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LOAN NUMBER 2497-PNG(SF)

LOAN AGREEMENT  
(Special Operations)

(Highlands Region Road Improvement Investment Program - Project 1)

between

THE INDEPENDENT STATE OF PAPUA NEW GUINEA

and

ASIAN DEVELOPMENT BANK

DATED 19 FEBRUARY 2009

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LAS:PNG 40173

**LOAN AGREEMENT  
(Special Operations)**

LOAN AGREEMENT dated 19 February 2009 between THE INDEPENDENT STATE OF PAPUA NEW GUINEA (the "Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Borrower has entered into a Framework Financing Agreement (hereinafter called the FFA) with ADB to seek ADB financing for an investment program for the road system in the Highlands region of the Borrower (hereinafter called the Investment Program);

(B) the Borrower has submitted a periodic financing request (hereinafter called PFR) to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(C) by an agreement of even date herewith between the Borrower and ADB (hereinafter called the Special Operations Loan Agreement), ADB has agreed to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to forty-seven million nine hundred eight thousand Special Drawing Rights (SDR 47,908,000) in connection with the Project;

(D) the Borrower has applied to ADB for advisory technical assistance on a grant basis to the Government of the Independent State of Papua New Guinea (hereinafter called the Government) to assist in preparing a National Transport Development Plan for the period 2011 through 2020 in an aggregate amount equivalent to seven hundred thousand dollars (\$700,000);

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

(F) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 (the "Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. The definitions set forth in the Loan Regulations and the Special Operations Loan Agreement are applicable to this Loan Agreement unless the context requires otherwise.

## **ARTICLE II**

### **The Loan**

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to nineteen million three hundred seventy-eight thousand Special Drawing Rights (SDR 19,378,000).

Section 2.02. The Borrower shall pay to ADB an interest charge at the rate of three and fifteen one hundredth of one percent (3.15%) per annum, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 May and 15 November in each year.

Section 2.04. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be Dollar.

## **ARTICLE III**

### **Use of Proceeds of the Loan**

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

Section 3.02. The Goods, Works, consulting services and other items of expenditure 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, consulting services and other items of expenditure shall be in accordance with the provisions of Schedule 3 to the Special Operations 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 the Special Operations Loan Agreement.

Section 3.04. Withdrawals from the Loan 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 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 Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2013 or such other date as may from time to time be agreed between the Borrower and ADB.

## **ARTICLE IV**

### **Particular Covenants**

Section 4.01. 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 the Special Operations Loan Agreement.

Section 4.02. (a) The Borrower shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than six (6) months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement, all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

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

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

## **ARTICLE V**

### **Suspension; Acceleration of Maturity**

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations: the Borrower shall have failed to perform any of its obligations under the Special Operations Loan Agreement.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 8.07(d) of the Loan Regulations: the event of suspension described in Section 5.01 hereinabove.

## **ARTICLE VI**

### **Effectiveness**

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Special Operations Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and shall have become legally binding upon the Borrower in accordance with its terms, subject only to the effectiveness of this Loan Agreement.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: the Special Operations Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and shall have become legally binding upon the Borrower in accordance with its terms, subject only to the effectiveness of this Loan Agreement.

Section 6.03. 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 9.04 of the Loan Regulations.

**ARTICLE VII**

**Miscellaneous**

Section 7.01. The Minister for Treasury of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

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

For the Borrower

Secretary  
Department of Treasury  
Vulupindi Haus  
P.O. Box 542  
Waigani, National Capital District  
Papua New Guinea

Facsimile Numbers:

(675) 312-8804  
(675) 312-8808

For ADB

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

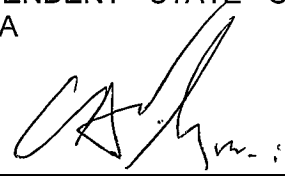
Facsimile Numbers:

(632) 636-2444  
(632) 636-2446.

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.

THE INDEPENDENT STATE OF PAPUA  
NEW GUINEA

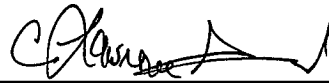
By



\_\_\_\_\_  
H.E. CHRISTIAN ANTHONY VIHRURI  
Authorized Representative

ASIAN DEVELOPMENT BANK

By



\_\_\_\_\_  
C. LAWRENCE GREENWOOD, JR.  
Vice-President (Operations 2)

## SCHEDULE 1

### Description of the Project

1. The Investment Program will establish a sustainable road system in the Highlands region that will enable maximum use of its natural, mineral and human resources for the development of the Highlands region and the country. The Investment Program will result in improved accessibility to ports, markets, and livelihood opportunities, and travel time savings. Improved road network will reduce transport costs in the Highlands region.

2. The Project is comprised of the following components:

#### **A. Investment Subprojects**

Improvements of 211 km of national roads that are part of the priority corridors identified in the National Transport Development Plan (NTDP; 2006-2010) as follows:

- (i) Nipa-Magarima (26 km);
- (ii) Magarima-Ambua (41 km);
- (iii) Hiwinda Junction-Koroba (29 km);
- (iv) Mendi-Kandep (50 km); and
- (v) Laiagam-Porgera (65 km).

#### **B. Investment Program Support Consulting Services**

The investment support consulting services include (a) detailed engineering design, preparation of bid documents and procurement support to DOW for 1,400 km of road improvement works, (b) preparation of feasibility studies and reports to address ADB's environmental and social safeguard policy requirements, (c) supervision of road improvement contracts for 211 km of roads under the Project, (d) preparation of bid documents and procurement support to NRA for maintenance of the 2,500 km of roads constituting HCRN under the Investment Program, (e) supervision of long-term maintenance contracts for 211 km of roads improved under the Project and an additional 360 km of roads that are already in maintainable condition, (f) capacity development of DOW, NRA and NRSC, and (g) implementation of policy to improve road maintenance funds through road user charges.

#### **C. Socio-economic Monitoring Study**

The study will track Investment Program impacts and monitor the social and economic benefits of improving and maintaining roads in the Highlands region, including benchmarking and follow up studies of villages within the road influence areas and within control villages unaffected by the development.

#### **D. Project Preparation and Detailed Design**

The detailed engineering design and bid documents will be prepared through the Investment Program Support Consulting Services.

3. The Project is expected to be completed by 31 December 2012.

## SCHEDULE 2

### Amortization Schedule (Highlands Region Road Improvement Investment Program – Project 1)

| <u>Date Payment Due</u> | <u>Payment of Principal</u><br>(expressed in Special<br>Drawing Rights)* |
|-------------------------|--|
| 15 May 2017             | 403,708  |
| 15 November 2017        | 403,708  |
| 15 May 2018             | 403,708  |
| 15 November 2018        | 403,708  |
| 15 May 2019             | 403,708  |
| 15 November 2019        | 403,708  |
| 15 May 2020             | 403,708  |
| 15 November 2020        | 403,708  |
| 15 May 2021             | 403,708  |
| 15 November 2021        | 403,708  |
| 15 May 2022             | 403,708  |
| 15 November 2022        | 403,708  |
| 15 May 2023             | 403,708  |
| 15 November 2023        | 403,708  |
| 15 May 2024             | 403,708  |
| 15 November 2024        | 403,708  |
| 15 May 2025             | 403,708  |
| 15 November 2025        | 403,708  |
| 15 May 2026             | 403,708  |
| 15 November 2026        | 403,708  |
| 15 May 2027             | 403,708  |
| 15 November 2027        | 403,708  |
| 15 May 2028             | 403,708  |
| 15 November 2028        | 403,708  |
| 15 May 2029             | 403,708  |
| 15 November 2029        | 403,708  |
| 15 May 2030             | 403,708  |
| 15 November 2030        | 403,708  |
| 15 May 2031             | 403,708  |
| 15 November 2031        | 403,708  |
| 15 May 2032             | 403,708  |
| 15 November 2032        | 403,708  |
| 15 May 2033             | 403,708  |
| 15 November 2033        | 403,708  |
| 15 May 2034             | 403,708  |
| 15 November 2034        | 403,708  |
| 15 May 2035             | 403,708  |
| 15 November 2035        | 403,708  |
| 15 May 2036             | 403,708  |
| 15 November 2036        | 403,708  |
| 15 May 2037             | 403,708  |
| 15 November 2037        | 403,708  |

| <u>Date Payment Due</u> | <u>Payment of Principal</u><br>(expressed in Special<br>Drawing Rights)* |
|-------------------------|--|
| 15 May 2038             | 403,708  |
| 15 November 2038        | 403,708  |
| 15 May 2039             | 403,708  |
| 15 November 2039        | 403,708  |
| 15 May 2040             | 403,708  |
| 15 November 2040        | <u>403,724</u>   |
| Total                   | <u><u>19,378,000</u></u>   |

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\* The figures in this column represent SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

### SCHEDULE 3

#### Allocation and Withdrawal of Loan Proceeds

##### General

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

##### Percentages of ADB Financing

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

##### Interest Charge

3. The amount allocated to Category 2 is for financing the interest charge on the Loan during the implementation period of the Project.

##### Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

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

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

##### Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds for financing Works, 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.

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**

| <b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS<br/>(Highlands Region Road Improvement Investment Program - Project 1)</b> |                 |                                   |                      |  |
|--|-----------------|-----------------------------------|----------------------|--|
| <b>CATEGORY</b>  |                 |                                   | <b>ADB FINANCING</b> |  |
| <b>Number</b>  | <b>Item</b>     | <b>Amount Allocated<br/>[SDR]</b> |                      | <b>Percentage and Basis for<br/>Withdrawal<br/>from the Loan Account</b> |
|  |                 | <b>Category</b>                   | <b>Subcategory</b>   |  |
| 1  | Works           | 15,947,000                        |                      | 28 percent of total expenditure  |
| 2  | Interest Charge | 807,000                           |                      | 100 percent of amount due  |
| 3  | Unallocated     | 2,624,000                         |                      |  |
|  | <b>Total</b>    | <b>19,378,000</b>                 |                      |  |