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LOAN NUMBER 2862/2863(SF)/2864(SF) -BAN

PROJECT AGREEMENT

(Greater Dhaka Sustainable Urban Transport Project)

between

ASIAN DEVELOPMENT BANK

and

BANGLADESH BRIDGE AUTHORITY

DATED 17 DECEMBER 2012

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BAN 42169

## **PROJECT AGREEMENT**

PROJECT AGREEMENT dated 17 December 2012 between ASIAN DEVELOPMENT BANK (“ADB”) and BANGLADESH BRIDGE AUTHORITY (“BBA”).

### **WHEREAS**

(A) by two loan agreements of even date herewith between the People’s Republic of Bangladesh (“Borrower”) and ADB (“Loan Agreements”), ADB has agreed to lend to the Borrower from ADB’s Special Funds resources an amount in various currencies equivalent to twenty nine million one hundred seventy nine thousand Special Drawing Rights (SDR 29,179,000) (“Loan A”) and an amount in various currencies equivalent to nine million seven hundred twenty six thousand Special Drawing Rights (SDR 9,726,000) (“Loan B”) (“Special Operations Loan Agreement”) and to lend to the Borrower from its ordinary capital resources an amount of one hundred million Dollars (\$100,000,000) (“OCR Loan”) (“Ordinary Operations Loan Agreement”) on the terms and conditions set forth in the Loan Agreements, but only on the condition that part of the proceeds of the Loan A, Loan B and OCR Loan (“Loans”) be made available to BBA and that BBA agrees to undertake certain obligations towards ADB as set forth in this Project Agreement; and

(B) BBA, in consideration of ADB entering into the Loan Agreements with the Borrower, has agreed to undertake the obligations set forth in this Project Agreement;

NOW THEREFORE the parties agree as follows:

## **ARTICLE I**

### **Definitions**

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the terms defined in the Special Operations Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth.

## **ARTICLE II**

### **Particular Covenants**

Section 2.01. (a) BBA shall carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, environmental and urban transport practices.

(b) In the carrying out of the Project and operation of the Project facilities, BBA shall perform all obligations set forth in the Loan Agreements to the extent that they are applicable to BBA.

Section 2.02. BBA shall make available, promptly as needed, the funds, facilities, services, equipment, land and other resources which are required, in addition to the proceeds of the Loans, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, BBA shall employ competent and qualified consultants and contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) Except as ADB may otherwise agree, all Goods, Works and Consulting Services to be financed out of the proceeds of the Loans shall be procured in accordance with the provisions of Schedule 4 to the Special Operations Loan Agreement. ADB may refuse to finance a contract where Goods, Works or Consulting Services have not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 2.04. BBA shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. BBA shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.05. (a) BBA shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, BBA undertakes to insure, or cause to be insured, the Goods to be imported for the Project and to be financed out of the proceeds of the Loans against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods.

Section 2.06. BBA shall maintain, or cause to be maintained, records and accounts adequate to identify the Goods, Works and Consulting Services and other items of expenditure financed out of the proceeds of the Loans, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.07. (a) ADB and BBA shall cooperate fully to ensure that the purposes of the Loans will be accomplished.

(b) BBA shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of its obligations

under this Project Agreement or the Loan Agreements, or the accomplishment of the purposes of the Loans.

(c) ADB and BBA shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, BBA and the Loans.

Section 2.08. (a) BBA shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loans and the expenditure of the proceeds thereof; (ii) the Goods, Works and Consulting Services and other items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of BBA; and (v) any other matters relating to the purposes of the Loans.

(b) Without limiting the generality of the foregoing, BBA shall furnish to ADB quarterly reports on the execution of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after physical completion of the Project, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, BBA shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by BBA of its obligations under this Project Agreement and the accomplishment of the purposes of the Loans.

Section 2.09. (a) BBA shall (i) maintain separate accounts for the Project; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, and related 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; and (iii) furnish to ADB, promptly after their preparation but in any event not later than 6 months after the close of the fiscal year to which they relate, 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 Loans proceed and compliance with the financial covenants of the Loan Agreements as well as on the use of the procedures for imprest account/statement of expenditures), all in the English language. BBA shall furnish to ADB such further information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) BBA shall enable ADB, upon ADB's request, to discuss BBA's financial statements and its financial affairs from time to time with the auditors, appointed by BBA pursuant to Section 2.09(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 BBA unless BBA shall otherwise agree.

Section 2.10. BBA shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loans, all other sites, properties and equipment of BBA, and any relevant records and documents.

Section 2.11. (a) BBA shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of its business.

(b) BBA shall at all times conduct its business in accordance with sound administrative, financial, environmental and urban transport practices, and under the supervision of competent and experienced management and personnel.

(c) BBA shall at all times operate and maintain its equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, financial, engineering, environmental, urban transport, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, BBA shall not sell, lease or otherwise dispose of any of its assets which shall be required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Project Agreement.

Section 2.13. Except as ADB may otherwise agree, BBA shall apply the proceeds of the Loans to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreements and this Project Agreement, and shall ensure that all Goods, Works and consulting services financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Except as ADB may otherwise agree, BBA shall duly perform all its obligations under the Loan Agreements, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Loan Agreements.

Section 2.15. BBA shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its charter and shall afford ADB an adequate opportunity to comment on such proposal prior to taking any action thereon.

### **ARTICLE III**

#### **Effective Date; Termination**

Section 3.01. This Project Agreement shall come into force and effect on the date on which the Loan Agreements shall come into force and effect. ADB shall promptly notify BBA of such date.

Section 3.02. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreements.

## ARTICLE IV

### Miscellaneous

Section 4.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex, facsimile or radiogram to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

#### For ADB

Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
1550 Metro Manila, Philippines

Facsimile Numbers:

+63 2 636-2444  
+63 2 636-2293.

#### For BBA

Shetu Bhaban  
New Airport Road,  
Banani, Dhaka

Facsimile Numbers:

+88 2 9888414

Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement by or on behalf of BBA may be taken or executed by its Executive Director or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) BBA shall furnish to ADB sufficient evidence of the authority of each person who will act under paragraph (a) of this Section, together with the authenticated specimen signature of each such person.

Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Project 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.

ASIAN DEVELOPMENT BANK

By   
\_\_\_\_\_  
M. TERESA KHO  
Country Director  
Bangladesh Resident Mission

BANGLADESH BRIDGE AUTHORITY

By   
\_\_\_\_\_  
KABIR AHMED  
Authorized Representative