Financing Agreement

(Energy Sector Development Project)

between

FEDERATED STATES OF MICRONESIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated 2ND OCTOBER, 2014
FINANCING AGREEMENT

AGREEMENT dated October 2, 2014, entered into between FEDERATED STATES OF MICRONESIA ("Recipient") and INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association"). The Recipient and the Association hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II — FINANCING

2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a grant in an amount equivalent to nine million four hundred thousand Special Drawing Rights (SDR 9,400,000) ("Financing"), to assist in financing the project described in Schedule 1 to this Agreement ("Project").

2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement.

2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.

2.04. The Payment Dates are January 1 and July 1 in each year.

2.05. The Payment Currency is Dollar.
ARTICLE III — PROJECT

3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall carry out the Project through the Department of Resources and Development in accordance with the provisions of Article IV of the General Conditions.

3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV — REMEDIES OF THE ASSOCIATION

4.01. The Additional Event of Suspension consists of the following:

At any time before the Closing Date, the Recipient has failed, in the opinion of the World Bank, to apply standards or implement measures consistent with international good practice to ensure the environmentally and socially sustainable management of all infrastructure investments in the Energy sector related to the master plans to be prepared under Part 2 of the Project that have commenced or are materially revised subsequent to the date of this Agreement.

ARTICLE V — EFFECTIVENESS; TERMINATION

5.01. The Effectiveness Deadline is the date one hundred twenty (120) days after the date of this Agreement.

5.02. For purposes of Section 8.05 (b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty (20) years after the date of this Agreement.

ARTICLE VI — REPRESENTATIVE; ADDRESSES

6.01. The Recipient’s Representative is the Secretary of Finance and Administration.

6.02. The Recipient’s Address is:

Department of Finance
P.O. Box PS158
Palikir
Pohnpei

Telephone +6913202640
EMAIL FSMSOFA@MAIL.FM

6.03. The Association’s Address is:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable: INDEVAS
Telex: 248423 (MCI)
Facsimile: 1-202-477-6391
Washington, D.C.
AGREED at Pohnpei, Federated States of Micronesia, as of the day and year first above written.

FEDERATED STATES OF MICRONESIA

By

[Signature]

Authorized Representative

Name: KESBY R. IROA

Title: Secretary of Forestry

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

[Signature]

Authorized Representative

Name: FRANZ R. DREES-GROSS

Title: Country Director, EACNF
SCHEDULE 1

Project Description

The objectives of the Project are to increase the available generation capacity and efficiency of electricity supply in the State Power Utilities, and to strengthen the planning and technical capacities of the Recipient and the State Power Utilities in the energy sector.

The Project consists of the following parts:

Part 1. Increasing Available Generation Capacity and Efficiency of Electricity Supply in the State Power Utilities

(a) Carrying out a program of activities designed to increase available generation capacity and efficiency of electricity supply in the State Power Utilities, such program to include:

(i) acquisition and installation of new gensets for the Pohnpei Utilities Corporation, Kosrae Utility Authority and Yap State Public Service Corporation;

(ii) acquisition and installation of equipment such as capacitor banks, temperature compensated digital fuel meters and prepaid meters for the Yap State Public Service Corporation; and

(iii) (A) Acquisition and installation of grid connected photovoltaic generators; and (B) upgrading of the public street lighting system to a more efficient system, all for the Chuuk Public Utility Corporation.

(b) Carrying out of a program of activities designed to improve the technical performance of the State Power Utilities, such program to include capacity building activities, and the development and implementation of operations and maintenance plans.


(a) Preparation of energy master plans for each of the FSM States, including: (i) identifying and prioritizing infrastructure investments in the energy sector; and (ii) undertaking feasibility studies, and environmental and social impact assessments for the priority investments.

(b) Development of a national energy sector master plan which will build upon the energy master plans developed under Part 2(a).
Part 3. Technical Assistance and Project Management

(a) Carrying out a program of activities designed to build the capacity of the Energy Division and the Association of Micronesian Utilities (AMU) for: (i) (1) sector data collection, statistics, and the development of an information management system, (2) utility benchmarking and (3) implementing the national energy policy; and (ii) broadening dialogue on matters affecting the energy sector, including developing a utilities reform program to improve sustainability of their operations.

(b) Carrying out a program of activities designed to enhance the capacity of the Energy Division for overall Project coordination, management and monitoring.
SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. The Recipient shall vest responsibility for overall implementation of the Project in the Department of Resources and Development.

2. Steering Committee

The Recipient shall maintain throughout the Project implementation period, a Steering Committee, chaired by the Energy Division and comprised of, inter alia, the Secretary of Finance and Administration, the chief executive officers of the State Power Utilities, with responsibility for: (a) ensuring complementarities and coordination among the FSM state governments and the national government; and (b) providing guidance, technical inputs, and data/information to the consultants hired under the project.

2. Energy Division

The Recipient shall maintain, throughout the Project implementation period, the Energy Division with resources, staffing and mandate satisfactory to the Association and with responsibility for implementation of the Project. To this end, the Recipient shall hire, and thereafter maintain, a project implementation support officer, an energy technical specialist, a procurement advisor and a safeguards advisor, all with qualifications, terms of reference and experience satisfactory to the Association.

B. Project Implementation Manual

1. The Recipient shall, by not later than two (2) months after Effective Date, prepare and adopt a Project Implementation Manual, setting forth the arrangements and procedures for the implementation of the Project, including: (a) institutional arrangements for day to day execution of the Project; (b) the procurement plan and implementation arrangements; (c) implementation arrangements for the Safeguards Instruments; (d) budgeting, disbursement, and financial management arrangements; (e) project monitoring, reporting, and evaluation arrangements; and (f) environmental and social safeguard procedures.

2. The Recipient shall carry out the Project in accordance with the Project Implementation Manual, and except as the Association shall otherwise agree in writing, not amend or waive, or permit to be amended or waived, any provision of the Project Implementation Manual.
3. In case of a conflict between the provisions of the Project Implementation Manual and this Agreement, those of this Agreement shall prevail

C. Anti-Corruption

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

D. Environmental and Social Safeguards

1. The Recipient shall carry out the Project in accordance with the provisions of the Safeguards Instruments.

2. If any Project activities under Part 2 of the Project, would, pursuant to the ESMF, require the preparation of an Additional Environmental Management Plan, the Recipient shall ensure that no such activities shall be implemented unless and until such Additional Environmental Management Plan is prepared in accordance with the ESMF and furnished to the Association for review and approval, and is disclosed as required by the ESMF and approved by the Association.

3. If a RAP would be required for any Project activities on the basis of the Resettlement Policy Framework (RPF), the Recipient shall ensure that: (a) said RAP has been prepared in accordance with the requirements of the RPF, furnished to the Association for approval, and disclosed locally; and (b) no such activities shall commence until: (i) all measures required to be taken under said RAP prior to the commencing of said activities have been taken; (ii) a report, in form and substance satisfactory to the Association, on the status of compliance with the requirement of said RAP has been prepared and furnished to the Association; and (iii) the Association has confirmed that said activities may be commenced.

4. Without limitation upon its other reporting obligations under this Agreement, the Recipient shall, in accordance with terms of reference satisfactory to the Association: (a) monitor the status of compliance with the Safeguards Instruments; and (b) prepare and furnish to the Association, as part of each Project Report, a report on the results of such monitoring activities during the period covered by said Project Report, giving details of:

(i) measures taken in furtherance of such Safeguards Instruments;

(ii) conditions, if any, which interfere or threaten to interfere with the smooth implementation of such Safeguards Instruments; and
(iii) remedial measures taken or required to be taken to address such conditions.

5. The Recipient shall afford the Association a reasonable opportunity to review the reports prepared under paragraph 4 of this Part D, and thereafter shall carry out with due diligence all remedial measures agreed with the Association so as to ensure the proper implementation of the Project in accordance with the Safeguards Instruments.

6. In the event of a conflict between the provisions of any of the Safeguard Instruments and those of this Agreement, the provisions of this Agreement shall prevail.

7. The Recipient shall ensure that:

(a) all terms of reference for any technical assistance or studies carried out under the Project are consistent with the Association's environmental and social safeguard policies, as well as the Recipient's own laws relating to the environment and social aspects; and

(b) in drafting any regulations, guidelines or corporate procedures and carrying out capacity building activities under the Project, due attention is given to said policies and laws.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of indicators acceptable to the Association and set forth in the Project Implementation Manual. Each Project Report shall cover the period of one (1) calendar semester, and shall be furnished to the Association not later than one (1) month after the end of the period covered by such report.

B. Financial Management, Financial Reports and Audits

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.

2. The Recipient shall prepare and furnish to the Association not later than forty five (45) days after the end of each calendar quarter, interim unaudited financial
reports for the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one (1) fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the Association not later than nine (9) months after the end of such period.

4. The Recipient shall hire and thereafter maintain a financial management officer within the Department of Finance and Administration to be responsible for financial management of the Project.

Section III. Procurement

A. General

1. Goods, Works and Non-consulting Services. All goods, works and non-consulting services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.

2. Consultants' Services. All consultants' services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.

3. Definitions. The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in Sections II and III of the Procurement Guidelines, or Sections II, III, IV and V of the Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods, Works and Non-consulting Services

1. International Competitive Bidding. Except as otherwise provided in paragraph 2 below, goods, works and non-consulting services shall be procured under contracts awarded on the basis of International Competitive Bidding.

2. Other Methods of Procurement of Goods, Works and Non-consulting Services. The following methods, other than International Competitive Bidding, may be used for procurement of goods, works and non-consulting services for those contracts specified in the Procurement Plan: (a) Shopping; and (b) Direct Contracting.
C. Particular Methods of Procurement of Consultants' Services

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection.

2. **Other Methods of Procurement of Consultants' Services.** The following methods, other than Quality and Cost-based Selection, may be used for procurement of consultants’ services for those contracts which are specified in the Procurement Plan: (a) Quality-based Selection; (b) Least Cost Selection; (c) Selection based on Consultants’ Qualifications; (d) Single-source Selection of consulting firms; (e) Procedures set forth in paragraphs 5.2 and 5.3 of the Consultant Guidelines for the Selection of Individual Consultants; and (f) Single-source procedures for the Selection of Individual Consultants.

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association’s Prior Review. All other contracts shall be subject to Post Review by the Association.

Section IV. Withdrawal of the Proceeds of the Financing

A. General

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the “World Bank Disbursement Guidelines for Projects” dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing (“Category”), the allocations of the amounts of the Financing to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:
<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Financing Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Goods, works, non-consulting services, and consultants’ services, Training and Operating Costs for the Project</td>
<td>9,400,000</td>
<td>100%</td>
</tr>
<tr>
<td>TOTAL AMOUNT</td>
<td>9,400,000</td>
<td></td>
</tr>
</tbody>
</table>

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed SDR 650,000 equivalent may be made for payments made prior to this date but on or after April 1, 2014, for Eligible Expenditures.

2. The Closing Date is July 31, 2018.
APPENDIX

Section I. Definitions

1. "Additional Environmental Management Plan" means a plan, to be prepared or caused to be prepared by the Recipient and agreed with the Association in accordance with the ESMF, setting out mitigation, enhancement, monitoring, and institutional measures, including capacity building through training, to eliminate any adverse environmental impacts of Project activities under Part 2 of the Project, offset them, reduce them, or enhance positive impacts, as the same may be modified from time to time with the prior written agreement of the Association, and such term includes any annexes or schedules to such plan; and "Additional Environmental Management Plans" means more than one such plan.

2. "Affected Persons" means a person who, on account of the execution of the Project, has experienced or would experience direct economic and social impacts caused by: (a) the involuntary taking of land, resulting in: (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not such person must move to another location; or (b) the involuntary restriction to access to legally designated parks and protected areas, resulting in adverse impacts on the livelihood of such persons; and "Affected Persons" means more than one Affected Person.

3. "AMU" means the Association of Micronesian Utilities, a non-profit corporation established pursuant to the Non-Profit Charter dated June 6, 2011.


5. "Category" means a category set forth in the table in Section IV of Schedule 2 to this Agreement.

6. "Chuuk Public Utility Corporation" means the utility established pursuant to the Chuuk Public Utility Act of 1996 and responsible for, inter alia, providing reliable utilities at reasonable cost to the population of Chuuk.


8. "Department of Finance and Administration" means the Recipient's department responsible for finance and administration, or any successor thereto.
9. "Department of Resources and Development" means the department responsible for energy, trade and investment, maritime and resource management and development.

10. "Energy Division" means the division within the Department of Resources and Development responsible for energy related matters at national level, or any successor thereto.

11. "Environmental and Social Management Framework" or "ESMF" means the framework dated April 2014, setting out mitigation, enhancement, monitoring, and institutional measures, including capacity building through training, to eliminate any adverse environmental and social impacts of activities implemented under Part 2 of the Project, if any, offset them, reduce them, or enhance positive impacts, as well as guidelines and procedures for the preparation and disclosure of Additional Environmental Management Plans, as the same may be modified from time to time with the prior written agreement of the Association, and such term includes any schedules or annexes to such framework.

12. "Environmental Management Plan" or "EMP" means the Recipient’s plan dated April 2014, setting out mitigation, enhancement, monitoring, and institutional measures, including capacity building through training, to eliminate any adverse environmental impacts of activities under Part 1 of the Project, offset them, reduce them, or enhance positive impacts, as the same may be modified from time to time with the prior written agreement of the Association, and such term includes any annexes or schedules to such plan; and "Environmental Management Plans" means more than one such plan.

13. "FSM States" means Chuuk, Kosrae, Pohnpei, and Yap, the four states making up the Federated States of Micronesia.


15. "Kosrae Utility" means the utility established pursuant to Chapter 12 Title 7 of the Kosrae State Code and responsible for managing Kosrae’s electricity power.

16. "Operating Costs" means incremental expenses incurred by the Recipient on account of the implementation, management, and monitoring and evaluation of the Project, based on the annual budgets approved by the Association, including rental of office space, bank charges, communications, utilities, stationery, vehicle operation, maintenance, insurance and transportation costs, but excluding salaries, fees, honoraria, bonuses, and any other salary supplements of the Recipient’s civil servants.
17. "Pohnpei Utilities Corporation" means the public corporation established by chapter 1 of Title 34 of the Pohnpei Code and responsible for, *inter alia*, the supply of electrical power.


19. "Procurement Plan" means the Recipient's procurement plan for the Project, dated April 14, 2014 and referred to in paragraph 1.18 of the Procurement Guidelines and paragraph 1.25 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

20. "Project Implementation Manual" means the manual referred to in Section I.B of Schedule 2 to this Agreement.

21. "Resettlement Action Plan" or "RAP" means a plan to be prepared by the Recipient pursuant to Section I.D.3 of Schedule 2 to this Agreement, setting out mitigation, enhancement, monitoring, and institutional measures, including capacity building through training, to carry out acquisition of land and related assets under the Project, compensation, resettlement, and rehabilitation of Affected Persons, prepared in accordance with the provisions of the Resettlement Policy Framework, as the same may be modified from time to time with the prior written agreement of the Association, and such term includes any schedules or annexes to such plan.

22. "Resettlement Policy Framework" or "RPF" means the Recipient's framework, dated April 2014, setting out mitigation, enhancement, monitoring, and institutional measures, including capacity building through training, to carry out acquisition of land and related assets under Part 2 of the Project, if any, compensation, resettlement, and rehabilitation of Affected Persons, as well as guidelines and procedures for the preparation of Resettlement Action Plans, as the same may be modified from time to time with the prior written agreement of the Association, and such term includes any annexes or schedules to such framework.


25. "Steering Committee" means the committee referred to in Section I.A of Schedule 2 to this Agreement.

26. "Training" means reasonable costs of training and workshop activities under the Project, based on annual work plans and budgets approved by the Association, including preparation and reproduction of training materials, rental of facilities, reasonable transportation costs, tuition fees, per diem of trainers and trainees (if applicable), and any other expenses directly related to course preparation and implementation.

27. "Yap State Public Service Corporation" means the public corporation established pursuant to Chapter 1 of Title 14 of the Yap State Code, and responsible for, inter alia, regulation of all utility services in Yap.