
LOAN NUMBER 3974-IND
[Additional to Loan No. 3528-IND]

LOAN AGREEMENT
(Ordinary Operations)

(Madhya Pradesh Urban Services Improvement Project – Additional Financing)

between

INDIA

and

ASIAN DEVELOPMENT BANK

DATED 12 OCTOBER 2020

IND 42486

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 12 October 2020 between INDIA acting by its President (“Borrower”) and ASIAN DEVELOPMENT BANK (“ADB”).

WHEREAS

(A) by a loan agreement dated 19 June 2017 between the Borrower and ADB (“Initial Loan Agreement”), ADB agreed to make a loan to the Borrower from ADB’s ordinary capital resources in the amount of two hundred seventy-five million Dollars (\$275,000,000) for the purposes of the project described in Schedule 1 to the Initial Loan Agreement (“Initial Project”);

(B) the Borrower has applied to ADB for a loan for the purposes of financing additional activities under the Initial Project as described in Schedule 1 to this Loan Agreement (“Project”);

(C) the Project will be carried out by the State of Madhya Pradesh’s (“State”) UDHD acting through MPUDC (each as defined below) (“Project Executing Agency” or “EA”), and for this purpose the Borrower will make available to the State the proceeds of the loan provided for herein upon terms and conditions mutually satisfactory to ADB and the Borrower; and

(D) ADB has agreed to make a loan to the Borrower from ADB’s ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB on the one part, and the State and MPUDC on the other part;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations, dated 1 January 2017 (“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. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

- (a) “Consulting Services” means consulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;

- (b) “DBO” means design, build and operate;
- (c) “EA” or “Project Executing Agency” for the purposes of, and within the meaning of the Loan Regulations means the State’s UDHD acting through MPUDC which is responsible for carrying out the Project;
- (d) “EARF” means the environmental assessment and review framework for the Project, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB;
- (e) “EMP” means an environment management plan for a Subproject, including any update thereto, prepared and submitted by the Borrower through the EA, cleared by ADB, and incorporated in the related IEE;
- (f) “Environmental Safeguards” means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (g) “Financing Arrangements” means the arrangements between the Borrower and the State as per current policy of the Borrower, and acceptable to ADB;
- (h) “GESIAP” means the gender equality and social inclusion action plan prepared for the Project, including any update thereto, and agreed between the EA and ADB;
- (i) “Goods” means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;
- (j) “IEE” means an initial environmental examination for a Subproject, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the EARF and cleared by ADB;
- (k) “Indigenous Peoples Safeguards” means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;
- (l) “Involuntary Resettlement Safeguards” means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (m) “IPP” means an indigenous peoples plan for a Subproject, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the IPPF and cleared by ADB;
- (n) “IPPF” means the indigenous peoples planning framework for the Project, including any update thereto, prepared and submitted by the

Borrower through the EA and cleared by ADB;

- (o) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2017, as amended from time to time);
- (p) “MPUDC” means the Madhya Pradesh Urban Development Company Limited, a state-owned corporation registered and operating under the Borrower’s Companies Act of 2013, or any successor thereto;
- (q) “Nonconsulting Services” means nonconsulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;
- (r) “O&M” means operations and maintenance;
- (s) “PAM” means the project administration manual for the Project dated August 2020 and agreed between the Borrower, EA and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower, EA and ADB;
- (t) “Procurement Plan” means the procurement plan for the Project as agreed between the Borrower and EA, as included in the PAM, as updated from time to time in accordance with the Procurement Policy, the Procurement Regulations, and other arrangements agreed with ADB;
- (u) “Procurement Policy” means ADB’s Procurement Policy - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (v) “Procurement Regulations” means ADB’s Procurement Regulations for ADB Borrowers - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (w) “Project Towns” means the small and medium-sized towns within the State that will receive support under the Project;
- (x) “RF” means the resettlement framework for the Project, including any update thereto, prepared and submitted by the Borrower through the EA and cleared by ADB;
- (y) “RP” means a resettlement plan for a Subproject, including any update thereto, prepared and submitted by the Borrower through the EA pursuant to the requirements set forth in the RF and cleared by ADB;
- (z) “Safeguards Monitoring Report” means each report prepared and submitted by the Borrower through the EA to ADB that describes progress with implementation of, and compliance with, the EMP, the RP and the IPP (as applicable), including any corrective and preventive actions;

- (aa) "Services" means Consulting Services and Nonconsulting Services;
- (bb) "SPS" means ADB's Safeguard Policy Statement (2009);
- (cc) "State" means the State of Madhya Pradesh;
- (dd) "Subproject" means a subproject that is found eligible for financing under the Project in compliance with the selection criteria and approval procedure for Subprojects set out in the PAM;
- (ee) "UDHD" means the State's Urban Development and Housing Department, or any successor thereto;
- (ff) "ULB" means an urban local body; and
- (gg) "Works" means construction or civil works as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including any related Nonconsulting Services and project related services that are provided as part of a single responsibility or turnkey contract.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred seventy million Dollars (\$270,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 20 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

- (a) LIBOR;
- (b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations; and
- (c) a maturity premium of 0.10% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 March and 15 September in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to subsection (a) hereinabove that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(f) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall make the proceeds of the Loan available to the EA upon terms and conditions mutually agreeable to ADB and the Borrower, and shall cause the EA 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. The proceeds of the Loan shall be allocated and withdrawn 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. Except as ADB may otherwise agree, the Borrower shall ensure, or cause the EA to ensure, that the items of expenditure to be financed out of the

proceeds of the Loan are procured in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 March 2028 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 by the EA, all obligations set forth in 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 and any relevant records and documents.

Section 4.03 ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

Section 4.04. In so far as it relates to the Project, the Borrower shall take all actions or cause the State to take all actions, which shall be necessary on its part to enable the EA to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) In so far as it relates to the Project, the Borrower shall exercise its rights under the Financing Arrangements in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) In so far as it relates to the Project, no rights or obligations under the Financing Arrangements shall be assigned, amended, abrogated or waived without prior notice to ADB.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI**Miscellaneous**

Section 6.01. The Secretary, Additional Secretary, Joint Secretary, Director, or Deputy Secretary, in the Department of Economic Affairs of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

The Secretary to the Government of India
Department of Economic Affairs
Ministry of Finance
North Block
New Delhi – 110001
India

Facsimile Number:

(91-11) 2309-4075

For ADB

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

Facsimile Numbers:

(632) 8636-2444

(632) 8636-2430.

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 as of the day and year first above written and to be delivered at the principal office of ADB.

INDIA

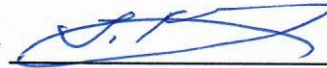
By



Sameer Kumar Khare
Additional Secretary (FB & ADB)
Department of Economic Affairs

ASIAN DEVELOPMENT BANK

By



Takeo Konishi
Country Director

SCHEDULE 1

Description of the Project

1. The objective of the Project is to improve the quality, coverage, efficiency and sustainability of urban services delivery in the State.

2. The Project shall comprise:
 - Part 1: Improvement of Water Supply and Integrated Storm Water and Sewage Infrastructure
 - (a) construction of water supply infrastructure in approximately 64 additional ULBs, including raw water intakes, water treatment plants, overhead tanks, distribution networks, and metered household connections;
 - (b) construction of integrated stormwater and sewage management infrastructure in approximately 6 additional ULBs; and
 - (c) piloting integrated urban planning in 2 ULBs.

 - Part 2: Strengthening of Institutions and Capacity
 - (a) support for delivery of volumetric water billing services;
 - (b) establishment of a customer service center in each ULB;
 - (c) provision of geographical information system (GIS)-based asset management and service delivery monitoring system in each ULB;
 - (d) support for developing and implementing water safety plans in each ULB;
 - (e) support for skills development of approximately 400 staff (including women staff) of UDHD, MPUDC and the ULBs, including capacity development of staff to manage DBO contracts and assets after contract completion;
 - (f) support for carrying out behavior change communication awareness campaigns; and
 - (g) support for (i) provision of internship program for at least 100 women in relation to professional experience and inclusion, (ii) incorporation of women safety into the integrated urban development plans of 2 ULBs, and (ii) introduction of water audits for 600 school children (including 300 girls) to increase awareness on water conservation.

3. The Project is expected to be completed by 30 September 2027.

SCHEDULE 2**Amortization Schedule****(Madhya Pradesh Urban Services Improvement Project)**

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

Date Payment Due	Installment Share (Expressed as a %)
15 March 2026	2.500000
15 September 2026	2.500000
15 March 2027	2.500000
15 September 2027	2.500000
15 March 2028	2.500000
15 September 2028	2.500000
15 March 2029	2.500000
15 September 2029	2.500000
15 March 2030	2.500000
15 September 2030	2.500000
15 March 2031	2.500000
15 September 2031	2.500000
15 March 2032	2.500000
15 September 2032	2.500000
15 March 2033	2.500000
15 September 2033	2.500000
15 March 2034	2.500000
15 September 2034	2.500000
15 March 2035	2.500000
15 September 2035	2.500000
15 March 2036	2.500000
15 September 2036	2.500000
15 March 2037	2.500000
15 September 2037	2.500000

Date Payment Due	Installment Share (Expressed as a %)
15 March 2038	2.500000
15 September 2038	2.500000
15 March 2039	2.500000
15 September 2039	2.500000
15 March 2040	2.500000
15 September 2040	2.500000
15 March 2041	2.500000
15 September 2041	2.500000
15 March 2042	2.500000
15 September 2042	2.500000
15 March 2043	2.500000
15 September 2043	2.500000
15 March 2044	2.500000
15 September 2044	2.500000
15 March 2045	2.500000
15 September 2045	2.500000
Total	100.00000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be

determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category of the Table).

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be allocated to items of expenditures, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Reallocation

3. 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 and by notice to the Borrower and the EA, (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 allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, in consultation with and by notice to the Borrower and the EA, reallocate such excess amount to any other Category.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook, and detailed arrangements agreed upon between ADB and the Borrower.

Retroactive Financing

5. Withdrawals from the Loan Account may be made to finance eligible 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% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Madhya Pradesh Urban Services Improvement Project – Additional Financing)			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Basis for Withdrawal from the Loan Account
1	Civil Works and Goods	216,980,000	73.1% of total expenditure claimed
2	Consulting Services	17,820,000	100.0% of total expenditure claimed*
3	Incremental Administrative Costs	6,440,000	80.0% of total expenditure claimed
4	Unallocated	28,760,000	
	Total	270,000,000	

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

SCHEDULE 4

Execution of Project; Financial Matters

Implementation Arrangements

1. The Borrower, the State and the EA shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Borrower, the State, EA and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

2. (a) The Borrower shall ensure or cause the EA to ensure towards smooth implementation of the Project, that grievances if any from stakeholders, relating to any Subproject implementation or use of funds are addressed effectively and efficiently.

(b) The Borrower shall ensure or cause the State and the EA to ensure compliance with all the requirements and obligations in their part as included in this Loan Agreement and the Project Agreement to meet the objectives of the Project in a timely and efficient manner.

Counterpart Support; Funds

3. The Borrower shall cause the State to make available the Loan proceeds to the EA under appropriate arrangements acceptable to ADB, and ensure:

- (a) sufficient counterpart funds from its budget for each fiscal year, in a timely manner, for the efficient implementation of the Project; and
- (b) adequate funds towards O&M of Project facilities, through budgetary allocations or other means, to be provided to the EA, during and after each Subproject's completion.

Procurement

4. The Borrower shall ensure, or cause the EA to ensure, that:

- (a) the procurement of Goods, Works and Services is carried out in accordance with the Procurement Policy and Procurement Regulations;
- (b) Goods, Works and Services shall be procured based on the detailed arrangements set forth in the Procurement Plan, including the procurement and selection methods, the type of bidding documents, and ADB's review requirements. The Borrower through the EA may modify the detailed arrangements set forth in the Procurement Plan may be modified only with the prior agreement of ADB, and such modifications must be set out in updates to the Procurement Plan; and

- (c) all Goods and Works procured and Services obtained (including 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; and (ii) all contracts for the procurement of Goods and Services contain appropriate representations, warranties and, if appropriate, indemnities from the supplier, consultant or service provider with respect to the matters referred to in this subparagraph.

5. The Borrower shall ensure, or cause the EA to, announce the Project and business opportunities (i.e., invitation of potential bids) associated with the Project on its website. The website shall disclose the following information in relation to Works and Services procured for the Project and Subprojects: (a) the list of participating bidders, (b) the name of the selected bidder, (c) the amount of the contracts awarded, and (d) the works and services procured.

Conditions for Awards of Contracts; Commencement of Works

6. The Borrower shall ensure, or cause the EA to ensure, that no Works contract is awarded for a Subproject which involves

- (a) environmental impacts, until the EA has prepared and submitted to ADB an IEE including EMP for such Subproject, obtained ADB's clearance of such EMP, and incorporated the relevant provisions from the EMP into the Works contract;
- (b) involuntary resettlement impacts, until the EA has prepared and submitted to ADB the final RP for such Subproject based on the Subproject's detailed design, and obtained ADB's clearance of such RP; and
- (c) indigenous peoples impacts, until the EA has prepared and submitted to ADB the final IPP and obtained ADB's clearance of such IPP.

7. The Borrower shall ensure, or cause the EA to ensure, that no commencement of Works is allowed under any Works contract under any Subproject which involves environmental impacts and requires environmental clearances, until the EA has obtained the final approval of the IEE from ADB, and environmental clearance including approval of the environmental assessment report, from the State Environmental Impact Assessment Authority.

Counterpart Staff

8. The Borrower, through the State shall ensure and shall cause MPUDC to fill all key positions identified in the MPUDC approved organogram with full time dedicated staff, by no later than 31 January 2021. .

Coordination among Borrower's Agencies

9. The Borrower and the State are fully committed to the Project and shall ensure that all its ministries, agencies and divisions involved in the implementation of the Project, including the EA and the ULBs, give their full cooperation to ensure smooth implementation of

the Project. Specifically, the Borrower shall cause the EA and the ULBs to give full, timely and efficient cooperation in issuing any licenses, permits or approvals required in connection with infrastructure work within their respective area.

Subproject Selection Criteria

10. The Borrower shall ensure and shall cause the EA to ensure, that all Subprojects are selected and approved in accordance with the agreed selection criteria and approval process stipulated in the PAM.

11. The Borrower and the EA shall ensure that all documents forming the basis for screening, selection and processing of Subprojects are made available to ADB upon request and kept for such purposes for a minimum of five years from the date of submission of the final project completion report to ADB.

Tripartite Agreement

12. The Borrower shall ensure or shall cause the State to ensure that the MPUDC shall enter into a tripartite agreement between the State, MPUDC and each of the ULBs to ensure achievement of conditions precedent before entering into a DBO contract and honor and adhere to the obligations of each party under the DBO contract especially the provisions related to timely availability of funds, instituting volumetric tariffs sufficient to recover O&M costs during the Design-Build and Operating Service Periods.

13. The EA shall ensure and shall cause the ULBs to implement the governance reforms, which includes (a) adoption of accrual basis accounting, (b) establishment of ULB website by 31 December 2020, (c) publication of ULBs' financial statements every year, (d) adoption of volumetric tariff from the start of O&M period , and (e) achievement of 90% billing and 80% collection against water and sewerage charges within two years of adoption of volumetric tariff.

Financial Matters

14. The Borrower shall ensure or cause the EA to ensure that the agreed financial management action plan set out in the PAM is implemented within the stipulated time frame and the progress toward achieving the targets, are monitored and reported to ADB; further that the EA shall also ensure that each participating ULB maintains an annual operating ratio (OR) for water supply and wastewater of less than 1 from the operation start year. (The OR is defined as the ratio of total expenditure to total revenue).

Safeguards

Environment

15. The Borrower shall ensure or cause the EA to ensure that the preparation, design, construction, implementation, operation and decommissioning of each Subproject and all Subproject facilities shall comply with (a) all applicable laws and regulations of the Borrower and the State relating to environment, health and safety; (b) the Environmental Safeguards; (c) EARF; and (d) all measures and requirements set forth in the IEE and the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

16. The Borrower shall ensure or cause the EA to ensure that all land and all rights-of-way required for a Subproject are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower and the State relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the RF; and (d) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

17. Without limiting the application of the Involuntary Resettlement Safeguards, RF or the RP, Borrower shall ensure or cause the EA to ensure that no physical or economic displacement takes place in connection with the Subprojects until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

18. The Borrower shall ensure or cause the EA to ensure that the preparation, design, construction, implementation and operation of the Project, each Subproject and all Subproject facilities comply with (a) all applicable laws and regulations of the Borrower and State relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; (c) the IPPF; and (d) all measures and requirements set forth in the respective IPP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Human and Financial Resources to Implement Safeguards Requirements

19. The Borrower shall ensure or cause the EA to ensure that all necessary budgetary and human resources to fully implement the EMP, the RP and the IPP as required, are made available on a timely basis.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

20. The Borrower shall ensure or cause the EA to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP, the IPP and the RP (to the extent they concern impacts on affected people during construction), and any corrective or preventive actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the EA with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during

construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the IPP and the RP;

- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

21. The Borrower shall ensure or cause the EA to ensure the following:
- (a) submit semiannual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;
 - (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the IPP and the RP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
 - (c) report any breach of compliance with the measures and requirements set forth in the EMP, RP or IPP promptly after becoming aware of the breach.

Prohibited List of Investments

22. The Borrower shall ensure or cause the EA to ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Gender

23. The Borrower shall ensure or cause the EA to ensure that (a) the GESIAP is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GESIAP; (c) adequate resources are allocated for implementation of the GESIAP; and (d) progress on implementation of the GESIAP, including progress toward achieving key gender outcome and output targets, are regularly monitored and reported to ADB.

Labor Standards, Health and Safety

24. The Borrower shall ensure or cause the EA to ensure that Works contracts under the Project follow all applicable labor laws of the Borrower and the State and that these further include provisions to the effect that contractors; (a) carry out HIV/AIDS awareness programs for labor and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS as part of health and safety measures for those employed during construction; and (b) follow and implement all statutory provisions on labor (including not

employing or using children as labor, equal pay for equal work), health, safety, welfare, sanitation, and working conditions. Such contracts shall also include clauses for termination in case of any breach of the stated provisions by the contractors.

Communications and Participation

25. The Borrower shall ensure or cause the EA to ensure that the Project is undertaken in conformity with the communication strategy as provided in the PAM.

Operation and Maintenance

26. The Borrower shall ensure or cause the State to ensure that MPUDC enters into long- term O&M contracts with Works contractors providing for continuous operation and water supply and integrated stormwater and sewerage management services for respective ULBs for a period of 10 years after the construction phase.

27. The Borrower shall ensure or cause the State to ensure that MPUDC and the ULBs:

- (a) prepare and implement ULB-wise financial sustainability plans for full O&M cost recovery through tariffs, taxes and transfers, and including adoption of volumetric billing, quantitative targets for increasing billing and collection efficiency; and that implementation of the plans is monitored and reported in the quarterly progress reports to ADB, and ensure full O&M cost recovery through a combination of tariffs and taxes and also transfers from state and central government for gap funding where shortfalls exist. The plans shall prepare ULBs to incrementally increase own source revenue while reducing dependence on transfers;
- (b) include ULB-wise water and sanitation tariff increase/rationalization as well as collection efficiency in each quarterly progress report;
- (c) meet collection efficiency targets for water supply and sewerage of at least 10% increase each year starting 1 year after operation start year in respective ULB until reaching 90% collection efficiency; and
- (d) encourage and educate end users through awareness campaigns on optimal use of limited water resources through water management and promotion of wastewater reuse. Towards sustainable development, the Subproject designs will include improved sanitation services in the slum areas, free household connections for water supply and sewerage (where served by the sewer network) and awareness campaigns in poor communities.

Governance and Anticorruption

28. The Borrower shall ensure and cause the State and the EA to comply with ADB's Anticorruption Policy (1998, as amended to date) and (a) shall ensure that the anticorruption provisions acceptable to ADB, the Borrower, the State, the EA and ULBs are included in all bidding documents and contracts financed by ADB in connection with the Project, including provisions specifying the right of ADB to review and examine the records

and accounts of the State and the EA and all contractors, suppliers, consultants, and other service providers as they relate to the Subprojects and the Project, and as included in the PAM, (b) shall allow and assist ADB's representatives to carry out random spot checks on the work in progress and utilization of funds for the Project; (c) acknowledge that ADB reserves the right to investigate directly or through its agents any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (d) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation, and as included in the PAM.