
LOAN NUMBER 6019-BAN(COL)

LOAN AGREEMENT
(Ordinary Operations [Concessional])
(Urban Infrastructure Improvement Preparatory Facility)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 25 NOVEMBER 2019

BAN 51296

LOAN AGREEMENT
(Ordinary Operations [Concessional])

LOAN AGREEMENT dated 25 November 2019 between PEOPLE'S REPUBLIC OF BANGLADESH ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Borrower has applied to ADB for a loan under an ADB project readiness financing ("PRF") to finance preparatory activities for prospective projects ("PRF Activities") described in Schedule 1 to this Loan Agreement;

(B) the PRF Activities will be carried out by the PRF Executing Agencies (as defined hereinafter), and for this purpose the Borrower will make available to the PRF Executing Agencies the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB; and

(C) ADB has agreed to make a concessional 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 and Narayanganj City Corporation;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of ADB's Ordinary Operations (Concessional) 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, subject, however, to the following modifications:

- (a) The term "Project" wherever it appears in the Loan Regulations as a defined term, shall be substituted by the term "PRF Activities".
- (b) The term "Project Executing Agency" wherever it appears in the Loan Regulations as a defined term, shall be substituted by the term "PRF Executing Agency".

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- (a) "Amortization Schedule" means the amortization schedule for repayment of the withdrawn principal amount of the Loan (in the event

that the Loan is not refinanced by ADB), as set forth in Schedule 2 to this Loan Agreement;

- (b) "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;
- (c) "DPHE" means the Department of Public Health Engineering of the Local Government Division of the Borrower's Ministry of Local Government, Rural Development and Cooperatives;
- (d) "Ensuing Loan Agreement" means the loan agreement to be entered into between the Borrower and ADB for an Ensuing Project which also provides for refinancing of the Loan;
- (e) "Ensuing Project(s)" means the prospective project(s) to be financed by ADB, as further described in Schedule 1 to this Loan Agreement;
- (f) "Existing Loan Agreement" means the loan agreement entered into between the Borrower and ADB for an ongoing project financed by ADB, an amendment of which provides for refinancing of the Loan;
- (g) "Goods" means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Loan, including any related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;
- (h) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (i) "NCC" means Narayananj City Corporation;
- (j) "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;
- (k) "PAM" means the project administration manual for the PRF Activities dated 29 August 2019 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;
- (l) "PRF Executing Agency" means each of DPHE and NCC, or any successors thereto acceptable to ADB, which are responsible for the carrying out of the PRF Activities; and "PRF Executing Agencies" means both of them collectively;
- (m) "Procurement Plan" means the procurement plan for the PRF Activities dated 29 August 2019 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Policy, the Procurement Regulations, and other arrangements agreed with ADB;

- (n) "Procurement Policy" means ADB's Procurement Policy - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (o) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers – Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (p) "Refinancing Date" means the date no later than the first Principal Payment Date that is either (i) the effective date of the Ensuing Loan Agreement; (ii) the effective date of the amended Existing Loan Agreement; or (iii) such other date as may from time to time be agreed between the Borrower and ADB; and
- (q) "Services" means Consulting Services and Nonconsulting 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 eleven million Dollars (\$11,000,000).

(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.

Section 2.02. The Borrower shall pay to ADB an interest charge at the rate of 2% per annum during the grace period and thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

Section 2.03. The interest charge on the Loan shall be payable semiannually on 15 March and 15 September 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.

Section 2.05. The currency of repayment of the principal amount 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.

Section 2.06. In the event that the Loan is refinanced by ADB pursuant to an Ensuing Loan Agreement or an Existing Loan Agreement, on the Refinancing Date:

- (a) the Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account along with any interest accrued hereunder in accordance with the terms of the Ensuing Loan Agreement or the Existing Loan Agreement; and
- (b) the right of the Borrower to make withdrawals from the Loan Account shall terminate and any unwithdrawn amount of the Loan shall be cancelled.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall make the proceeds of the Loan available to the PRF Executing Agencies upon terms and conditions satisfactory to ADB for the purpose of carrying out their respective parts of the PRF Activities, and shall cause the PRF Executing Agencies to apply such proceeds exclusively to the financing of expenditures on the PRF Activities in accordance with the provisions of this Loan Agreement and, in the case of NCC, 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 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.

Section 3.04. Withdrawals from the Loan Account in respect of Goods and 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 and Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 September 2022 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 PRF Activities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Loan Agreement.

Section 4.02. (a) The Borrower shall or shall cause the PRF Executing Agencies to (i) maintain separate accounts and records for the PRF Activities; (ii) prepare annual financial statements for the PRF Activities in accordance with financial reporting standards 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 auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Loan proceeds, and a management letter (which sets out the deficiencies in the internal control of the PRF Activities 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 PRF Activities 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.

(c) The Borrower shall enable ADB, upon ADB's request, to discuss the financial statements for the PRF Activities and the financial affairs of the Borrower and NCC where they relate to the PRF Activities 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 Borrower or NCC, as applicable, unless the Borrower or NCC shall otherwise agree.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the PRF Activities and any relevant records and documents.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable NCC 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.

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 9.04 of the Loan Regulations.

ARTICLE VI**Miscellaneous**

Section 6.01. The Senior Secretary or Secretary or any Additional Secretary or Chief, Joint Secretary or Joint Chief, Deputy Secretary or Deputy Chief, Senior Assistant Secretary or Senior Assistant Chief, Assistant Secretary or Assistant Chief of the Economic Relations Division of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 6.02. 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) 2-918-0788

For ADB

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

Facsimile Numbers:

(632) 8636-2444
(632) 8636-2293.

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

PEOPLE'S REPUBLIC OF
BANGLADESH

By



Morowar Ahmed
Secretary
Economic Relations Division
Ministry of Finance

ASIAN DEVELOPMENT BANK

By



Manmohan Parkash
Country Director
Bangladesh Resident Mission

SCHEDULE 1**Description of the PRF Activities**

1. The PRF Activities for the Ensuing Projects shall comprise:
 - (a) feasibility studies and detailed engineering designs;
 - (b) advance procurement actions including preparation of bidding documents, environmental and social assessments and safeguard documents, and gender action plans; and
 - (c) capacity development and institutional strengthening of the PRF Executing Agencies in areas such as procurement, contract management, community participation, urban planning, financial management, operations and management, and municipal finance enhancement.
2. Unless otherwise agreed between the Borrower and ADB, the PRF Activities are expected to support preparation of proposed projects in relation to (a) improving water supply and sanitation in selected towns; and (b) improving urban infrastructure in Narayanganj, including water supply infrastructure, drainage and roads.
3. The PRF Activities are expected to be completed by 31 March 2022.

SCHEDULE 2**Amortization Schedule**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Dollars)*
15 March 2025	275,000
15 September 2025	275,000
15 March 2026	275,000
15 September 2026	275,000
15 March 2027	275,000
15 September 2027	275,000
15 March 2028	275,000
15 September 2028	275,000
15 March 2029	275,000
15 September 2029	275,000
15 March 2030	275,000
15 September 2030	275,000
15 March 2031	275,000
15 September 2031	275,000
15 March 2032	275,000
15 September 2032	275,000
15 March 2033	275,000
15 September 2033	275,000
15 March 2034	275,000
15 September 2034	275,000
15 March 2035	275,000
15 September 2035	275,000
15 March 2036	275,000
15 September 2036	275,000
15 March 2037	275,000
15 September 2037	275,000
15 March 2038	275,000
15 September 2038	275,000
15 March 2039	275,000
15 September 2039	275,000
15 March 2040	275,000
15 September 2040	275,000
15 March 2041	275,000
15 September 2041	275,000
15 March 2042	275,000
15 September 2042	275,000
15 March 2043	275,000

Schedule 2

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Dollars)*
15 September 2043	275,000
15 March 2044	275,000
15 September 2044	<u>275,000</u>
Total	11,000,000

*The arrangements for payment 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 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 expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest Charges

3. The amount allocated to Category "Interest Charges" is for financing interest charges on the Loan during the implementation period of the PRF Activities. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest charges.

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 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 shall be disbursed in accordance with the Loan Disbursement Handbook.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$)	Basis for Withdrawal from the Loan Account
		Category	
1	Consulting Services	8,920,000	65% of total expenditure claimed
2	Goods and Incremental Administrative Costs (Office Management)	702,000	88% of total expenditure claimed
3	Interest Charges	467,000	100% of amounts due
4	Unallocated	911,000	
	TOTAL	11,000,000	

SCHEDULE 4

Execution of the PRF Activities

Implementation Arrangements

1. The Borrower shall ensure, or cause the PRF Executing Agencies to ensure, that the PRF Activities are 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 and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Prohibited List of Investments

2. The Borrower shall ensure, or cause the PRF Executing Agencies 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 ADB's Safeguard Policy Statement.

Procurement

3. The Borrower shall ensure, or cause the PRF Executing Agencies to ensure, that:

- (a) the procurement of Goods and Services is carried out in accordance with the Procurement Policy and the Procurement Regulations;
- (b) Goods 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 may modify the detailed arrangements set forth in the Procurement Plan only with the prior agreement of ADB, and such modifications must be set out in updates to the Procurement Plan;
- (c) (i) all Goods 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 contractor, supplier, consultant or service provider with respect to the matters referred to in this subparagraph.

Counterpart Support

4. The Borrower shall make available, or cause the PRF Executing Agencies to make available, through budgetary allocations or other means, all counterpart funds required for the timely and effective implementation of the PRF Activities, including funds required to

ensure each PRF Executing Agency has sufficient funds to satisfy its liabilities arising from any Goods and/or Services contract.

Governance and Anticorruption

5. The Borrower and the PRF Executing Agencies 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 PRF Activities; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

6. The Borrower and the PRF Executing Agencies 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 PRF Executing Agencies and all contractors, suppliers, consultants, and other service providers as they relate to the PRF Activities.