part 5: Enhancing Gender Equity in Urban Water Supply and Sanitation

- (a) Providing merit-based scholarships to female high school graduates to pursue higher education in the field of water supply or environmental engineering;
- (b) Supporting gender assessments and piloting demand-driven capacity development programs for gender equality in the PNPs in order to: (i) promote women's roles and career opportunities in the PNPs; and (ii) increase the public awareness and understanding of the women's potential in contributing to the development of the urban water supply and sanitation sector; and
- (c) Developing knowledge management products to highlight gender roles in the urban water supply and sanitation sector in the Lao PDR.

Part 6: Improvement of Capacity for Project Implementation and O&M

- (a) Providing technical and management support to the PCU and PIUs for efficient Project implementation and O&M services provision; and
- (b) Carrying out a capacity development program to: (i) assist participating PNPs in managing, operating and maintaining relevant water supply and sanitation services; (ii) define the roles and responsibilities of PNPs, local government and communities for managing, operating and maintaining relevant water and sanitation facilities; and (iii) train the key staff of OPWTs and of the participating PNPs' branch offices in managing, operating and maintaining relevant infrastructure systems and the equipment provided under relevant Subprojects.

3. The Project also includes provision of consulting services. The Project is expected to be completed by 30 June 2014.

## SCHEDULE 2

### Allocation and Withdrawal of Grant Proceeds

#### General

1. The table attached to this Schedule (as shown in Attachment hereto) sets forth the Categories of Goods, Works, consulting services and other items of expenditure 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, the Grant proceeds for financing Goods, Works, consulting services and other items of expenditure hereunder shall be disbursed in accordance with the Loan Disbursement Handbook.

#### Imprest Account; Statement of Expenditures

5. (a) Except as ADB may otherwise agree, for the utilization of the Grant proceeds, the Recipient immediately after the Effective Date shall: (i) establish a Project imprest account at the Bank of the Lao PDR; and (ii) cause the PCU to establish a Second

Generation Imprest Account ("SGIA") at a commercial bank acceptable to ADB. The initial amount to be allocated to the Project imprest account shall be based on the estimated expenditures to be financed from the Project imprest account for the first 6 months of Project implementation, or 10% of the Grant amount, whichever is lower. The amount to be deposited into the SGIA shall be based on the first 6 months of the projected expenditure of the PCU to be funded from the SGIA, and shall not exceed \$500,000. Except as ADB may otherwise agree, as soon as a qualified accountants is appointed, the accounting system acceptable to ADB is established within a PIU, and the internal control systems acceptable to ADB are established within the PCU, the relevant PIU shall establish a conduit Subproject bank account ("Sub-account") at a commercial bank acceptable to ADB immediately after the relevant Subproject is approved by ADB for remitting funds and administration cost, which in each case shall not exceed \$5,000. Funding of each Sub-account shall be made on a 3-month basis and based on the prior submission by the relevant PIU to the PCU of a funding request including the expenditure plan for the relevant 3-month period. Each PIU, when applying for the funding for a 3-month period under the Project except for its first funding request, shall also submit to the PCU for review a summary of expenditures made, with relevant supporting documents attached, during the immediately preceding 3-month period. The currency of the Project imprest account, the SGIA and Sub-accounts shall be Dollar. The Project imprest account and the SGIA shall be established, managed, replenished, and liquidated in accordance with the Loan Disbursement Handbook, and detailed arrangements as agreed between the Recipient and ADB.

(b) The statement of expenditure procedures may be used for reimbursing eligible expenditures and liquidating of advances to the Project imprest account and the SGIA in accordance with the Loan Disbursement Handbook, and detailed arrangements as agreed between the Recipient and ADB. The maximum payment for any individual items using these procedures is \$20,000 equivalent per individual payment for the Project imprest account and the SGIA.

(c) Except as otherwise agreed by ADB, a separate set of the Project imprest account, the SGIA and Sub-accounts (hereinafter collectively called "Cofinancing Accounts") shall be established for each of the Government of Australia Grant and the GDCF Grant. Unless the Government of Australia or the donor countries of the GDCF require otherwise, the establishment, management, replenishment, liquidation and audit of the Cofinancing Accounts shall be subject to the same rules and principles that are applicable to the similar accounts established in connection with the utilization of the Grant proceeds.

#### Condition of Withdrawals from Grant Account

6. Notwithstanding any other provision of this Grant Agreement to the contrary, no withdrawals shall be made from the Grant Account until the following conditions have been met and documented to the satisfaction of ADB:

(a) WSRC, with WASA appointed as its secretariat, shall have become operational as demonstrated by having held its first official meeting; and

(b) The respective PNPs in Louangphabang, Oudomxai, Xaignabouli and Louang-Namtha provinces shall have taken necessary actions to endorse the respective action plans regarding PNP corporatization, and shall have demonstrated their commitment to

implement such action plans by having formally approved and adopted the proposed corporate plans.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Small Towns Water Supply and Sanitation Sector Project)</b>				
<b>CATEGORY</b>				<b>ADB FINANCING</b>
<b>Number</b>	<b>Item</b>	<b>Amount Allocated (\$)</b>		<b>Percentage and Basis for Withdrawal from the Grant Account</b>
		<b>Category</b>	<b>Subcategory</b>	
1	Civil Works	10,890,000		
1A	Developing New and Rehabilitating Existing Water Supply Systems		8,390,000	75% of the total expenditure*
1B	Drainage and Public Sanitation		1,090,000	100% of the total expenditure*
1C	Village Environmental Improvements		1,220,000	80% of the total expenditure*
1D	Household Toilets		190,000	100% of the total expenditure*
2	Equipment	2,500,000		100% of the total expenditure*
3	Environmental Management Plan	50,000		100% of the total expenditure*
4	Consulting Services	2,970,000		60% of the total expenditure*
5	Recurrent Costs	1,690,000		100% of the total expenditure*
6	Unallocated	4,900,000		
	Total	23,000,000		

\* Exclusive of taxes and duties imposed within the territory of the Recipient.

### SCHEDULE 3

#### Provisions on Procurement and Consulting Services

**A. General**

1. All Goods, 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 shall 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:

International Competitive Bidding
National Competitive Bidding
Shopping
Direct Contracting

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 Recipient shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Recipient's national competitive bidding procedures to be utilized for the purposes of this Project are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Recipient and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after written approval of such change by the Recipient and ADB.

**C. Conditions for Award of Contracts for Subprojects**

5. The Recipient shall ensure that for each Subproject, the first civil works contract will not be awarded until:
  - (a) A PIU shall have been established by the government of the relevant Participating Province and adequate resources, including staff, shall have been assigned or allocated;
  - (b) An SLA, in the form and substance satisfactory to ADB, shall have been duly signed and executed, and witnessed by the provincial government concerned;

(c) An MOA, in the form and substance satisfactory to ADB, shall have been duly signed and executed;

(d) The relevant IEE and the relevant LACP, as described respectively in Paragraphs 27 and 28 of Schedule 4 to this Grant Agreement, shall have been approved by ADB; and

(e) The PNP of the relevant Participating Province shall have completed the first phase of the corporatization process, which includes: (i) initial awareness raising and support for corporatization; (ii) organizational restructuring and basic capacity development; and (iii) preparation of a corporate plan. Should a PNP be implementing more than one Subproject consecutively, such PNP shall be required to update its previously adopted corporate plan and have it approved by its board prior to contract award for the subsequent Subproject.

**D. Selection of Consulting Services**

6. Except as ADB may otherwise agree, the Recipient shall apply the Quality- and Cost-Based Selection method for selecting and engaging consulting services.

7. The Recipient 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:

Least-Cost Selection for service contracts for water supply O&M;
Single Source Selection for contracts for implementing CIPPs.

**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 Sub-paragraph (a) of this Section E.8. above.

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.

**F. ADB's Review of Procurement Decisions**

10. All contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise

agreed between the Recipient and ADB and set forth in the Procurement Plan. All other contracts will be reviewed by ADB post award of contract.

## SCHEDULE 4

### Execution of Project and Operation of Project Facilities; Safeguards and Reporting Matters

#### A. Project Execution and Implementation

##### Project Executing Agency

1. The MPWT, as the Project Executing Agency, shall be responsible for the overall implementation of the Project. In each Participating Province, the respective DPWT shall be the implementing agency.

##### Steering Committees

2. The Recipient shall ensure that the PSC for the NCRWSSP is expanded and assigned to oversee this Project and to provide overall direction and policy guidance. The PSC shall be chaired by the Vice-Minister of MPWT, with the Director General of DHUP as the vice-chairman. Members of the PSC shall include representatives from the Business Promotion Office of the Prime Minister's Office, the Department of Foreign Relations of the MOF, the Department of SOE Financial Management of the MOF, the Department of International Cooperation of the Ministry of Planning and Investment, and the director of the PCU. The members of the PSC shall meet at least once every 6 months or more often if required. A PSC subcommittee for corporatization of the PNPs, chaired by the Director General of DHUP and with the PCU acting as its secretariat, shall be established and shall meet at least once every quarter to review the progress of the PNPs in the corporatization process and report the results to the PSC. Members of such subcommittee shall at least include representatives from the Business Promotion Office of the Prime Minister's Office and the Department of SOE Financial Management of the MOF. For the meetings of the PSC, representatives from other ministries, agencies or relevant organizations of the Recipient, including but not limited to, MOH, the Water Resources and Environmental Agency in the Prime Minister's Office, and the LWU, shall be invited as needed.

3. The Recipient shall cause a PPSC to be established in each Participating Province, except for those where only rehabilitation works will take place, to guide Subproject implementation, make key decisions on behalf of the provincial government and coordinate provincial and district agencies. Each PPSC shall be chaired by a provincial vice governor and comprise the following members: the district governor of the relevant Subproject town, senior officials from the DPWT, Department of Finance, Department of Health, PNP, the OPWT and the PIU manager. For the meetings of the PPSC, representatives from other provincial or district agencies or relevant organizations of the Recipient, including but not limited to, the LWU, shall be invited as needed. The PPSC shall meet at least once in every 6 months or more often if required. At the district level, the district governor or vice governor shall oversee, monitor progress, review quality of the work undertaken for the Project and coordinate Subproject activities with the PIU and the local communities, and report relevant progress to the PPSC.

Project Coordination Unit

4. The Recipient shall ensure that the PCU established for the NCRWSSP in the DHUP is expanded to include the responsibilities for overall planning, coordination and management of the Project. The director of PCU shall be assisted by 2 deputy directors under the Project. The PCU shall be supported by international and national consultants recruited under the Project.

Project Implementation Unit

5. The Recipient shall establish a PIU within each DPWT of the Participating Provinces. Each PIU shall be headed by a manager and a deputy manager, both to be selected from the PNP or DPWT concerned. Each PIU shall be responsible for day-to-day Project implementation at the local level and shall comprise expert staff in (a) administration and finance, (b) water supply and sanitation, and (c) community action and participation. The PIU, with the PCU's assistance, shall also be responsible for the day-to-day coordination and supervision of Project implementation at the district level. In connection with the implementation of Part 4, the Recipient shall ensure that the relevant Village Development Committees are involved in the decision-making process. In the case where the LWU is contracted for implementing the CIPP at the district level, the respective PIU shall be responsible for verifying that the contracted activities have actually been completed before the corresponding progressive payments are made by the PCU.

Implementation Arrangements

6. The Recipient shall ensure that, within 6 months from the Effective Date, the MPWT develops detailed eligibility criteria and procedures for the scholarship program satisfactory to ADB, with the assistance of the consultants recruited under the Project and in accordance with the relevant procedures of the Recipient.

7. The Recipient shall also ensure that under Part 4, poor households are provided with a grant for sanitation improvements (a) at an amount equivalent to \$100 for each poor household that elects to connect to the water supply system and construct pour flush latrines, and (b) an amount less than \$100 equivalent for those who decide not to connect, but to improve their toilet facilities otherwise. Poor household eligibility criteria and the operating procedures shall be determined by the PCU in agreement with ADB.

Project Review, Accounting, Auditing and Reporting

8. Apart from regular reviews conducted from time to time during the Project implementation period, the Recipient shall, jointly with ADB, undertake a comprehensive review after: (a) 12 months from the Effective Date; and (b) 30 months from the Effective Date. These reviews shall include a comprehensive evaluation of Project implementation arrangements, detailed evaluation of the Project scope, the actual implementation progress, feedback from the PPME program, performance of consultants, institutional development progress, and possible reallocation of the Grant proceeds. The cost recovery mechanisms for each Subproject, the financial and operational performance of the relevant PNPs, and overall sector regulatory system shall also be evaluated.

9. The Recipient shall cause each PIU to prepare quarterly Project progress reports and submit them to the PCU for consolidation and subsequent reporting to the PSC and ADB. The progress reports shall be in such form and detail as may be requested by ADB and the Cofinanciers, including a periodic review of progress against the training needs assessment of the PIUs. Each PNP shall prepare its annual financial statements, including the (a) balance sheet, (b) income statement, and (c) cash flow statement within 4 months after the end of each related fiscal year. Without prejudice to the requirements of Section 4.02 of the Grant Agreement, the SGIA, relevant statement of expenditures, and the financial statements of the PNPs shall be audited annually by auditors acceptable to ADB. The PCU and PIUs shall prepare the required information for audit, including the information on resettlement implementation, in accordance with the project auditing requirements of the Recipient and ADB. Audited statements of the Project accounts and financial statements of PNPs, together with the report of the auditors, shall be submitted to ADB through the PCU within 6 months after the end of each related fiscal year, including the audit opinions on (a) the use of the SGIA, and (b) the use of statement of expenditure procedures.

#### Project Performance Monitoring and Evaluation

10. The Recipient shall ensure that a comprehensive program for PPME, acceptable to ADB, is carried out by the PCU during Project implementation. Such a PPME program shall aim to: (a) examine the Project's technical performance; (b) evaluate the delivery of the planned facilities; (c) assess the achievement of the Project's objectives; and (d) measure the Project's social, economic, financial, and institutional impacts. The PIUs shall be responsible for carrying out the PPME activities, including pre-Project and post-Project physical and socioeconomic surveys, data collection and analysis. Each PIU shall establish a PPME baseline based on the pre-Project surveys and data. Annual PPME reports shall be prepared by each PIU, and consolidated by the PCU for submission to ADB. The Recipient shall cause an external monitor to undertake independent monitoring and evaluation of social, resettlement and environment activities, and the relevant costs shall be met from the resources made available for the Project. MPWT shall cause the PCU to submit a detailed PPME implementation plan, for ADB's review and concurrence, within 6 months from the Effective Date.

### **B. Subproject Selection and Implementation**

#### Screening Criteria

11. Unless the Recipient and ADB shall otherwise agree, the 21 small towns, which have already been identified, assessed and prioritized by the Recipient in consultation with ADB, shall be the candidate towns for Subprojects. The order in which Subprojects are implemented shall be determined by the PCU in consultation with ADB, based on the principles agreed with ADB. For reasons of cost, efficiency and expediency, Subprojects shall be prepared and implemented in geographic groups of 3 or 4, to the extent possible.

12. Based on the priority assigned to each of the aforesaid 21 towns, the PCU shall screen each of the proposed Subprojects for its respective readiness according to the applicable criteria set forth in Paragraphs 13 and/or 14 of this Schedule. If a particular Participating Province and its PNP are not considered by the PCU as ready for implementing the Subproject proposed, such Subproject shall be assigned a lower priority, and the Participating Province and PNP in question shall be required to enhance their readiness before

being further considered under the Project. After a proposed Subproject is screened and confirmed for its readiness, the PCU shall prepare a feasibility study and determine whether it meets the eligibility criteria described in Paragraph 15 of this Schedule before the proposed Subproject can be approved for funding under the Project. In determining the eligibility for each proposed Subproject, the PCU shall prepare and submit an appraisal report to ADB, which shall describe the PCU's finding and conclusion, together with relevant supporting data, on each of the criteria set forth in Paragraph 15 of this Schedule.

13. Each Subproject proposal for development of a new water supply system shall be screened against the following criteria:

(a) the Subproject shall have been listed in the Recipient's Water Supply Sector Investment Plan, as amended from year to year, and been given high development priority by central, relevant provincial and district governments;

(b) the relevant Subproject town shall not have a significant piped water supply system and there shall have been a reasonable demand for piped water supply;

(c) the Subproject town population shall be projected by the Recipient to be more than 4,000 by 2015;

(d) the relevant Subproject town shall have an approved urban master plan, which includes the core areas under consideration for water supply development or rehabilitation;

(e) the relevant PIU shall have been established and submitted a training needs assessment;

(f) the relevant provincial and district governments and the relevant PNP shall have agreed to adopt the Recipient's water sector policies, cost recovery principles and tariff reforms as agreed by the Recipient and ADB;

(g) the relevant PNP shall have undertaken regular flow and quality measurements for the potential sources of water for the Subproject town concerned;

(h) the relevant PNP shall have continued to implement a set of immediate actions aimed at improving its operational performance and sustainability;

(i) the relevant provincial governor shall have confirmed his/her support for the PNP concerned to participate in the corporatization process; and

(j) the Subproject shall not have been considered for funding by another external donor.

14. Each Subproject proposal for rehabilitation of existing water supply systems shall be screened against the same criteria as specified in items (e) to (j) of the preceding paragraph. In addition, the Works required shall: (i) be limited to those for improving supply reliability, distribution pressures, or enhancing water quality to meet WASA guidelines; (ii) be minor and related costs be kept to a minimum, with a maximum cost of \$150,000 equivalent unless otherwise agreed by ADB; (iii) not be caused by lack of O&M; and (iv) exclude system expansion and capacity augmentation.

#### Eligibility Criteria

15. Each Subproject shall meet the following eligibility criteria:

(a) The relevant provincial government and PNP shall have confirmed their agreement to adopt the Recipient's water sector policies and tariff reforms as agreed by the Recipient and ADB;

(b) The relevant provincial government and the PNP concerned shall have agreed to: (i) adopt sanitation regulations for the Subproject town concerned, which shall have been approved in advance by ADB; and (ii) provide adequate budget allocations to meet the O&M costs of the Subproject's drains and public sanitation facilities;

(c) The relevant provincial government and central government agencies shall have: (i) endorsed the relevant LACP and agreed to implement it in accordance with the Recipient's and ADB's relevant policies; and (ii) endorsed the environmental assessments prepared in accordance with the Recipient's and ADB's relevant policies;

(d) The relevant PNP shall have: (i) identified potential sources of surface water or groundwater supply for the proposed Subproject; (ii) collected adequate flow and water quality data for each potential source to demonstrate adequate minimum flows and establish water treatment requirements for at least 3 dry and wet seasons; and (iii) prepared a draft corporate plan;

(e) A feasibility report shall have been prepared, which shows that the proposed Subproject: (i) meets ADB's and the Recipient's technical, economic, financial, and institutional requirements for the Project; (ii) covers only the most densely populated core villages in the relevant area; (iii) can generate sufficient revenues to meet full O&M costs and service the relevant Subproject loan; (iv) does not have significant negative social or environmental impacts; (v) contains adequate analysis on the Subproject's impact on ethnic groups; (vi) has been classified as Category "B" (non-sensitive) or "C" according to ADB's environmental classification, and as Category "B" or "C" according to ADB's resettlement classification; and

(f) The PCU shall have confirmed that the relevant Participating Province, district and PNP are ready to implement the proposed Subproject based on their assessment of: (i) the relevant PIU having been established, with qualified and competent staff appointed, and adequate training provided; (ii) the capacity and plans of the relevant PNP being adequate to manage, operate and maintain the proposed water supply system, including arrangements for ongoing training, technical and management support; (iii) the debt service capacity of the relevant PNP having been reviewed and evaluated; and (iv) the relevant tariffs level in the Participating Province concerned having been reviewed and adjusted as needed to financially sustainable levels.

#### Subproject Loans

16. Unless otherwise agreed between the Recipient and ADB, the Recipient shall relend 30% of the budgeted capital cost of the water supply system proposed under each Subproject to the PNP of the Participating Province under an SLA acceptable to ADB. The balance of 70% of the aforesaid capital cost shall be provided by the Recipient to such PNP as a grant.

#### Connection Fees

17. The Recipient shall ensure that for each Subproject: (a) the relevant participating PNPs waive upfront fees for only the domestic households that apply for water

supply connection; and (b) households that receive a connection are required to pay a monthly fee that covers water consumption, turnover tax and basic administration fee.

#### Other Obligations

18. The Recipient shall ensure that MPWT (a) cause all participating PNPs to monitor water quality and quantity data of the relevant potential raw water sources for urban water supply, and (b) ensure that the least-cost solution for each Subproject system, as determined from a comprehensive feasibility study that focuses on appropriate water treatment technology and service areas, is adopted.

### **C. Subproject Disbursement Conditions**

#### Tariffs

19. The Recipient shall ensure that each participating PNP adopts a provincial utility-wide progressive tariff structure with 3 consumption blocks, namely lifeline, middle, highest, prior to disbursement of funds for a relevant Subproject whereby the average tariff is set at such levels to be able to: (a) recover full O&M costs and gradually increasing depreciation; and (b) maintain a debt service coverage ratio of 1.2:1. The Recipient shall cause each participating PNP to undertake an annual assessment, satisfactory to the Recipient and ADB, of the tariff levels in order to determine the tariff adjustments required for the subsequent year. On the basis of each assessment, the Recipient shall cause each PNP to implement the aforesaid tariff adjustments by 1 April of each year.

#### Outstanding Water Bills

20. The Recipient shall ensure that: (a) each participating PNP collects all water bill arrears in accordance with the plans to be agreed upon by the Recipient, ADB and each participating PNP before any disbursement of funds for the Subproject(s) that such PNP is implementing; and (b) each participating PNP reduces and maintains accounts receivable to less than 90 days. Where the water bills of any agency of the Recipient are outstanding for 60 days or more, the Recipient shall, within a further 30 days, allocate from its budgetary resources and provide to the concerned PNP sufficient funds to fully liquidate the outstanding accounts.

#### Approval and Disclosure of PNP Corporate Plans

21. The Recipient shall ensure that each participating PNP submits a corporate plan as approved by its board and acceptable to the MPWT and ADB, and have such corporate plan disclosed on the designated website agreed by the MPWT and ADB prior to any disbursement with respect to a Subproject.

### **D. Sector Strategy and PNPs**

22. The Recipient shall ensure that (a) within 6 months from the Effective Date, a human resources development strategy for the urban water supply sector, including the scholarship program, is developed by the MPWT, in a manner satisfactory to ADB, and (b) at least 30% of the scholarships provided under the Project are reserved for and allocated to female candidates.

23. The Recipient shall ensure that, within 24 months from the Effective Date, an urban water supply and sanitation sector strategy, acceptable to ADB, is approved by the MPWT and implemented accordingly.

24. The Recipient shall ensure that, within 30 months from the Effective Date, the relevant policies and guidelines for the urban water supply and sanitation sector are reviewed and, if necessary, revised to further clarify and strengthen the social, economic, financial, and administrative targets for the sector in a manner satisfactory to ADB. The Recipient shall also ensure that, within 36 months from the Effective Date, the revised policies and guidelines are approved and implemented accordingly.

25. The Recipient shall ensure that each participating PNP commences implementation of its 3-year rolling corporate plans, incorporating the specific action plans aimed at transforming the relevant PNP into a more efficient and autonomous water supply company with specific mandate, objectives and targets and more commercial focus. Each such corporate plan shall at least include: (a) mission statement and corporate objectives; (b) standards, performance indicators and targets; (c) tariffs; (d) market analysis; (e) management and organization review; (f) related action plan and detailed activities; (g) 3-year financial forecast; and (h) capital investment program.

26. The Recipient shall ensure that, within 24 months from the date the first Subproject of a PNP is determined by the PCU to be eligible pursuant to Paragraph 12 of this Schedule and the related feasibility study conducted accordingly, such PNP has brought its enterprise registration certificate and institutional structure fully into line with the requirements of the Enterprise Law of the Lao PDR (2005).

#### **E. Environment, Land Acquisition and Resettlement**

27. The Recipient shall ensure that for each Subproject, an IEE is prepared in accordance with the Environmental Assessment and Review Framework agreed by the Recipient and ADB as submitted by the Recipient on 2 October 2008, and sent by MPWT to ADB for approval prior to the award of relevant contract for civil works. The Recipient shall also ensure that all Subprojects are designed and implemented in accordance with the Recipient's relevant laws and regulations, and the requirements of ADB's *Environment Policy* (2002). If there is any discrepancy between the Recipient's relevant laws and regulations, and the requirements of ADB's *Environment Policy* (2002), ADB's policy shall apply.

28. The Recipient shall ensure that for each Subproject, an LACP is prepared in accordance with the Land Acquisition and Compensation Framework agreed by the Recipient and ADB as submitted by the Recipient on 2 October 2008, and sent by MPWT to ADB for approval prior to the award of relevant contract for civil works. The Recipient shall also ensure that all LACPs are designed and implemented in accordance with the Recipient's relevant laws and regulations, and the requirements of ADB's *Policy on Involuntary Resettlement* (1995). If there is any discrepancy between the Recipient's relevant laws and regulations, and the requirements of ADB's *Policy on Involuntary Resettlement* (1995), ADB's policy shall apply.

**F. Social Issues**Gender

29. The Recipient shall cause MPWT to ensure that the Gender Action Plan, prepared for the Project in agreement with the Recipient, is fully implemented, including but not limited to: (a) meeting the relevant targets for the involvement and participation of women in Project activities; (b) training stakeholders on gender issues related to the urban water supply and sanitation sector; and (c) collecting sex-disaggregated data for the purposes of monitoring the Project implementation.

Ethnic Groups

30. The Recipient shall cause MPWT to ensure that each Subproject is designed and implemented in accordance with ADB's *Policy on Indigenous Peoples* (1998) and the Ethnic Groups Development Framework agreed by the Recipient and ADB as submitted by the Recipient on 2 October 2008 for the Project.

Labor Standards

31. The Recipient shall cause MPWT to ensure that: (a) the Works contracts contain provisions prohibiting use of child labor and differentiation in wages between male and female workers for work of equal value; (b) such contracts also include mandatory provisions on health, sanitation and appropriate working conditions; and (c) contractors and their workers observe local protocols concerning acceptable behavior toward the local population.

Health

32. The Recipient shall cause MPWT to ensure that activities for HIV/AIDS prevention are mainstreamed in the Project through the following measures: (a) contractors disseminate information on the risks of sexually transmitted infections, including HIV/AIDS, to the workers they employ under the Project and to the local communities; and (b) HIV/AIDS messages are integrated in awareness and behavior change activities under Part 4, in Subproject towns that are situated in close proximity of the Recipient's international borders.