LOAN NUMBER 3364-VIE(SF)
(Additional to Loan Number 2741-VIE)

LOAN AGREEMENT
(Special Operations)

(Ha Noi Metro Rail System Project (Line 3: Nhon – Ha Noi Station Section)
– Additional Financing)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 8 NOVEMBER 2016

VIE 40080

LOAN AGREEMENT
(Special Operations)

LOAN AGREEMENT dated 8 November 2016 between SOCIALIST REPUBLIC OF VIET NAM ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a loan agreement dated 13 October 2011 between the Borrower and ADB ("Original Loan Agreement"), ADB agreed to provide a loan to the Borrower from ADB's ordinary capital resources in an amount of two hundred ninety three million Dollars ($293,000,000) ("Original Loan") for the purposes of the project described in Schedule 1 to the Original Loan Agreement ("Original Project");

(B) by an agreement herewith entered into between the Borrower and ADB ("Ordinary Operations Loan Agreement"), ADB has agreed to provide the Borrower an additional loan from ADB's ordinary capital resources in an amount equivalent to fifty-nine million Dollars ($59,000,000) ("Ordinary Operations Loan") for the purposes of the project described in Schedule 1 to the Ordinary Operations Loan Agreement;

(C) the Borrower has applied to ADB for an additional loan for the purposes of the project described in Schedule 1 to this Loan Agreement ("Project");

(D) the Borrower has also applied to the Clean Technology Fund ("CTF") for an additional loan ("CTF Loan") in an amount not exceeding the equivalent of fifty million Dollars ($50,000,000) to be administered by ADB and upon the terms and conditions set forth in a loan agreement between the Borrower and ADB ("CTF Loan Agreement") for the purposes of the project described in Schedule 1 to the Ordinary Operations Loan Agreement;

(E) the Project will be carried out by Ha Noi People's Committee ("HPC"), and for this purpose the Borrower will make available to HPC the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB;

(F) the Borrower has also applied to European Investment Bank ("EIB") for, and EIB approved, a loan not exceeding seventy million Euros (€70,000,000) to finance a portion of the Project described in Schedule 1 to the Ordinary Operations Loan Agreement ("EIB Loan") upon terms and conditions to be set forth in the loan agreement between the Borrower and EIB;

(G) the Borrower also applied to Direction Générale du Trésor ("DGT") for, and DGT approved, loans not exceeding eighty-five million Euros (€85,000,000) to finance a portion of the Project described in Schedule 1 to the Ordinary Operations Loan Agreement ("DGT Loan") upon terms and conditions set forth in the loan agreements between the Borrower and DGT;

(H) the Borrower also applied to Agence Française de Développement ("AFD") for, and AFD approved, loans not exceeding sixty-nine million Euros (€69,000,000) to finance a portion of the Project described in Schedule 1 to the Ordinary Operations Loan Agreement ("AFD Loan") upon terms and conditions set forth in the loan agreements between the Borrower and AFD; and

(l) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and HPC ("Project Agreement");

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations and the Original Loan Agreement have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

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

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) "FMSAP" means financial management and sustainability action plan to be prepared for the Project;

(d) "GAP" means the gender action plan dated 12 August 2010 prepared for the Original Project, including any update thereto for the Project, and agreed to between the HPC and ADB;

(e) "IA" or "Project Implementing Agency" means MRB responsible for implementation of the Project as described in the PAM;

(f) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(g) "MRB" means Ha Noi Metropolitan Railway Management Board established within HPC and previously known as Ha Noi Metropolitan Rail Transport Project Board (HRB);

(h) "PAM" means the Project administration manual for the Project dated 22 October 2015 and agreed between HPC and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(i) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(j) "Procurement Plan" means the procurement plan for the Project dated 22 October 2015 and agreed between HPC and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB; and

(k) "Subsidiary Loan Agreement" means the agreement between the Borrower and HPC, satisfactory to ADB, referred to in Sections 3.01(a) of this Loan Agreement.

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to four million one hundred seven thousand Special Drawing Rights (SDR4,107,000).

Section 2.02. (a) 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.

(b) The term "grace period" as used in subsection (a) 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 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 1 June and 1 December 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 set forth in Schedule 2 to this Loan Agreement.

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 the Dollar.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall onlend the proceeds of the Loan to HPC under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB.

(b) 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 the Original Loan Agreement, this Loan Agreement and the Project Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, the Borrower shall 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. 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 8.02 of the Loan Regulations shall be 31 December 2019 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 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 the Original Loan Agreement and Schedule 5 to this Loan Agreement.

Section 4.02. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.03. The Borrower shall take all actions which shall be necessary on its part to enable HPC to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.04. (a) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the Subsidiary Loan Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

ARTICLE V

Suspension; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations:

(a) if the Original Loan, Ordinary Operations Loan, and/or the CTF Loan shall have become liable for suspension or cancellation or shall have become repayable prior to their agreed maturity date;

(b) the Borrower shall have failed to perform one or more of its obligations under the (i) Original Loan Agreement; (ii) the Ordinary Operations Loan Agreement; and/or (iii) the CTF Loan Agreement; and

(c) if the EIB Loan, the DGT Loan, or the AFD 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 8.07(d) of the Loan Regulations: any of the events specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations:

(a) the Ordinary Operations Loan Agreement shall have been duly executed and delivered on behalf of the Borrower; and

(b) the CTF Loan Agreement shall have been duly executed and delivered on behalf of the Borrower.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: the matters specified in Section 6.01 of this Loan Agreement shall have been satisfied.

Section 6.03. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The State Bank of Viet Nam of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

For the Borrower

State Bank of Vietnam
47 – 49 Ly Thai To
Ha Noi, Viet Nam

Facsimile Numbers:

(844) 38250-612
(844) 38258-385.

For ADB

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

Facsimile Numbers:

(632) 636-2015.

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.

SOCIALIST REPUBLIC OF VIET NAM

By _____

LE MINH HUNG
Governor
State Bank of Viet Nam

ASIAN DEVELOPMENT BANK

By _____

ERIC SIDGWICK
Country Director
Viet Nam Resident Mission

SCHEDULE 1

Description of the Project

1. The objective of the Project is competitive metro rail services along the Project corridor through improved public transport systems in the Project Districts. The Project will provide project management support to the Borrower's Hanoi Pilot Metro Line project, section Nhon – Hanoi station.

2. The Project shall support component 2 of the Original Project described in paragraph 2 of the Original Loan Agreement including (a) provision of on-the-job training and workshops for MRB staff on skills in specific technical disciplines; and (b) support for addressing organizational, functional, and technical capacity shortfalls.

3. The Project will include provision of Consulting Services to provide support to MRB for implementation of the Project.

4. The Project is expected to be completed by 30 June 2019.

SCHEDULE 2

Amortization Schedule

(Ha Noi Metro Rail System Project (Line 3: Nhon – Ha Noi Station Section) - Additional Financing)

Date Payment Due	Payment of Principal (expressed in Special Drawing Rights)*
1 June 2021	102,675
1 December 2021	102,675
1 June 2022	102,675
1 December 2022	102,675
1 June 2023	102,675
1 December 2023	102,675
1 June 2024	102,675
1 December 2024	102,675
1 June 2025	102,675
1 December 2025	102,675
1 June 2026	102,675
1 December 2026	102,675
1 June 2027	102,675
1 December 2027	102,675
1 June 2028	102,675
1 December 2028	102,675
1 June 2029	102,675
1 December 2029	102,675
1 June 2030	102,675
1 December 2030	102,675
1 June 2031	102,675
1 December 2031	102,675
1 June 2032	102,675
1 December 2032	102,675
1 June 2033	102,675
1 December 2033	102,675
1 June 2034	102,675
1 December 2034	102,675
1 June 2035	102,675
1 December 2035	102,675
1 June 2036	102,675
1 December 2036	102,675
1 June 2037	102,675
1 December 2037	102,675
1 June 2038	102,675
1 December 2038	102,675
1 June 2039	102,675
1 December 2039	102,675
1 June 2040	102,675
1 December 2040	102,675
TOTAL	**4,107,000**

* 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 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.

Interest Charge

3. The amount allocated to Category 2 is for financing the interest charge on the Loan during the implementation period of the Project.

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.

Condition for Withdrawals from Loan Account

6. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for Consulting Services until the Borrower shall have submitted to ADB the audited financial statements for the Original Project for the years 2012, 2013, and 2014.

SCHEDULE 5

Execution of Project

Implementation Arrangements

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

Operation and Maintenance

2. The Borrower and HPC shall ensure that the operating subsidy for the Project is provided in a timely manner and is sufficient to enable MRB to maintain financial sustainability, including to cover operation and maintenance costs and to cover debt service for the Project.

Financial Performance

3. The Borrower shall cause HPC to make the funds available for servicing its debt obligations.

4. The Borrower shall through HPC cause MRB to ensure that (a) 6 months after the Effective Date, it prepares and submits to ADB (i) the annual financially sustainable investment and operations plan for the Project and baseline for planning and monitoring of investment costs, operation and maintenance costs, passenger demand forecast, cost recovery fare level, and fare and other revenues; and (ii) annual projected financial statements for the Project; and (b) 6 months prior to the Project completion date, it submits to ADB an updated baseline as referred to in sub-clause (a)(i) above

5. The Borrower shall through HPC cause MRB to ensure that FMSAP is prepared, approved by all cofinanciers to the Project, including ADB, and submitted to ADB within 6 months from the Effective Date, including clear actions to mitigate risks relating to (a) poor financial management systems; (b) auditing systems delay; (c) institutional capacity constraints; (d) cost escalation; (e) funds flow coordination issues; and (f) financial sustainability issues.

Safeguards

6. The Borrower shall cause HPC to ensure that (a) the Project does not have any environmental, indigenous peoples or involuntary resettlement impacts, all within the meaning of the SPS. In the event that the Project does have any such impact, the Borrower shall cause HPC to take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and with the SPS; and (b) all covenants relating to environmental, indigenous peoples or involuntary resettlement impacts, as stated in the Original Loan Agreement, are complied with.

Schedule 5

Labor Standards, Health and Safety

7. The Borrower shall cause HPC to ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during the Project implementation.

Gender and Development

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

Governance and Anticorruption

9. The Borrower, the EA, and the IA 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.

10. The Borrower, the EA and the IA 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.