
LOAN NUMBER 2382-BAN(SF)

LOAN AGREEMENT
(Special Operations)

(Dhaka Water Supply Sector Development Project)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 12 DECEMBER 2007

LAS:BAN 39405

LOAN AGREEMENT (Special Operations)

LOAN AGREEMENT dated 12 December 2007 between PEOPLE'S REPUBLIC OF BANGLADESH ("the Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a Loan Agreement of even date herewith between the Borrower and ADB (hereinafter called the Program Loan Agreement), ADB has agreed to provide to the Borrower a loan equivalent to thirty one million eight hundred forty three thousand Special Drawing Rights (SDR31,843,000) for the purpose of the Dhaka Water Supply Sector Development Program (hereinafter called the Program) described in Schedule 1 to the Program Loan Agreement;

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

(C) the Project will be carried out by the Dhaka Water Supply and Sewerage Authority (hereinafter called DWASA), under the terms of a project agreement of even date herewith (hereinafter called the Project Agreement), and for this purpose the Borrower will make available to DWASA the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB; 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 Project Agreement of even date herewith between ADB and DWASA;

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) "Bangladesh Bank" means the Borrower's central bank and any successor thereto;
- (b) "CBOs" means community-based organizations;

(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) "DPD" means the Deputy Project Director appointed in accordance with paragraph 2 of Schedule 5 to this Loan Agreement;

(e) "DPHE" means the Department of Public Health Engineering under the Borrower's MLGRD&C, and any successor thereto;

(f) "ERD" means the Economic Relations Division under the Borrower's MOF, and any successor thereto;

(g) "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;

(h) "LGD" means Local Government Division under the Borrower's MLGRD&C, and any successor thereto;

(i) "MLGRD&C" means the Borrower's Ministry of Local Government, Rural Development and Cooperatives and any successor thereto;

(j) "MOF" means the Borrower's Ministry of Finance and any successor thereto;

(k) "NGOs" means non-governmental organizations;

(l) "PCU" means each of the Project Coordination Units established in each of the Project Zones, as described in paragraph 4 of Schedule 5 to this Loan Agreement;

(m) "PD" means the Project Director appointed in accordance with paragraph 2 of Schedule 5 to this Loan Agreement;

(n) "PMU" means the Project Management Unit established within DWASA, as described in paragraph 2 of Schedule 5 to this Loan Agreement;

(o) "Pourashava" means, for the purpose of this Loan Agreement, the Class A secondary level town in the territory of the Borrower;

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

(q) "Procurement Plan" means the procurement plan for the Project dated 7 November 2007 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;

(r) “Project Executing Agency” for the purposes, and within the meaning, of the Loan Regulations means DWASA, or any successor thereto acceptable to ADB, which is responsible for the overall management, supervision and execution of the Project;

(s) “Project facilities” means the facilities, equipment and vehicles provided under the Project;

(t) “Project Zones” means zones 3, 4, 5 and 6 or the four zones out of the six zones located within the Dhaka City;

(u) “PSC” means the Inter-ministerial Project Steering Committee established by the Borrower, as described in paragraph 3 of Schedule 5 to this Loan Agreement;

(v) “PWSS” means the pourashava water supply section;

(w) “SDP-WSSB” means the Sector Development Programme-Water and Sanitation Sector of Bangladesh;

(x) “Subloan” means a loan proposed to be made by the Borrower out of the proceeds of the Loan to DWASA;

(y) “Subsidiary Loan Agreement” means an agreement between MOF and DWASA in respect of the Subloan;

(z) “WASA” means Water Supply and Sewerage Authority and any successor thereto;

(aa) “WASA Act 1996” means the Borrower’s Water Supply and Sewerage Authorities Act of 1996;

(bb) “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;

(cc) “WSS” means water supply and sanitation; and

(dd) “XEN” means the executive engineers of DWASA.

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 ninety five million five hundred thirty thousand Special Drawing Rights (SDR 95,530,000).

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 April and 15 October 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 make the proceeds of the Loan available to DWASA upon terms and conditions satisfactory to ADB and shall cause DWASA to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 3.02. (a) The Borrower shall relend the proceeds of the Loan together with other funds, if any, for the Project to DWASA under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB. Except as ADB shall otherwise agree, the terms for relending the proceeds of the Loan shall include interest at the rate of five percent (5%) per annum inclusive of foreign exchange risk and a repayment period of 20 years including a grace period of five years.

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

Section 3.03. 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 3.04. 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 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. 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 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2014 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 and the Project 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 and 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 DWASA to perform its obligations under the Project Agreement, including the establishment and maintenance of tariffs as stipulated in the WASA Act 1996, 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 Loan Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the Subsidiary Loan Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

ARTICLE V

Suspension; Cancellation; 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, in the opinion of ADB, failed to perform any of its obligations under the Program 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 specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations:

(a) the Program Loan Agreement shall have been duly executed and delivered by the parties, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement), shall have been fulfilled;

(b) the Project Agreement shall have been duly executed and delivered by the parties, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement), shall have been fulfilled;

(c) The Borrower shall have established the PMU and shall have appointed the PD, 3 DPDs and 4 XEN, in accordance with paragraph 2 of Schedule 5 to this Loan Agreement;

(d) The Borrower shall have established the PSC, in accordance with paragraph 3 of Schedule 5 to this Loan Agreement; and

(e) The Borrower shall have submitted to ADB, a draft subsidiary loan agreement (Subsidiary Loan Agreement), in a form and substance acceptable to ADB.

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: the Project Agreement has been duly authorized and ratified by, and executed and delivered on behalf of, DWASA and is legally binding upon DWASA in accordance with its 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

Miscellaneous

Section 7.01. The Secretary of ERD 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

Economic Relations Division
Ministry of Finance
Government of the People's Republic of Bangladesh
Sher-e-Bangla Nagar
Dhaka 1207
Bangladesh

Facsimile Number:

+880 2 811 3088

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.

PEOPLE'S REPUBLIC OF
BANGLADESH

By 

MD. AMINUL ISLAM BHUIYAN
Authorized Representative

ASIAN DEVELOPMENT BANK

By 

HUA DU
Country Director
Bangladesh Resident Mission

SCHEDULE 1

Description of the Project

1. The Project aims to rehabilitate and strengthen the water supply system in Dhaka City and build the capacity of DWASA.
2. The Project consists of the following components:

Component A - Distribution System and Quality Improvement

A.1. Distribution Network Rehabilitation and Strengthening:

- (i) rehabilitation of primary and secondary distribution networks;
- (ii) removal of spaghetti connections and provision of tertiary distribution network and house connections;
- (iii) provision of additional supply lines to identified fringe and slum areas;
- (iv) rehabilitation of about 24 existing overhead reservoirs and provision of about 14 new overhead reservoirs; and
- (v) installation of valves, and bulk and household water meters.

A.2. Water Quality and Monitoring System Improvement

- (i) provision of and/or rehabilitation of disinfection or chlorination facilities; and
- (ii) establishment of a 2 tier water quality monitoring system.

Component B: Capacity Building and Institutional Strengthening

B1. Financial Management Improvement

Provision of consulting services to DWASA in order to assist DWASA in:

- (a) reforming and improving its financial management; and
- (b) designing an appropriate and financially sustainable tariff structure.

B2. Training and Capacity Building

- (i) development of training modules and provision of training to DWASA and zonal offices staff;
- (ii) provision of training guidelines and provision of continuation training to plumbers, pump operators and technicians; and
- (iii) rehabilitation of DWASA training center and provision of training tools.

B3. Demand Control and Public Awareness

Provision of multi media campaign, NGOs services and information materials to assist DWASA in designing and implementing a public awareness campaign.

Component C: Project Management and Implementation Support

- (i) provision of consulting services to assist the PMU in implementing, monitoring and supervising the Project; and
- (ii) provision of consulting services to assist DWASA in preparing:
 - (a) a feasibility for surface water treatment plant (WTP);
 - (b) an outline design of the WTP; and
 - (c) tender documents for the WTP.

3. The Project is expected to be completed by 31 December 2013.

SCHEDULE 2**Amortization Schedule****(Dhaka Water Supply Sector Development Project)**

| <u>Date Payment Due</u> | <u>Payment of Principal</u> (expressed in Special Drawing Rights)* |
|-------------------------|--|
| 15 April 2016 | 1,990,208.00 |
| 15 October 2016 | 1,990,208.00 |
| 15 April 2017 | 1,990,208.00 |
| 15 October 2017 | 1,990,208.00 |
| 15 April 2018 | 1,990,208.00 |
| 15 October 2018 | 1,990,208.00 |
| 15 April 2019 | 1,990,208.00 |
| 15 October 2019 | 1,990,208.00 |
| 15 April 2020 | 1,990,208.00 |
| 15 October 2020 | 1,990,208.00 |
| 15 April 2021 | 1,990,208.00 |
| 15 October 2021 | 1,990,208.00 |
| 15 April 2022 | 1,990,208.00 |
| 15 October 2022 | 1,990,208.00 |
| 15 April 2023 | 1,990,208.00 |
| 15 October 2023 | 1,990,208.00 |
| 15 April 2024 | 1,990,208.00 |
| 15 October 2024 | 1,990,208.00 |
| 15 April 2025 | 1,990,208.00 |
| 15 October 2025 | 1,990,208.00 |
| 15 April 2026 | 1,990,208.00 |
| 15 October 2026 | 1,990,208.00 |
| 15 April 2027 | 1,990,208.00 |
| 15 October 2027 | 1,990,208.00 |
| 15 April 2028 | 1,990,208.00 |
| 15 October 2028 | 1,990,208.00 |
| 15 April 2029 | 1,990,208.00 |
| 15 October 2029 | 1,990,208.00 |
| 15 April 2030 | 1,990,208.00 |
| 15 October 2030 | 1,990,208.00 |
| 15 April 2031 | 1,990,208.00 |
| 15 October 2031 | 1,990,208.00 |
| 15 April 2032 | 1,990,208.00 |
| 15 October 2032 | 1,990,208.00 |
| 15 April 2033 | 1,990,208.00 |
| 15 October 2033 | 1,990,208.00 |
| 15 April 2034 | 1,990,208.00 |
| 15 October 2034 | 1,990,208.00 |
| 15 April 2035 | 1,990,208.00 |

Schedule 2

| | |
|-----------------|----------------------|
| 15 October 2035 | 1,990,208.00 |
| 15 April 2036 | 1,990,208.00 |
| 15 October 2036 | 1,990,208.00 |
| 15 April 2037 | 1,990,208.00 |
| 15 October 2037 | 1,990,208.00 |
| 15 April 2038 | 1,990,208.00 |
| 15 October 2038 | 1,990,208.00 |
| 15 October 2039 | 1,990,208.00 |
| 15 October 2039 | 1,990,224.00 |
| TOTAL | 95,530,000.00 |

* 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, services and other items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category (hereinafter called the Table). Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table 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 Loan on the basis of the percentages set forth in the Table.

Interest Charge

3. The amount allocated to Category 7 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 Goods, 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.

Imprest Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date, an imprest account at Bangladesh Bank. The imprest account shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB. The currency of the imprest account shall be in Dollars. The initial amount to be deposited into the imprest account shall not exceed the lower of (i) the estimated expenditure for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the Loan amount.

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

TABLE

| ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Dhaka Water Supply Sector Development Program, Project Loan) | | | | |
|---|--|---|-----------|---|
| CATEGORY | | | | ADB FINANCING |
| Number | Item | Amount Allocated (SDR) Category Subcategory | | Percentage and Basis for Withdrawal from the Loan Account |
| 1 | Civil Works | 65,725,000 | | 84 percent of total expenditure |
| 2 | Equipment | 367,000 | | 100 percent of local expenditure* |
| 3 | Surveys and Training | 473,000 | | |
| 3A | Socio-economic Monitoring and Survey | | 346,000 | 100 percent of local expenditure* |
| 3B | Training Programs | | 127,000 | 100 percent of local expenditure* |
| 4 | Workshops, Meetings and Consultation | 2,933,000 | | |
| 4A | Information, Education and Communication | | 2,602,000 | 100 percent of local expenditure* |
| 4B | Safeguards Compliance Assistance (Workshops, Meetings) | | 331,000 | 100 percent of local expenditure* |
| 5 | Consulting Services | 10,982,000 | | 100 percent of local expenditure* |
| 6 | Recurrent Costs (Project Management Expenditure) | 2,168,000 | | 100 percent of local expenditure* |
| 7 | Interest Charge | 2,389,000 | | 100 percent of amount due |
| 8 | Unallocated | 10,493,000 | | |
| | Total | 95,530,000 | | |

* Exclusive of local taxes and duties

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

A. General

1. All Goods and Works, and consulting services, to be financed out of the proceeds of the Loan shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines 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 |
| Community Participation in Procurement |
| Shopping |

4. Terms of and Updates to the Procurement Plan. The Borrower and ADB have agreed upon an indicative procurement plan dated 7 November 2007. Upon finalization of the Subprojects in course of implementation of the Project, the Borrower shall prepare, and submit to ADB for approval, the Procurement Plan in accordance with the Procurement Guidelines and the Consulting Guidelines. The Borrower shall update the Procurement Plan as needed throughout implementation of the Project, so that each such subsequent Procurement Plan is provided to ADB upon each anniversary of the Effective Date.
5. Effectiveness of Procurement Plan. The Procurement Plan, and any updates thereto, shall become effective on the date of approval by ADB and shall supersede the immediately preceding Procurement Plan upon that date.
6. Domestic Preference. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for Domestic Works.
7. National Competitive Bidding. The procedures to be followed for national competitive bidding shall be those set forth for the National Open Tendering Method in the Government's *Public Procurement Regulations 2003* with the clarifications and modifications described in the following paragraphs required for compliance with the provisions of the Procurement Guidelines.

Schedule 4

- i. Advertising. Bidding of NCB contracts estimated at \$500,000 or more for goods and related services or \$1,000,000 or more for civil works shall be advertised concurrently with the general procurement notices on ADB's website.
- ii. Anti-Corruption. Definitions of corrupt, fraudulent, collusive and coercive practices shall reflect the latest ADB Board-approved Anti-Corruption Policy definitions of these terms and related additional provisions (such as conflict of interest, obstructive practices, etc.).
- iii. Location of Bid Submission. Submission of bids to 'primary' and 'secondary' locations, or 'multiple droppings' of bids, shall not be required or allowed. Advertisements and bidding documents shall specify only one location for delivery of bids.
- iv. Rejection of All Bids and Rebidding. Bids shall not be rejected and new bids solicited without ADB's prior concurrence.
- v. Member Country Restrictions. Bidders must be nationals of member countries of ADB, and offered goods must be produced in member countries of ADB.

8. Community Participation in Procurement. The Borrower may use community participation in procurement for Works contracts for slum and/or bulk water supply and other works at community level, each costing not more than \$10,000 in accordance with the procedures to be agreed and set out in the Procurement Plan.

C. Conditions for Award of Contract

9. The Borrower shall not award any Works contracts financed under the Loan until ADB has reviewed and approved the Resettlement Plan prepared for each sub-zone involving land acquisition or resettlement in accordance with paragraph 11 of Schedule 5 to this Loan Agreement.

D. Selection of Consulting Services

10. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for selecting and engaging consulting services.

E. Industrial or Intellectual Property Rights

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

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

12. The Borrower 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

13. 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 specified in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Project Executing Agency

1. DWASA shall be the Project Executing Agency and shall be responsible for the overall management, supervision and execution of the Project.

Project Management Unit (PMU)

2. A PMU shall be established and shall consist of one full-time PD, who shall be selected from within DWASA from the rank of deputy managing director or chief engineer or additional chief engineer and three dedicated DPDs. The DPDs shall be responsible for assisting the PD. One DPD, responsible for Finance, shall be recruited from outside of DWASA and two DPDs shall be appointed from within DWASA, from the rank of, at least, superintending engineers. Four XEN shall be appointed to assist the DPDs. The PMU shall be responsible for the day-to-day management of the Project, including (i) preparing overall project implementation plan and detailed work program, (ii) providing overall monitoring and guidance on implementation of works under the Project; (iii) carrying out all tendering and execution of contracts, (iv) monitoring and supervising all project management activities, (v) preparing necessary project progress and project completion report, and (vi) ensuring full compliance with the ADB's resettlement, environmental and other safeguards issues and policies.

Inter-ministerial Project Steering Committee (PSC)

3. A PSC shall be established to provide policy guidance and overall coordination in Project implementation and shall be responsible for coordinating and resolving project implementation issues. The PSC shall be chaired by the Secretary of LGD and shall consist of DWASA's managing director, the PD, and representatives from the Dhaka City Corporation; ERD, the Finance Division of MOF, the Planning Commission, the Implementation, Monitoring and Evaluation Division, RAJUK (the capital development authority), the Ministry of Environment and Forestry, Ministry of Housing and Works, and Ministry of Home Affairs. The PSC shall hold its first meeting within 3 months after the Effective Date, and meet at least twice a year. The Project Executing Agency shall provide ADB with the minutes of PSC meetings.

Project Coordination Unit (PCU)

4. A PCU shall be established in each of the Project Zones. Each PCU shall be headed by the responsible XEN. The PCUs shall be responsible for liaising and coordinating with the contractors, the design and management consultants, NGOs and other stakeholders on the day to day implementation of Project activities. During Project implementation period, DWASA shall assign additional staff to each of the PCUs to strengthen the PCUs in conducting the Project activities and addressing the day-to-day operation and maintenance issues.

Counterpart Funds

5. The Borrower shall provide counterpart funds for the Project implementation on time. Without prejudice to Section 3.02 of this Loan Agreement, the MOF shall provide the required counterpart funds for the Project to DWASA together with the proceeds of the Loan through the Subsidiary Loan Agreement.

Dhaka City Corporation

6. The Borrower shall ensure that all its ministries, agencies and divisions involved in Project implementation, including the local government authorities, give their full cooperation to ensure smooth implementation of the Project. Specifically, the Borrower shall cause the Dhaka City Corporation to give full cooperation in issuing any licenses, permits or approvals required in connection with the laying of pipes, road cutting and road resurfacing works within the Project Zones.

Project Website

7. Within 9 months of the Effective Date, DWASA shall create a Project website to disclose information about various aspects of the Project, including procurement. With regard to procurement, the website shall include information on the list of participating bidders, name of the winning bidder, basic details on bidding procedures adopted, amount of contract awarded, and the list of Works and Goods procured.

Grievance Redress Mechanism

8. Within 9 months of the Effective Date, DWASA shall prepare a grievance redress mechanism (Grievance Redress Mechanism), acceptable to ADB, and establish a task force at DWASA to receive and resolve complaints/grievances or act upon reports from stakeholders on misuse of funds and other irregularities, including grievances due to resettlement. The task force shall (i) make public the existence of this Grievance Redress Mechanism, through public awareness campaign, (ii) review and address grievances of stakeholders of the Project, in relation to either the Project, any of the service providers, or any person responsible for carrying out any aspect of the Project; and (iii) proactively and constructively respond to all complaints received.

DWASA Training Center

9. Within 9 months of the Effective Date, in order to reactivate the DWASA training center, DWASA shall fill all vacant positions in the DWASA training center with qualified trainers recruited from outside of DWASA.

Involuntary Resettlement

10. The Borrower and DWASA shall ensure that any involuntary resettlement shall be carried out in accordance with the Resettlement Framework (RF) agreed upon between the Borrower and ADB, and ADB's *Policy on Involuntary Resettlement* (1995). All land and right-of-way required for the Project shall be made available in a timely manner and adequate compensations, to be determined in accordance with the RF, shall be paid to affected people (AP) prior to any civil works contract's award. A Resettlement Plan (RP) shall

be prepared for each sub-zone involving land acquisition or resettlement and shall be submitted to ADB for review and approval prior to any related civil works contract's award. The RP, that has been prepared and agreed by the Borrower and ADB, for the sample sub-zone, shall be updated and provided to ADB for review and approval following detailed design and prior to civil work contracts' award. The draft RPs and draft updated RPs shall be disclosed to APs prior to submission to ADB for review and approval. The Borrower shall ensure that the RP shall be made available on the Project website.

Environment

11. The design, construction, operation and implementation of all Project facilities shall be carried out in accordance with the Initial Environmental Examination (IEE) and the environmental assessment and review procedures in the IEE agreed between the Borrower and ADB, and shall comply with the Borrower's environmental laws and regulations and ADB's *Environment Policy* (2002). Any adverse environmental impacts arising from the construction, operation and implementation of Project facilities shall be minimized by implementing the environmental mitigation and management measures, and other recommendations specified in IEE. The Borrower shall ensure environmental requirements are incorporated in bidding documents and civil works contracts.

Indigenous Peoples

12. Although the Project does not envisage any adverse impact on indigenous peoples, the Borrower and DWASA shall ensure that the Project is prepared and implemented in accordance with ADB's *Policy on Indigenous Peoples* (1998).

Gender

13. To ensure that women benefit equally from the Project, the Borrower and DWASA shall ensure that the Project shall be carried out in accordance with ADB's *Policy on Gender and Development* (1998) and the Gender Action plan that has been prepared and agreed between the Borrower and ADB.

Social Issues

14. The Borrower and DWASA shall ensure that the civil works contractors comply with all applicable labor, health, and safety laws and regulations of Bangladesh and, in particular, (a) do not employ child labor for construction and maintenance activities, and (b) provide appropriate facilities (latrines, etc.) for workers at construction sites. The Borrower shall require contractors not to differentiate wages between men and women for work of equal value. The Borrower shall ensure that specific clauses are included in bidding documents to ensure adherence to these provisions, and that compliance shall be strictly monitored during Project implementation.

Project Performance Monitoring and Evaluation

15. The Borrower, through, DWASA shall carry out a project performance monitoring and evaluation (PPME) program. The PMU, with the assistance of the PCUs, shall be responsible for ensuring that a comprehensive program for PPME for each of the Project Zones (i) examine the Project's technical performance; (ii) evaluate the delivery of the

planned facilities; (iii) assess the achievement of the Project's objectives; and (iv) measure the Project's social and economic benefits.

16. Within 9 months from the Effective Date, the DWASA shall conduct initial baseline physical and socioeconomic surveys and submit a detailed implementation plan for monitoring performance and for preparing benchmark information, which shall be submitted to ADB, for review and concurrence. Throughout the Project implementation period, DWASA shall prepare annual PPME reports and submit these to ADB.