Project Agreement

(Second Kerala State Transport Project – KSTP-II)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

STATE OF KERALA

Dated June 19, 2013
PROJECT AGREEMENT

Agreement dated June 19, 2013, entered into between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT ("Bank") and the STATE OF KERALA ("Project Implementing Entity") ("Project Agreement") in connection with the Loan Agreement ("Loan Agreement") of same date between INDIA ("Borrower") and the Bank. The Bank and the Project Implementing Entity hereby agree as follows:

ARTICLE I—GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to the Loan 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 Loan Agreement or the General Conditions.

ARTICLE II—PROJECT

2.01. The Project Implementing Entity declares its commitment to the objectives of the Project. To this end, the Project Implementing Entity shall carry out the Project, through the PWD, in accordance with the provisions of Article V of the General Conditions, and shall provide promptly as needed, the funds, facilities, services and other resources required for the Project.

2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Bank and the Project Implementing Entity shall otherwise agree, the Project Implementing Entity shall carry out the Project in accordance with the provisions of the Schedule to this Agreement.

ARTICLE III—REPRESENTATIVE; ADDRESSES

3.01. The Project Implementing Entity’s Representative is the Chief Secretary of Kerala, or such other person or persons as the Chief Secretary of Kerala may designate in writing.

3.02. The Bank’s Address is:

International Bank for Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America

Cable: INTBAFRAD
Telex: 248423(MCI) or 64145(MCI)
Facsimile: 1-202-477-6391
3.03. The Project Implementing Entity’s Address is:

Secretary to the Government of Kerala
Public Works Department
Government of Kerala
Secretariat
Thiruvananthapuram 695001
Kerala, India

Facsimile:

91-471-2327285

AGREED at New Delhi, India, as of the day and year first above written.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

By

Authorized Representative

Name: Onno Ruhl

Title: Country Director, India

STATE OF KERALA

By

Authorized Representative

Name: T. O. Sooraj

Title: Secretary, PWD
Govt of Kerala
SCHEDULE

Execution of the Project

Section I. Implementation Arrangements

A. Institutional Arrangements.

1. The Project Implementing Entity shall maintain, throughout the period of implementation of the Project:

   (a) a project steering committee (the "PSC"): (i) headed by Chief Secretary of Kerala, and comprised of representatives of Project stakeholders and line departments of the government of Kerala, in numbers, manner and substance acceptable to the Bank; and (ii) provided with such powers, functions and competencies, acceptable to the Bank, as shall be required to provide policy guidance for, and exercise the general oversight of, the implementation of Project activities, including the review of quarterly progress reports submitted by KSTP (as defined herein below), and the semi-annual internal audits reports, as well as the approval of the recommendation of the Evaluation Committee on procurement actions to be taken;

   (b) a project management team (the "KSTP") within the PWD: (i) headed by a project director in the rank of a senior level chief engineer and assisted by competent staff, all with experience and qualifications, in numbers and under terms of reference acceptable to the Bank, which team shall also comprise field level divisions with executive engineers and divisional accountants, as deemed necessary by the KSTP in consultation with the Bank; and (ii) provided with such powers, financial resources, functions and competencies, acceptable to the Bank, as shall be required for it to carry out the day-to-day implementation of Project activities, including inter-institutional coordination, procurement, financial management and monitoring, external communications and reporting activities, as well as ensuring implementation of/compliance with the Safeguards Documents;

   (c) an evaluation committee (the "Evaluation Committee") within the PWD: (i) headed by the Secretary of PWD and comprising the project director of KSTP and the chief engineer (projects) of KSTP; and (ii) provided with such power, financial resources, functions and competencies, acceptable to the Bank as shall be required for it to evaluate procurement bids and/or make recommendation to the PSC on any procurement actions/issued under the Project; and

   (d) an environmental and social management cell (the "ESMC") within the PWD, with competent, experienced and qualified staffed in sufficient numbers and under terms of reference satisfactory to the Bank, vested with powers, financial resources, functions and competencies, acceptable to the Bank, in order to: (i) assist the KSTP with the implementation of the Safeguard Documents; (ii)
monitor and evaluate contractors' and consultants' compliance therewith; and (iii) carry out any necessary updates thereto.

2. The Project Implementing Entity shall maintain throughout the period of implementation of the Project the services of a supervision consultant (the “Construction Supervision Consultant”), with qualifications and experience and under terms of reference acceptable to the Bank, in order to assist the KSTP with the management and supervision of construction contracts including: (i) certifying contractors’ performance/delivery of contract obligations and carry out quality control thereof; and (ii) overseeing payments to service providers and/or Project contractors.

3. The Project Implementing Entity shall engage:

(a) by no later than twelve (12) months after the Effective Date, and thereafter maintain throughout the period of implementation of the Project, the services of an independent engineer (the “Independent Engineer”), with qualifications and experience and under terms of reference acceptable to the Bank, in order to serve as the construction engineer for the civil works to be carried out under the Project; and

(b) by no later than six (6) months after the Effective Date, and thereafter maintain throughout the period of implementation of the Project, the services of a firm of chartered accountant with qualifications and experience, and under terms of reference, acceptable to the Bank, in order to: (i) carry out the KSTP’s internal audit functions pursuant to the protocols, standards, and requirements set forth in the FM Manual; (ii) ensure compliance with internal control mechanisms; and (iii) monitor payments for high value contracts/transactions, as well as the implementation of other procurement-related activities.

B. Project Documents

The Project Implementing Entity shall:

(a) implement the Project in accordance with the Project Implementation Plan, the FM Manual, the GAAP and the Safeguard Documents; provided however that in the event of conflict between the provisions of said manual and plans, on the one hand, and those of this Agreement, on the other hand, the provisions of the latter shall prevail; and

(b) refrain from amending, suspending, waiving, and/or voiding any provision of the Project Implementation Plan, the FM Manual, the GAAP and the Safeguard Documents, whether in whole or in part, without the prior written concurrence of the Bank.

C. Anti-Corruption

The Project Implementing Entity shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines and the GAAP.
D. Challenge Fund

1. For purposes of carrying out activities under Component B.2 of the Project, the Project Implementing Entity shall, through the coordinated and cooperative effort of the PWD and the RSA, mobilize local stakeholders, including District Road Safety Councils, Gram Panchayats and/or non-governmental organizations, for purposes of developing and submitting proposals to the PWD and RSA for the implementation of safe corridors/zones and the piloting of road safety measures, which proposals shall include the respective activity plans and associated budget.

2. The Project Implementing Entity, through KSTP and the RSA, shall screen such proposals and prioritize them pursuant to objective feasibility, preparedness, social and environmental criteria acceptable to the Bank, and select proposals for implementation.

3. Upon selection of a safe corridor/zone proposal pursuant to paragraphs 1 and 2 above, the KSTP shall finalize a written arrangement with the RSA, under terms and conditions acceptable to the Bank, whereby: (i) the RSA delegates the implementation of such proposal to KSTP; and (ii) KSTP and RSA undertake to co-finance such implementation out of their own resources pursuant to a ratio acceptable with the Association.

E. Safeguards.

1. The Project Implementing Entity shall:

   (a) carry out the Project in accordance/compliance with the Environmental Impact Assessments ("EIAs"), the Environmental Management Plans ("EMPs"), the Environmental Management Framework ("EMF"), the Resettlement Action Plan ("RAP"), and the instruments (to be) prepared pursuant to paragraphs 2 of this Sub-Section (the "Safeguard Documents"), and pursuant to the objectives, policies, procedures, time schedules, compensation arrangements and other provisions set forth therein, in a manner and substance satisfactory to the Bank; and

   (b) refrain from taking any action which would prevent or interfere with the implementation of the Safeguard Documents, including any amendment, suspension, waiver, and/or voidance of any provision of the Safeguard Documents, whether in whole or in part, without the prior written concurrence of the Bank.

2. Without limitation of the provision of the foregoing paragraph 1, the Project Implementing Entity shall refrain from inviting bids, and/or selecting any contractors, for the construction of roads and/or their improvement, in respect of:

   (a) Links 4, 5, 41 and 47 of the State Highways and/or sections thereof, and/or any other links or sections thereof agreed in writing between the Project Implementing Entity and the Bank, for which detailed environmental assessments and management plans have not been completed, updated and/or finalized as of
December 20, 2012, until and unless: (i) the Project Implementing Entity submits to the Bank the relevant updated-finalized environmental assessment reports and environmental management plan prepared pursuant to the EMF; and (ii) the Bank has reviewed said documents and notified in writing the Project Implementing Entity of its satisfaction therewith; and

(b) Links 41 and 47 of the State Highways, and/or sections thereof, and/or any other links or sections thereof agreed in writing between the Project Implementing Entity and the Bank, for which detailed social impact assessment have not been completed, updated and/or finalized as of December 20, 2012, until and unless: (i) the Project Implementing Entity submits to the Bank the relevant updated-finalized social impact assessment reports and action plans prepared pursuant to RAP; and (ii) the Bank has reviewed said documents and notified in writing the Project Implementing Entity of its satisfaction therewith.

3. The Project Implementing Entity shall ensure that, prior to commencing any civil works on a particular road, or section thereof, under the Project: (i) all necessary governmental permits and clearances for such civil works in the relevant road, or section, shall have been obtained from the competent governmental authority/ies and submitted to the Bank; and (ii) all conditions imposed by the governmental authority/ies under such permit(s) or clearance(s) shall have been complied with/fulfilled.

4. The Project Implementing Entity shall ensure that each contract for civil works under the Project includes the obligation of the relevant contractor to comply with the relevant Safeguard Documents applicable to such civil works commissioned/awarded pursuant to said contract.

5. The Project Implementing Entity shall:

(a) maintain monitoring and evaluation protocols and record keeping procedures acceptable to the Bank and adequate to enable the Project Implementing Entity and the Bank to supervise and assess, on an on-going basis, the implementation of/compliance with the Safeguards Documents, as well as the achievement of the objectives thereof; and

(b) furnish to the Bank, throughout the period of Project implementation:

(i) quarterly reports prepared by KSTP, with the assistance of the ESMC, on the general compliance with the Safeguard Documents, the social and environmental impact of Project activities, and the results of the mitigation or benefit-enhancing measures applied thereto, during the period preceding the date of each such report; and

(ii) quarterly reports prepared by: (A) the Construction Supervision Consultant in respect of Sub-component A.1 of the Project; and (B) the Independent Engineers, in respect of Component A.2 of the Project, said reports to assess the respective contractors' general compliance with the Safeguard Documents, the social and environmental impact of Project
activities, and the results of the mitigation or benefit-enhancing measures applied thereto, with particular emphasis on the implementation and results of resettlement activities, during the period preceding the date of each such report.

6. The Project Implementing Entity shall ensure that, by no later than March 31, 2015, the Kerala Water Authority shall have removed and relocated all water utilities along the road corridor comprising Links 41 and 47 of the State Highways, avoiding, to the extent possible, any disruption to civil works under the Project, all in manner and substance satisfactory to the Bank.

7. The Project Implementing Entity shall ensure that the following Project expenditures are financed exclusively out of the Project Implementing Entity’s own resources, and, to this end, shall provide, promptly as needed, the resources required therefor, namely:

(a) all land acquisition require for the purpose of the Project; and

(b) any compensation, resettlement and rehabilitation payment to Displaced Persons in accordance with the provision of the RAP.

F. Suggestion and Complaint Mechanism

The Project Implementing Entity shall maintain and operate throughout the period of implementation of Project activities, a district-level grievance redressal mechanism for resettlement and rehabilitation and a state level grievance redressal mechanism for all other aspects of the Project; which systems shall be subject to guidelines and procedures, acceptable to the Bank.

G. Project Surveys

The Project Implementing Entity shall carry out at least two (2) road user surveys with scope, methodologies, and terms of reference satisfactory to the Bank, in order to assess road users’ satisfaction with Project results and its implementation, their opinions regarding current and potential sector targets, and their behavioral/attitudinal changes. The above referred surveys shall take place no later than December 31, 2013 (for the first survey) and December 31, 2016 (for the second one).

Section II. Project Monitoring, Reporting and Evaluation.

A. Project Reports

1. The Project Implementing Entity shall monitor and evaluate the progress of the Project and prepare Project Reports for the Project in accordance with the provisions of Section 5.08 (b) of the General Conditions and on the basis of indicators as agreed with the Bank. Each such Project Report shall cover the period of one calendar quarter, and shall be furnished to the Borrower and the Bank not later forty-five (45) days after the end of the period covered by such report.
2. The Project Implementing Entity shall: (a) prepare the Project execution/completion report referred to in Section 5.08 (c) of the General Conditions; and (b) furnish it to the Borrower and the Bank not later than six (6) months after the Closing Date.

B. Financial Management, Financial Reports and Audits

1. The Project Implementing Entity shall maintain a financial management system and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Bank, both in a manner adequate to reflect the operations and financial condition of the Project Implementing Entity, including the operations, resources and expenditures related to the Project.

2. Without limitation on the provision of Part A of this Section, the Project Implementing Entity shall prepare and furnish to the Bank, by not later than forty five (45) days after the end of each calendar quarter, interim financial reports for the Project covering the calendar quarter, in form and substance satisfactory to the Bank.

3. The Project Implementing Entity shall have its financial statements referred to above audited by independent auditors acceptable to the Bank, in accordance with consistently applied auditing standards acceptable to the Bank. Each audit of these financial statements shall cover the period of one fiscal year of the Project Implementing Entity. The Project Implementing Entity shall ensure that the audited financial statements for each period shall be: (a) furnished to the Borrower and the Bank not later than six (6) months after the end of the period; and (b) made publicly available in a timely fashion and in a manner acceptable to the Bank.

Section III. Procurement

All goods, works and services required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Section III of Schedule 2 to the Loan Agreement.