
LOAN NUMBER 3123-INO

LOAN AGREEMENT
(Ordinary Operations)

(Metropolitan Sanitation Management Investment Project)

between

REPUBLIC OF INDONESIA

and

ASIAN DEVELOPMENT BANK

DATED May 13, 2014

INO 43251

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 05/13/2014 between REPUBLIC OF INDONESIA ("Borrower") and ASIAN DEVELOPMENT BANK ("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 Borrower has applied to the ASEAN Infrastructure Fund ("AIF") administered by ADB for a loan in the amount of forty million Dollars (\$40,000,000) ("AIF Loan") to finance a portion of the costs of the Project; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein;

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 Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 3.03 is deleted and the following is substituted therefor:

Commitment Charge; Credit (a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the credit against the interest payable by the Borrower.

(b) Section 3.06 is deleted and the following is substituted therefor:

Rebate. (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an

outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(c) Section 3.07 is deleted and the following is substituted therefor:

Surcharge. (a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the

Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

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) “AIF Loan Agreement” means the agreement between ADB and the Borrower relating to the AIF Loan;

(b) “BLUD Mechanism” means a financial mechanism adopted by a public service agency within a local government, which allows flexibility for such agency to promote sound business and financial practice;

(c) “Consulting Guidelines” means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(d) “Consulting Services” means the services to be financed out of the proceeds of the Loan as referred to in paragraph 3 of Schedule 1 to this Loan Agreement;

(e) “CPMU” means the Central Project Management Unit to be established by the Project Executing Agency and further described in the PAM;

(f) “DGHS” means the Directorate General of Human Settlements within MPW or any successor thereto;

(g) “Environmental Management Plan” or “EMP” means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;

(h) “Environmental Safeguards” means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;

(i) “Gender Action Plan” means the Gender Action Plan set out in one of the web-linked documents to the RRP;

(j) “Goods” means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(k) “IEE” means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(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) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2012, as amended from time to time);

(n) “LPMU” means the Local Project Management Unit to be established by the local governments of each participating city and further described in the PAM;

(o) “MPW” means the Ministry of Public of Works of the Borrower or any successor thereto;

(p) “O&M” means operations and maintenance;

(q) “Output” means the output of the Project as further described in Schedule 1 to this Loan Agreement;

(r) “PAM” means the project administration manual for the Project dated 29 January 2014 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(s) “Procurement Guidelines” means ADB’s Procurement Guidelines (2013, as amended from time to time);

(t) “Procurement Plan” means the procurement plan for the Project dated 29 January 2014 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(u) “Project Executing Agency” for the purposes of, and within the meaning of, the Loan Regulations, means DGHS which is responsible for the overall implementation of the Project;

(v) “Resettlement Plan” or “RP” means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(w) “RRP” means the Report and Recommendation of the President of ADB to the Board of Directors of ADB for the Project;

(x) “Safeguards Monitoring Report” means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of and compliance with the EMP, the RP and the IPP (as applicable), including any corrective and preventative actions;

(y) “Safeguard Policy Statement” or “SPS” means ADB’s Safeguard Policy Statement (2009);

(z) “SKPD” means a local unit within the participating local governments;
and

(aa) “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. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of eighty million Dollars (\$80,000,000) 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 10 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; and
- (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.

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 1 February and 1 August 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(6) 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 cause the proceeds of the Loan to be applied to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The 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 procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where any such item has 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 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2020 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound applicable technical, financial, business, and development practices.

(b) 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 make available, promptly as needed and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other resources, as required, in addition to the proceeds of the Loan, for the carrying out of the Project and for the operation and maintenance of the Project facilities.

Section 4.03. (a) Whenever applicable, in the carrying out of the Project, the Borrower through the Project Executing Agency shall cause competent and qualified consultants and contractors, acceptable to ADB to be employed to an extent and upon terms and conditions satisfactory to the Borrower and ADB.

(b) The Borrower through the Project Executing Agency shall cause the Project to be carried out in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to the Borrower and ADB, as applicable. The Borrower 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 4.04. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.05. (a) The Borrower through the Project Executing Agency shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

(c) The Borrower through the Project Executing Agency shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Borrower's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the through the Project Executing Agency, unless the Borrower through the Project Executing Agency shall otherwise agree.

Section 4.06. The Borrower shall enable ADB's representatives to review the Project, inspect the Goods and Works, and obtain any relevant records and documents.

Section 4.07. The Borrower shall ensure that any facilities relevant to the Project are operated, maintained and repaired in accordance with sound applicable technical, financial, business, development, operational and maintenance practices.

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 9.01(l) of the Loan Regulations: the AIF Loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 9.07(a)(iv) 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 is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations: the AIF Loan Agreement shall have been duly executed and delivered and all conditions precedent to its effectiveness, other than a condition requiring the effectiveness of this Loan Agreement, shall have been fulfilled.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 10.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: the AIF Loan Agreement has been duly authorized or approved by, and executed and delivered on behalf of, the Borrower and is legally binding upon the Borrower in accordance with its terms.

Section 6.03. 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 VII

Miscellaneous

Section 7.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
 Directorate General of Debt Management
 Frans Seda Building 2nd Floor
 Jalan dr. Wahidin Raya No. 1
 Jakarta 10710, Indonesia

For Correspondence

Directorate of Loans and Grants

Facsimile Number:

(62-21) 381-2859.

For Disbursements and Payments

Directorate of Evaluation
 Accounting and Settlements

Facsimile Number:

(62-21) 3843712.

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2231.

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.

REPUBLIC OF INDONESIA

By 

ROBERT PAKPAHAN
Authorized Representative

ASIAN DEVELOPMENT BANK

By 

ADRIAN RUTHENBERG
Country Director
Indonesia Resident Mission

SCHEDULE 1**Description of the Project**

1. The expected impact of the Project is reduced environmental pollution and improved public health in the cities of Cimahi, Jambi, Makassar, and Pekanbaru. The outcome is increased population access to improved wastewater services in these cities.
2. The Project shall comprise the following Outputs:
 - (a) the construction of around 52 kilometers of trunk and main sewers, around 61,000 house connections, and four waste water treatment plants with a total installed capacity of around 59.000 cubic meters per day (m³/d), and with provision for future expansion;
 - (b) the strengthening of the capacity of the Project Executing Agency by providing management support and training in (i) procurement and construction supervision; and (ii) design and O&M of sewerage systems; and
 - (c) the establishment of institution management and sanitation awareness campaign.
3. The Project shall provide consulting services. The Project is expected to be completed by 30 June 2020.

SCHEDULE 2**Amortization Schedule****(Metropolitan Sanitation Management Investment 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.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
1 August 2021	3.914713
1 February 2022	4.012581
1 August 2022	4.112895
1 February 2023	4.215718
1 August 2023	4.321111
1 February 2024	4.429138
1 August 2024	4.539867
1 February 2025	4.653364
1 August 2025	4.769698
1 February 2026	4.888940
1 August 2026	5.011164
1 February 2027	5.136443
1 August 2027	5.264854
1 February 2028	5.396475
1 August 2028	5.531387
1 February 2029	5.669672
1 August 2029	5.811413
1 February 2030	5.956699
1 August 2030	6.105616
1 February 2031	6.258252

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 or Subcategory of the Table.)

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be 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 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 allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, in consultation with the Borrower, 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.

Condition for Withdrawal from the Loan Account

5. Notwithstanding any other provision of this Loan Agreement, no withdrawal shall be made from the Loan Account until the CPMU has been established in accordance with the relevant provisions of the PAM.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Metropolitan Sanitation Management Investment Project)				
No.	Item	Total Amount Allocated for ADB Financing Ordinary Capital Resources (\$)		Basis for Withdrawal from the Loan Account
		Category	Subcategory	
1	Works	61,480,000		
1A	Jambi Wastewater Treatment Plant and Collection System		9,714,000	100% of total expenditure claimed*
1B	Cimahi Wastewater Sewer System		4,791,000	100% of total expenditure claimed*
1C	Jambi Wastewater Sewer System		10,625,000	100% of total expenditure claimed*
1D	Makassar Wastewater Sewer System		24,337,000	100% of total expenditure claimed*
1E	Pekanbaru Wastewater Sewer System		12,013,000	100% of total expenditure claimed*
2	Consulting Services (Project Implementation Support)	12,624,000		100% of total expenditure claimed*
3	Unallocated	5,896,000		
	Total	80,000,000		

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

SCHEDULE 4

Procurement of Goods, Works and Consulting Services

General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

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:
 - (a) International Competitive Bidding;
 - (b) National Competitive Bidding; and
 - (c) Shopping.
4. The methods of procurement are 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.

National Competitive Bidding

5. The Borrower and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Borrower's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Borrower and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after approval of such change by the Borrower and ADB.

Conditions for Award of Contract

6. The Borrower shall not award any Works contracts until: (a) the Borrower has obtained clearance from ADB of the relevant IEE; and (b) when involuntary resettlement impacts are involved, the Borrower has prepared and submitted to ADB the final RP based on the Project's detailed design, and obtained clearance from ADB of such RP.

Consulting Services

7. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

8. (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.

9. 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.

ADB's Review of Procurement Decisions

10. Contracts procured under international competitive bidding procedures 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; Financial Matters

Implementation Arrangements

1. The Borrower 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 through the Project Executing Agency and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Environment

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

Land Acquisition and Involuntary Resettlement

3. The Borrower shall ensure that all land and all rights-of-way required for the Project 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 relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

4. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Borrower shall ensure that no physical or economic displacement takes place in connection with the Project 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

5. The Borrower shall ensure that the Project does not have any indigenous people impact, all within the meaning of the ADB's Safeguard Policy Statement (2009). In the event that the Project does have any such impact, the Borrower shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and ADB's Safeguard Policy Statement.

Human and Financial Resources to Implement Safeguards Requirements

6. The Borrower shall make available necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

7. The Borrower through the Project Executing Agency shall 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 and the RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Borrower 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 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

8. The Borrower shall do the following:

- (a) submit semi-annual 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 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 actual or potential breach of compliance with the measures and requirements set forth in the EMP or the RP promptly after becoming aware of the breach.

Prohibited List of Investments

9. The Borrower shall 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 and Development

10. The Borrower shall ensure that all Project activities are designed and implemented in accordance with the principles of ADB's Policy on Gender and Development (1998) and the Gender Action Plan is fully implemented including, but not limited to ensuring: (a) female participation equal to 30% in public consultation and sewerage connection campaign activities; (b) female participation equal to 30% in training provided under the Project for gender, community facilitation, utility management, technical and project/sector management-related skills; (c) the collection of sex-disaggregated data; and (d) gender inclusive design of physical Project facilities.

Counterpart Support

11. The Borrower shall (a) submit, in a timely manner, the annual budgetary appropriation requests; and (b) disburse counterpart funds promptly when needed during each year of Project implementation.

Institutional Support

12. The Borrower shall ensure that by June 2015 the local government of each participating city shall assign on full-time basis adequate number of staff to handle wastewater management.

13. Prior to Project completion, the Borrower shall ensure that the local government of each participating city shall establish a BLUD Mechanism for wastewater management.

14. The Borrower shall ensure that the local government of each participating city funds any operational and cash flow shortfalls of the SKPD responsible for wastewater management.

Regulatory Framework

15. Prior to Project completion, the Borrower shall ensure that the local government of each participating city shall adopt a regulatory framework that shall (a) impose mandatory sewerage connection for residential and commercial establishments in the sewerage areas; (b) ensure the sewerage tariffs to be imposed by SKPD responsible for wastewater management meet both (i) the cost recovery of the expenses for O&M and periodic major maintenance expenses of the sewerage facilities, and (ii) the expenses required for the sewerage connections; (c) require in non-sewerage areas, all residential and commercial establishments have individual or communal sanitation systems which meet certain technical standards; and (d) impose on mandatory basis regular desludging by reputable service providers of the sanitation systems in the non-sewerage areas.

Sewerage Connections

16. Prior to Project completion, the Borrower shall ensure (a) the local government in Cimahi will install around 9,800 sewerage connections for residential and commercial establishments; (b) the local government in Jambi will install around 20,200 sewerage connections for residential and commercial establishments; (c) the local government in Makassar will install around 14,400 sewerage connections for residential and commercial establishments; and (d) the local government in Pekanbaru will install around 17,200 sewerage connections for residential and commercial establishments.

17. The Borrower shall ensure (a) the local government in Cimahi construct at least 12 community based sanitation systems by December 2018; (b) the local government in Jambi construct at least 16 community based sanitation systems by December 2018; (c) the local government in Makassar construct at least 12 community based sanitation systems by December 2018; and (d) the local government in Pekanbaru construct at least 24 community based sanitation systems by December 2018.

Grievance Redress Mechanism

18. Within 3 months of the Effective Date, the Borrower shall: (a) establish complaint and problem management mechanisms acceptable to ADB and appoint grievance redress focal person in LPMU and each neighbourhood committee to effectively: review and document eligible complaints of project stakeholders; (b) proactively address grievances; (c) provide the complainants with notice of the chosen mechanism/action; and (d) prepare periodic reports to summarize the number of complaints received and resolved, and final outcomes of the grievances and chosen actions and make these reports available to ADB as part of the quarterly progress reports.

Transfer of Facilities

19. Upon the completion of the construction of the sanitation facilities in a participating city, the Borrower shall initiate the process of transferring the facilities to the local government.

Governance and Anticorruption

20. The Borrower shall (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and 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 (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

21. The Borrower through the Project Executing Agency shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.