
LOAN NUMBER 2558-SRI(SF)

LOAN AGREEMENT
(Special Operations)

(Greater Colombo Wastewater Management Project)

between

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

and

ASIAN DEVELOPMENT BANK

DATED 18 DECEMBER 2009

LAS:SRI 36173

LOAN AGREEMENT (Special Operations)

LOAN AGREEMENT dated 18 December 2009 between DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA (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 Colombo Municipal Council (hereinafter referred to as "CMC") and National Water Supply & Drainage Board (hereinafter referred to as "NWSDB"), and for this purpose the Borrower will make available to each of CMC and NWSDB a certain portion of the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB;

(C) by an Agreement of even date herewith entered between the Borrower and ADB (hereinafter referred to as the "Ordinary Operations Loan Agreement"), ADB has agreed to provide a loan to the Borrower from ADB's ordinary capital resources for an amount of eighty million Dollars (\$80,000,000); and

(D) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions set forth herein and in the two separate project agreements of even date herewith (i) a project agreement between ADB and CMC (hereinafter called the "CMC Project Agreement"), and (ii) a project agreement between ADB and NWSDB (hereinafter called the "NWSDB Project Agreement," and together the "Project Agreements");

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the 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 are applicable to this Loan Agreement, unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "CEA" means the Borrower's Central Environmental Authority established in terms of Central Environmental Authority Act No. 47 of 1980;

(b) "CMC Subsidiary Finance Agreement" means the agreement between the Borrower and CMC under which the Borrower onlends a portion of the proceeds of the loans under this Loan Agreement and the Ordinary Operations Loan Agreement to CMC;

(c) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2007, as amended from time to time);

(d) "DSC" means the design, supervision and management consultant for the Project;

(e) "EMP" means the Environmental Management Plan prepared for the Project;

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

(g) "Greater Colombo" means areas falling under the Western Province of the Borrower and encompassing the municipal councils of Colombo, Dehiwela/Mt. Lavinia, Sri-Jayawardhenapura-Kotte, two urban councils and 2 Pradeshiya Sabhas;

(h) "IDC" means the institutional development consultant for the Project;

(i) "MLGPC" means Ministry of Local Government and Provincial Councils of the Borrower or any successor thereto;

(j) "NWSDB Subsidiary Finance Agreement" means the agreement between Borrower and NWSDB under which the Borrower onlends a portion of the proceeds of loans under this Loan Agreement to NWSDB;

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

(l) "Ordinary Operations Loan Agreement" means the agreement entered into between ADB and the Borrower simultaneously with this Agreement under which ADB has agreed to provide the Borrower a loan of eighty million Dollars (\$80,000,000) from ADB's ordinary capital resources;

(m) "PIU" means the project implementation unit to be established in NWSDB as provided in paragraph 3 of Schedule 5 to this Loan Agreement;

(n) "PMU" means the project management unit to be established in CMC as provided in paragraph 2 of Schedule 5 to this Loan Agreement;

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

(p) "Procurement Plan" means the procurement plan for the Project dated 12 August 2009 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(q) "Project Executing Agency" means MLGPC;

(r) "PSC" means the Project Steering Committee to be established as provided in paragraph 4 of Schedule 5 to this Loan Agreement;

(s) "RP" means the Short Resettlement Plan for the Project approved by ADB or any subsequent resettlement plan to be prepared in future in accordance with ADB policies;

(t) "SGIAs" means second generation imprest accounts (separately an SGIA) established in the names of CMC and NWSDB as set out in paragraph 5 of Schedule 3 to this Loan Agreement;

(u) "Subsidiary Finance Agreements" means the CMC Subsidiary Finance Agreement and NWSDB Subsidiary Finance Agreement; and

(v) "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. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to twelve million seven hundred sixty thousand Special Drawing Rights (SDR12,760,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of one percent (1%) per annum during the grace period, and one and one-half percent (1.5%) per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in paragraph (a) of this Section means the period prior to payment of the first principal amount of the Loan on the payment date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 February and 15 August 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 the Dollar.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall (i) make available to CMC a portion of the proceeds of the Loan in an amount equivalent to nine million one hundred sixty seven thousand Special Drawing Rights (SDR9,167,000) for the purpose of carrying out Part B and Part C (i)-(iii) of the Project; and (ii) make available to NWSDB a portion of the proceeds of the Loan in an amount equivalent to three million five hundred ninety three thousand Special Drawing Rights (SDR3,593,000) for the purpose of carrying out Part A and Part C (iv) of the Project, together with other funds required for the Project, on the basis of 82.5% grant and 17.5% loan, under separate Subsidiary Finance Agreements upon terms and conditions satisfactory to ADB.

(b) Except as ADB shall otherwise agree, the Subsidiary Finance Agreements shall provide that the portions of the proceeds of the Loan available to CMC and NWSDB shall include, for the portion provided as loan, interest at the rate of ten percent (10%) per annum and a repayment period of 25 years including a grace period of 5 years; and that the foreign exchange risk shall be borne by the Borrower.

(c) The Borrower shall cause CMC and NWSDB to apply the proceeds of the Loan to the financing expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreements.

Section 3.02. The Goods, Works and 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 and consulting services and other items of expenditure 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. 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 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 3.04. 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.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2015 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 this Loan Agreement.

Section 4.02. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loan, all other plants, sites, properties and equipment of the Borrower, and any relevant records and documents.

Section 4.03. The Borrower shall take all action which shall be necessary on its part to enable CMC and NWSDB to perform their obligations under the respective Project Agreements, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.04. (a) The Borrower shall exercise its rights under the Subsidiary Finance Agreements in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purpose of the Loan.

(b) The Borrower shall not assign, amend, or waive any rights or obligations under the Subsidiary Finance Agreements without prior concurrence of ADB.

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following are specified as additional events 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:

(a) the Borrower shall have failed to perform any of its obligations under the Ordinary Operations Loan Agreement.

(b) the Borrower, CMC or NWSDB shall have failed to perform any of its respective obligations under the Subsidiary Finance Agreements, and such breach shall not have been rectified within sixty (60) days after notice thereof given by ADB to the Borrower, CMC or NWSDB of its occurrence.

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: if any of the events specified in Section 5.01 of this Loan Agreement shall have occurred.

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:

(a) the Ordinary Operations Loan Agreement shall have been duly authorized or ratified by, executed and delivered on behalf of, the Borrower, and all conditions precedent to its effectiveness, other than a condition requiring effectiveness of this Loan Agreement, shall have been fulfilled;

(b) the Subsidiary Finance Agreements, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the Borrower, CMC and NWSDB, respectively, and shall have become binding upon the parties thereto in accordance with its terms.

Section 6.02. The following are specified as additional matters, 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:

(a) the Ordinary Operations Loan Agreement has been duly authorized or ratified by, executed and delivered on behalf of, the Borrower, and is legally binding upon the Borrower in accordance with its terms; and

(b) the Subsidiary Finance Agreements have been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower, CMC and NWSDB, respectively, and are legally binding upon the Borrower, CMC and NWSDB in accordance with their terms.

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

Delegation of Authority

Section 7.01. The Borrower hereby designates CMC and NWSDB for their respective parts of the Project its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02 and 3.05 of this Loan Agreement and under Sections 5.01, 5.02, 5.03 and 5.04 of the Loan Regulations.

Section 7.02. Any action taken or any agreement entered into by CMC or NWSDB pursuant to the authority conferred under Section 7.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 7.03. The authority conferred on CMC and NWSDB under Section 7.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VIII

Miscellaneous

Section 8.01. The Secretary, Ministry of Finance & Planning of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

For the Borrower

The Secretary
Ministry of Finance & Planning
Secretariat
Colombo 1, Sri Lanka

Copy: Deputy Secretary to the Treasury
Director General, External Resources Department

Facsimile Numbers:

(9411) 244-9823
(9411) 244-7633.

For ADB


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

Facsimile Numbers:


(632) 636-2444
(632) 636-2293

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.

DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA

By 
PUNCHI BANDARA JAYASUNDERA
Secretary
Ministry of Finance & Planning

ASIAN DEVELOPMENT BANK

By 
RICHARD VOKES
Country Director
Sri Lanka Resident Mission

SCHEDULE 1

Description of the Project

1. The objective of the Project is to improve the urban environment and public health for residents of Greater Colombo through improved wastewater management services within the Project area.
2. The Project to be financed under this Loan Agreement consists of the following parts:
 - Part A. Upgrading sewerage infrastructure, including design, supply of equipment, construction of civil, mechanical and electrical works associated with refurbishment of 6 existing pumping stations in the Kolonnawa, Dehiwela/Mt. Lavinia service areas.
 - Part B. Strengthening institutional and operational capacity of CMC, including
 - (i) asset management planning and operationalisation, financial improvement, operational performance monitoring, environmental regulatory compliance, customer services and public awareness, and pro-poor and gender-inclusive sanitation services; and
 - (ii) provision of consulting services.
 - Part C. Project management and implementation support, including
 - (i) provision of consulting services for design, supervision and implementation support;
 - (ii) provision of training and workshops;
 - (iii) project incremental administration and operations associated with PMU; and
 - (iv) project incremental administration and operations associated with the PIU.
3. The Project is expected to be completed by 31 December 2014.

SCHEDULE 2**Amortization Schedule
(Greater Colombo Wastewater Management Project)**

<u>Payment Due Date</u>	<u>Payment of Principal</u> * (expressed in SDR)
15 February 2018	265,833
15 August 2018	265,833
15 February 2019	265,833
15 August 2019	265,833
15 February 2020	265,833
15 August 2020	265,833
15 February 2021	265,833
15 August 2021	265,833
15 February 2022	265,833
15 August 2022	265,833
15 February 2023	265,833
15 August 2023	265,833
15 February 2024	265,833
15 August 2024	265,833
15 February 2025	265,833
15 August 2025	265,833
15 February 2026	265,833
15 August 2026	265,833
15 February 2027	265,833
15 August 2027	265,833
15 February 2028	265,833
15 August 2028	265,833
15 February 2029	265,833
15 August 2029	265,833
15 February 2030	265,833
15 August 2030	265,833
15 February 2031	265,833
15 August 2031	265,833
15 February 2032	265,833
15 August 2032	265,833
15 February 2033	265,833
15 August 2033	265,833
15 February 2034	265,833
15 August 2034	265,833
15 February 2035	265,833
15 August 2035	265,833
15 February 2036	265,833
15 August 2036	265,833
15 February 2037	265,833
15 August 2037	265,833

<u>Payment Due Date</u>	<u>Payment of Principal</u> * (expressed in SDR)
15 February 2038	265,833
15 August 2038	265,833
15 February 2039	265,833
15 August 2039	265,833
15 February 2040	265,833
15 August 2040	265,833
15 February 2041	265,833
15 August 2041	<u>265,833</u>
Total	12,760,000

* 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 relevant provisions of the Special Operations 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 and consulting services 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 and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category).

Percentage 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 5 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, in consultation with 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 all Goods, Works and consulting services and other items to be financed out of the Loan proceeds 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 Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower shall establish or cause to be established immediately after the Effective Date, two first generation imprest accounts at the Central Bank of Sri Lanka and two SGIAs—one each for the PMU and PIU—at commercial banks acceptable to ADB. The Borrower shall cause the CMC and NWSDB to ensure that the respective SGIAs are established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook and the detailed arrangements agreed by the Borrower and ADB. The currency of the imprest accounts and the SGIAs shall be Dollars for the first generation imprest accounts and Sri Lankan Rupees for the SGIAs. The initial advances and maximum amount to be deposited to the first generation imprest accounts will not at any time exceed the estimated ADB-financed expenditures to be paid from such account for the next 6 months or 10% of the Loan amount, whichever is lower. The maximum ceiling for each SGIA shall be equivalent to 6 months estimated expenditures to be funded from each SGIA or \$1,000,000, whichever is lower.

(b) ADB's statement of expenditures (SOE) procedures will be used to liquidate advances from the imprest accounts. The maximum payments permitted under the SOE for the imprest account and each of the SGIAs shall not exceed \$100,000 for any individual payment.

Retroactive Financing

7. 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, subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Greater Colombo Wastewater Management Project)				
CATEGORY				ADB FINANCING
Number	Item	Amount Allocated (SDR)		Percentage and Basis for Withdrawal from the Loan Account
		Category	Subcategory	
1	Equipment	3,410,000		
1A	Equipment - CMC		834,000	100 percent of total expenditure *
1B	Equipment - NWSDB		2,576,000	100 percent of total expenditure *
2	Training and Workshop	1,602,000		100 percent of total expenditure *
3	Consulting Services	4,592,000		100 percent of total expenditure *
4	Recurrent Cost	1,494,000		
4A	Recurrent Cost – CMC		1,243,000	100 percent of total expenditure *
4B	Recurrent Cost – NWSDB		251,000	100 percent of total expenditure *
5	Interest Charge	339,000		100 percent of amount due
6	Unallocated	1,323,000		
	Total	12,760,000		

* Exclusive of taxes and duties imposed within the territory of the Borrower.

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

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 to them in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Procurement of 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 as set forth below:

International Competitive Bidding
Shopping

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

Selection of Consulting Services

5. **Quality-and Cost-Based Selection.** Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall apply quality-and cost-based selection for selecting and engaging consulting services.
6. Except as ADB may otherwise agree, consultants for institutionalization of pro-poor sanitation strategy and public awareness campaigns shall be selected by using consultants' qualification selection method.

Industrial or Intellectual Property Rights

7. The Borrower through CMC and NWSDB 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.
8. The Borrower through CMC and NWSDB 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 paragraph (7).

9. The Borrower through CMC and NWSDB 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.

ADB's Review of Procurement Decisions

10. All contracts for procurement and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Implementation Arrangements

1. MLGPC is the Project Executing Agency having overall responsibility for the Project. CMC shall be responsible for implementing the activities under Part B and Part C (i)-(iii) of the Project. NWSDB shall be responsible for the implementation of Part A and Part C (iv) of the Project. All obligations attributable to CMC and NWSDB under this Loan Agreement shall relate to their respective parts of the Project

PMU, PIU and PSC

2. The Borrower shall procure that CMC shall establish the PMU under its Municipal Commissioner and that the PMU shall at all times be led by a CMC officer of senior management level. The PMU shall be staffed by members of CMC and new staff to be recruited on a contract basis for the required tasks. Staffing requirements for the PMU shall consider both incremental staff for the implementation and construction phases and long term O & M function of CMC for the duration of the Project.

3. The Borrower shall procure that NWSDB shall establish the PIU to be responsible for the implementation of Part A and Part C (iv) of the Project.

4. The Borrower shall ensure that the PSC, chaired by the Secretary of MLGPC, is established to oversee the Project, holds its first meeting within 3 months of Loan Effectiveness and meets at least quarterly to provide policy guidance and coordination among the Government agencies. The Borrower shall further ensure that the PSC shall have members representing the National Planning Department, External Resources Department, Budget Department, Ministry of Plan Implementation, Western Provincial Council, Colombo Municipal Council, National Water Supply and Drainage Board, Urban Development Authority, Central Environmental Authority (CEA), Ministry of Defence, Sri Lanka Ports Authority, Coast Conservation Department and Road Development Authority, and such other government agencies as may be considered necessary. ADB shall also attend the meetings of the PSC.

5. The Borrower shall cause CMC to ensure that the PMU is responsible for (i) preparing the overall Project implementation plan; (ii) recruiting consultants and non-government organizations and procuring goods and works; (iii) implementing the institutional strengthening and capacity development program under the Project; and (iv) Project performance and compliance monitoring.

Counterpart funds

6. The Borrower shall make available, and shall ensure that CMC and NWSDB make available, adequate budgetary allocations of the required counterpart funds in respect of the Project on a timely and regular basis.

Resettlement

7. The Borrower shall ensure that impact during the Project period on residents of the Project areas shall be mitigated through the RP. The Borrower shall further ensure that: (a) all land and right-of-way required for the Project are made available in a timely manner; (b) if any land acquisition or resettlement becomes necessary, appropriate RP is prepared in consultation with the affected people and in accordance with the Government's National Involuntary Resettlement Policy and ADB's *Policy on Involuntary Resettlement (1995)*; (c) the resettlement activities shall be carried out according to the RP agreed between the Borrower and ADB which the Government shall disclose to the public; (d) an updated RP, to be disclosed to the public, shall be provided to the ADB for review, approval and ADB website disclosure following detailed designs and detailed measurement survey and prior to the award of any civil works contract; (e) any civil works shall be commenced only after the required land has been acquired and affected households have been relocated and compensated at full replacement cost; (f) external monitoring reports shall be submitted to ADB to be uploaded on the ADB website; (g) adequate budgetary support shall be made available to cover the costs of land acquisition and resettlement; and (h) resettlement activities shall be carried in line with the Borrower's laws and ADB's Policy on Involuntary Resettlement (1995) and in case of discrepancy ADB policy will be applied.

Environment

8. The Borrower shall ensure that (a) the Project shall be carried out in compliance with ADB's Environment Policy (2002), relevant national environmental laws and regulations; (b) the relevant environmental mitigation measure specified in the ADB-approved final EMP updated during detailed engineering design are incorporated in bidding documents and civil works contracts; (c) all mitigation measures and monitoring requirements set out in the EMP will be implemented and complied with, respectively, and closely supervised throughout Project implementation; and (d) Project environmental performance will be monitored, and the monitoring report will be submitted to ADB semiannually.

Health; Labor

9. The Borrower shall ensure, and cause CMC and NWSDB to ensure, that all Works contracts include specific provisions requiring contractors: (i) to comply with core labor standards and labor laws and gender equal pay for equal work; and (ii) to disseminate information on sexually transmitted diseases including HIV/AIDS to their employees and local communities surrounding the Project sites.

10. The Borrower shall ensure, and cause CMC and NWSDB to ensure, that contractors (i) provide appropriate training and information materials for workers on HIV/AIDS prevention; (ii) use non-governmental organizations approved by the Borrower; and (iii) observe local protocols concerning acceptable behavior towards the local population. In addition, the Borrower shall set employment targets for poor and vulnerable people, particularly women, for all construction and maintenance activities, and cause CMC and NWSDB to strictly monitor compliance with these obligations during Project implementation.

Tariffs; Operation Plan

11. The Borrower shall ensure that by the end of 2014, CMC shall have effected revenue increase to the level to cover the O&M cost and to cover debt service owed to the Borrower under the CMC Subsidiary Finance Agreement and allocated such increased revenue for the O&M budget for sewerage operations in CMC service area. The Borrower shall ensure that the sewerage tariff for the NWSDB shall have been increased to cover the O&M cost and debt service owed to the Borrower by the end of 2014.

12. The Borrower and CMC shall ensure that within one (1) year from the Effective Date, the following actions shall have been completed by CMC: (a) establishment of a separate cost center exclusively for sewerage operation and maintenance; (b) assigning new account code for an independent sewerage program; and (c) creation of a new budget line exclusively for sewerage as part of CMC's budget.

13. The Borrower and CMC shall ensure that within one (1) year of the Effective Date, the CMC shall have introduced financial and operational performance indicators and based on those indicators introduced a performance-based budgetary system satisfactory to ADB.

14. The Borrower and the CMC shall ensure that within one (1) year of Effective Date, the CMC, with the objective of complying with CEA environmental regulations, shall have established an environmental monitoring unit, with such experts as may be reasonably necessary, with the responsibility to implement a water quality monitoring system for CMC service area.

15. The Borrower and CMC shall ensure that within two (2) years of Effective Date, CMC and CEA shall have installed and operationalized a discharge-into-sewers pollution source control program, acceptable to ADB, for tracking non-compliant parties as defined in the CEA regulations; and within one year of such operationalization, CMC and CEA will enforce a penalty mechanism, acceptable to ADB, for the non-compliant parties.

16. The Borrower and the CMC shall ensure that within two (2) years of Effective Date, CMC shall have prepared a septage management plan, satisfactory to ADB, dealing with the disposal of residual solids and sludge from septic tanks, screens and grits.

17. Within three (3) years of Effective Date, the Borrower and CMC shall provide investment plans and implementation programs for (a) storm water drainage system, and (b) solid waste management.

18. The Borrower, CMC and NWSDB shall ensure that before award of any contract, all relevant clearance or permits, approvals and authorizations shall have been obtained from all relevant authorities, including CEA and the Borrower's Coast Conservation Department.

19. Before award of the contract for the rehabilitation of Muttwal and Wellawata outfalls, CMC and the Borrower shall ensure that (a) an authorization from the Sri Lanka Port Authority has been granted for sea outfalls works; and (b) clearance from the Coast Conservation Department has been obtained for the temporary use of available lands in the vicinity of the sea outfalls.

20. Before award of the contract for refurbishment of pumping stations by CMC, the Borrower and CMC shall ensure that necessary security clearance has been provided to the contractor to conduct Pollwatta pumping station rehabilitation works.

21. The Borrower confirms that the sewerage system asset within Colombo municipality area is owned by the CMC and undertakes that it shall not change the ownership of the asset throughout the Project period by executive or administrative decree, decision, resolution or such other or similar means either under the NWSDB law or such other similar or succeeding legislation.

22. The Borrower and the CMC shall ensure that adequate land has been allocated and retained throughout Project implementation for secondary wastewater treatment facilities of total capacity of 420 million liters per day.

Anti-corruption; Transparency

23. The Borrower, CMC and NWSDB shall comply with ADB's *Anticorruption Policy* (1998, as amended to date), and cooperate fully with any investigation by ADB and extend all necessary assistance, including providing access to all relevant books and records for the satisfactory completion of such investigation.

24. The Borrower shall cause CMC and NWSDB to (i) ensure that all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of CMC, NWSDB, and all contractors, suppliers, consultants, and other service providers as they relate to the Project; and (ii) periodically inspect contractors' activities, particularly fund withdrawals and resettlements.

25. CMC and NWSDB shall ensure that all relevant information and documents, including on procurement procedures and contract awards, which are required to be made public under ADB's *Public Communication Policy* are made readily available to any member of public from the Project offices and their websites. The Borrower shall cause CMC and NWSDB to further ensure that within ninety (90) days of the Effective Date a grievance redress mechanism is established to redress any Project-related concerns raised by Project beneficiaries and communities in the Project sites.

Project Reports and Review

26. Within three (3) months from the Effective Date, the Borrower shall cause CMC and NWSDB to establish a project performance management system, based on ADB's Project Performance Management System Handbook, to prepare progress reports of their respective Parts of the Project and submit these to ADB semiannually, which shall include (i) a narrative description of progress made during the period; (ii) changes in the implementation schedule; (iii) problems or difficulties encountered; (iv) performance of the Project implementation consultants; (v) work to be carried out in the next period; and (vi) summary financial accounts consisting of Project expenditures for the year to date and total expenditures to date. The Borrower and ADB shall jointly assess Project implementation semiannually. The PMU and PIU shall gather baseline physical and socioeconomic data and submit a detailed implementation plan for monitoring performance and preparing benchmark information for ADB's review and concurrence within six (6) months of Effective Date.

27. The Borrower shall cause CMC and NWSDB to provide audited accounts for the Project, audited by independent auditors acceptable to ADB, to be submitted to ADB within six (6) months of the end of the fiscal year.

28. The Borrower and ADB shall review the progress under the Project bi-annually and also undertake a comprehensive midterm review three (3) years after the Effective Date or after construction of the main package for sewerage rehabilitation has been initiated, whichever is sooner. The reviews shall (i) examine the appropriateness of scope, design, implementation arrangements and schedule of activities; (ii) identify changes needed since Project appraisal; (iii) assess implementation performance against Project indicators; (iv) establish compliance with loan covenants; (v) identify problems, constraints, and, if necessary, recommend changes in the design or implementation arrangements; and (vi) monitor the effectiveness of safeguard procedures.