LOAN NUMBER 2969-VIE(SF)

LOAN AGREEMENT
(Special Operations)

(Greater Mekong Subregion Corridor Towns Development Project)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 17 JANUARY 2013

LOAN AGREEMENT
(Special Operations)

LOAN AGREEMENT dated 17 January 2013 between SOCIALIST REPUBLIC OF VIET NAM ("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 also applied for a grant financed from Urban Environmental Infrastructure Fund under the Urban Partnership Financing Facility ("UEIF-UPFF") to be administered by ADB and ADB has agreed to provide to the Borrower the amount of one million Dollars ($1,000,000) from the UEIF-UPFF to finance a portion of the Project, upon terms and conditions set forth in an agreement of even date herewith between the Borrower and ADB ("Grant Agreement");

(C) the Project will be carried out by Provincial People's Committees of Quang Tri and Tay Ninh ("Project Executing Agencies"), and for this purpose the Borrower will make available to the Project Executing Agencies the proceeds of the loan provided for herein upon terms and conditions satisfactory to ADB; and

(D) 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 the Project Executing Agencies;

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 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 (2010, as amended from time to time);

(b) "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;

(c) "Department of National Resource Environment" means the Department of Natural Resource Environment within each Project Executing Agency or any successor thereto;

(d) "Dong Ha River" means the section of the Hieu River that flows through the Dong Ha City;

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

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

(g) "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;

(h) "Initial Environmental Examination" or "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(i) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2 of the Safeguard Policy Statement;

(j) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2012, as amended from time to time);

(k) "PAM" means the project administration manual for the Project dated 12 October 2012 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) "PC" means people's committee at either city or district level within the territory of the Borrower;

(m) "PC, Dong Ha City" means the PC of the Dong Ha City within the Borrower's Quang Tri Province or any successor thereto;

(n) "PC, Huong Hoa District" means the PC of the Huong Hoa District within the Borrower's Quang Tri Province or any successor thereto;

(o) "PMU" means each of the Project Management Unit to be established by the Project Implementing Agency and as further described in the PAM;

(p) "PPC" means a provincial people's committee;

(q) "PPC, Quang Tri" means the PPC of the Borrower's Quang Tri Province or any successor thereto;

(r) "PPC, Tay Ninh" means the PPC of the Borrower's Tay Ninh Province or any successor thereto;

(s) "Procurement Guidelines" means ADB's Procurement Guidelines (2010, as amended from time to time);

(t) "Procurement Plan" means the procurement plan for the Project dated 12 October 2012 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 each of the PPC, Quang Tri and the PPC, Tay Ninh or any successors thereto acceptable to ADB, which are responsible for the carrying out of their respective activities under the Project and "Project Executing Agencies" means all of them;

(v) "Project Implementing Agency" means (i) the Department of Planning and Investment within PPC, Quang Tri; and (ii) the Tay Ninh Economic Zone Authority, or any successors thereto acceptable to ADB, which shall be responsible for day-to-day implementation of their respective activities under the Project and "Project Implementing Agencies" means all of them;

(w) "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;

(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 and the RP, including any corrective and preventative actions;

(y) "Safeguard Policy Statement" or "SPS" means ADB's Safeguard Policy Statement (2009);

(z) "Subproject" means each of the subproject as further described in Schedule 1 to this Loan Agreement;

(aa) "Tay Ninh Economic Zone Authority" means the Tay Ninh Economic Zone Authority or any successor thereto;

(bb) "VWU" means Viet Nam Women Union or any successor thereto; and

(cc) "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. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to eighty-four million one hundred eighty-three thousand Special Drawing Rights (SDR 84,183,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 1% per annum during the grace period, and 1.5% per annum 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. The Borrower shall make the proceeds of the Loan available to the Project Executing Agencies upon terms and conditions satisfactory to ADB and shall cause the Project Executing Agencies to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of 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 Withdrawals from the Loan Account in respect of Goods, Works and Consulting Services shall be made only on account of expenditures relating to:

(a) Goods which are produced in and supplied from and Works and Consulting 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, Works and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 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 this Loan Agreement and the Project 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. (a) The Borrower 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 use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest fund and statement of expenditures) 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 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 Borrower, unless the Borrower shall otherwise agree.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable the Project Executing Agencies 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

Suspension; 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 8.01(m) of the Loan Regulations: the Borrower shall have failed to perform any of its obligations under the Grant Agreement.

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: the event specified in Section 5.01 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 9.01(f) of the Loan Regulations: the Grant Agreement shall have been duly executed and delivered on behalf of the Borrower, 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. 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

Delegation of Authority

Section 7.01. The Borrower hereby designates each Project Executing Agency as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.05 of this Loan Agreement and under Sections 5.01, 5.02 and 5.03 of the Loan Regulations.

Section 7.02. Any action taken or any agreement entered into by the Project Executing Agencies pursuant to the authority conferred under Section 7.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 7.03. The authority conferred on the Project Executing Agencies under Section 7.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VIII

Miscellaneous

Section 8.01. The State Bank of Vietnam of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 8.02. 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
Hanoi, Viet Nam

Facsimile Numbers:

(84-4) 38250-612
(84-4) 38258-385.

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2018.

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 _____
NGUYEN VAN BINH
Governor
State Bank of Vietnam

ASIAN DEVELOPMENT BANK

By _____
TOMOYUKI KIMURA
Country Director
Viet Nam Resident Mission

SCHEDULE 1

Description of the Project

1. The expected impact of the Project is for Dong Ha City, Lao Bao, and Moc Bai to become dynamic economic growth centers in the transport corridors in the GMS. The expected outcome is that adequate and efficient urban infrastructure and services are available in Dong Ha City, Lao Bao, and Moc Bai.

2. The Project shall comprise (a) the Subprojects set out below; and (b) Project implementation support and capacity development.

Subproject 1: Dong Ha Urban Roads. This Subproject consists of the (a) improvement and widening of around 22 kilometers of urban roads in Dong Ha; and (b) construction of drainage structures, sidewalks, median road, installation of lighting facilities and planting of trees.

Subproject 2: Dong Ha River Embankment. This Subproject consists of the (a) construction of around 6 kilometers slope protection structures along the Dong Ha River embankment; and (b) construction of walkways and lighting system including the enhancement measures of the urban landscape.

Subproject 3: Dong Ha River Port Rehabilitation. This Subproject consists of the (a) rehabilitation of existing wharf facility and provision of logistics equipment; and (b) construction of interior roads, field office, installation of power, water supply utilities and sewerage system.

Subproject 4: Dong Ha Materials Recovery Facility. This Subproject consists of the (a) installation of a materials recovery facility at the existing dumpsite; and (b) establishment of composting operations.

Subproject 5: Lao Bao Urban Roads. This Subproject consists of the (a) improvement and widening of around 22 kilometers urban roads; and (b) construction of roadside drainage structures and sidewalks.

Subproject 6: Lao Bao Solid Waste Management. This Subproject consists of the (a) establishment of a sanitary landfill in a 20 hectare area; and (b) construction of access road and related facilities for the sanitary landfill.

Subproject 7: Moc Bai Water Supply. This Subproject consists of the (a) expansion of water pipelines; the establishment water supply plant with capacity up to 7,000 cubic meters per day; and (b) installation of water connections for household and commercial users.

Subproject 8: Moc Bai Urban Roads. This Subproject consists of the (a) improvement and widening of around 13 kilometers urban road within the town center; and (b) construction of drainage structures, walkways, median road, planting of trees, and installation of lighting facilities.

Subproject 9: Moc Bai Wastewater Treatment. This Subproject consists of the (a) establishment of waste water treatment plant with capacity up to 9,000 cubic meters per day; and (b) installation of wastewater drainage networks, booster pump station and sewage transmission pipelines.

Subproject 10: Moc Bai: Materials Recovery Facility. This Subproject consists of the installation of a materials recovery facility at the existing dumpsite.

3. The Project shall provide consulting services. The Project is expected to be completed by 31 December 2018.

SCHEDULE 2

Amortization Schedule

(Greater Mekong Subregion Corridor Towns Development Project)

Date Payment Due	Payment of Principal (expressed in Special Drawing Rights)
01-Jun-2021	1,753,813
01-Dec-2021	1,753,813
01-Jun-2022	1,753,813
01-Dec-2022	1,753,813
01-Jun-2023	1,753,813
01-Dec-2023	1,753,813
01-Jun-2024	1,753,813
01-Dec-2024	1,753,813
01-Jun-2025	1,753,813
01-Dec-2025	1,753,813
01-Jun-2026	1,753,813
01-Dec-2026	1,753,813
01-Jun-2027	1,753,813
01-Dec-2027	1,753,813
01-Jun-2028	1,753,813
01-Dec-2028	1,753,813
01-Jun-2029	1,753,813
01-Dec-2029	1,753,813
01-Jun-2030	1,753,813
01-Dec-2030	1,753,813
01-Jun-2031	1,753,813
01-Dec-2031	1,753,813
01-Jun-2032	1,753,813
01-Dec-2032	1,753,813
01-Jun-2033	1,753,813
01-Dec-2033	1,753,813
01-Jun-2034	1,753,813
01-Dec-2034	1,753,813
01-Jun-2035	1,753,813
01-Dec-2035	1,753,813
01-Jun-2036	1,753,813
01-Dec-2036	1,753,813
01-Jun-2037	1,753,813
01-Dec-2037	1,753,813
01-Jun-2038	1,753,813
01-Dec-2038	1,753,813
01-Jun-2039	1,753,813
01-Dec-2039	

Schedule 2

01-Jun-2040	1,753,813
01-Dec-2040	1,753,813
01-Jun-2041	1,753,813
01-Dec-2041	1,753,813
01-Jun-2042	1,753,813
01-Dec-2042	1,753,813
01-Jun-2043	1,753,813
01-Dec-2043	1,753,813
01-Jun-2044	1,753,813
01-Dec-2044	1,753,789
TOTAL	**84,183,000**

* 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.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, each item of expenditure shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

Interest Charge

3. The amount allocated to Category 4 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.

Attachment to Schedule 3

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Greater Mekong Subregion Corridor Towns Development Project)				
Number	**Item**	**Total Amount Allocated for ADB Financing* (SDR)**		**Basis for Withdrawal from the Loan Account**
		Category	**Subcategory**	
1	Works	57,121,000		
1A	Dong Ha Urban Roads		15,824,000	100% of total expenditure claimed*
1B	Dong Ha River Embankment		4,234,000	100% of total expenditure claimed*
1C	Dong Ha River Port Rehabilitation		2,190,000	100% of total expenditure claimed*
1D	Lao Bao Urban Roads		13,245,000	100% of total expenditure claimed*
1E	Lao Bao Solid Waste Management		2,661,000	100% of total expenditure claimed*
1F	Moc Bai Water Supply		3,676,000	100% of total expenditure claimed*
1G	Moc Bai Urban Roads		10,689,000	100% of total expenditure claimed*
1H	Moc Bai Wastewater Treatment		4,602,000	100% of total expenditure claimed*
2	Consulting Services	8,198,000		
2A	Dong Ha Urban Roads		1,273,000	100% of total expenditure claimed*
2B	Dong Ha River Embankment		345,000	100% of total expenditure claimed*
2C	Dong Ha River Port Rehabilitation		158,000	100% of total expenditure claimed*
2D	Lao Bao Urban Roads		1,074,000	100% of total expenditure claimed*
2E	Lao Bao Solid Waste Management		215,000	100% of total expenditure claimed*
2F	Moc Bai Water Supply		299,000	100% of total expenditure claimed*
2G	Moc Bai Urban Roads		875,000	100% of total expenditure claimed*
2H	Moc Bai Wastewater Treatment		395,000	100% of total expenditure claimed*
2I	Dong Ha Urban Master Plan		1,751,000	100% of total expenditure claimed*

Attachment to Schedule 3

2J	Project Management Support		1,166,000	100% of total expenditure claimed*
2K	Capacity Development and Training		518,000	100% of total expenditure claimed*
2L	Financial Audit		99,000	
2M	Independent Monitoring		30,000	
3	Land Acquisition and Resettlement	7,578,000		
3A	Dong Ha Urban Roads		4,464,000	100% of total expenditure claimed*
3B	Dong Ha River Embankment		720,000	100% of total expenditure claimed*
3C	Lao Bao Urban Roads		592,000	100% of total expenditure claimed*
3D	Lao Bao Solid Waste Management		208,000	100% of total expenditure claimed*
3E	Moc Bai Water Supply		46,000	100% of total expenditure claimed*
3F	Moc Bai Urban Roads		1,399,000	100% of total expenditure claimed*
3G	Moc Bai Wastewater Treatment		149,000	100% of total expenditure claimed*
4	Interest during Construction	2,475,000		100% of amounts due
5	Unallocated	8,811,000		
	Total	84,183,000		

* 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.

Condition for Award of Contract

6. The Borrower shall not award any Works contract 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.

8. The Borrower shall apply the following method for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures set forth in the Procurement Plan:

(a) Consultants' Qualifications Selection for (i) detailed engineering design and construction supervision of Subprojects 4 and 10; and (ii) independent monitoring of involuntary resettlement activities; and
(b) Least Cost Selection for financial audits.

Industrial or Intellectual Property Rights

9. (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.

10. 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

11. 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 and the Project Executing Agencies 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 Project Executing Agencies and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Materials Recovery Facility

2. The Borrower shall cause each Project Executing Agency to issue a decision that (a) requires two-level waste segregation at source into wet biodegradables and dry non biodegradables; (b) segregates waste collection; (c) imposes penalties on open dumping and littering; and (d) provides priority to materials recovery facility operator in the purchase of segregated dry non biodegradables from locators, factories, and establishments within the current and future special economic zones.

Operations and Maintenance

3. The Borrower shall cause (a) PPC, Quang Tri to ensure that the PC, Dong Ha City and PC, Huong Hoa District; and (b) PPC, Tay Ninh to ensure that Tay Ninh Economic Zone Authority, shall be responsible for the operations and maintenance of all urban infrastructure facilities within their territory with the exception of the water supply system and wastewater treatment plant in Moc Bai.

4. The Borrower shall cause PPC, Tay Ninh to ensure that the operations and maintenance of the water supply system and wastewater treatment plant in Moc Bai shall remain with a specialized sector agency.

Environment

5. The Borrower shall cause the Project Executing Agencies to 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 Initial Environmental Examination, the Environmental Management Plan, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

6. The Borrower shall cause the Project Executing Agencies to 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 Resettlement Plan, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

7. Without limiting the application of the Involuntary Resettlement Safeguards or the Resettlement Plan, the Borrower shall cause the Project Executing Agency to 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 Resettlement Plan; and

(b) a comprehensive income and livelihood restoration program has been established in accordance with the Resettlement Plan.

Indigenous Peoples

8. No impact on indigenous people is expected for the Project. However, if there is any such impact, the Borrower, through the Project Executing Agencies, shall ensure that it adheres to applicable laws and regulations of the Borrower and the Safeguard Policy Statement. If there is any discrepancy between the Safeguard Policy Statement and these laws and regulations of the Borrower, the Safeguard Policy Statement shall prevail.

Human and Financial Resources to Implement Safeguards Requirements

9. The Borrower shall cause the Project Executing Agencies to make available necessary budgetary and human resources to fully implement the Environmental Management Plan and the Resettlement Plan.

Safeguards-Related Provisions in Bidding Documents and Works Contracts

10. The Borrower shall cause the Project Executing Agencies to 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 Initial Environmental Examination, the Environmental Management Plan and the Resettlement Plan, 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; and

(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 Initial Environmental Examination, the Environmental Management Plan and the Resettlement Plan.

Schedule 5

Safeguards Monitoring and Reporting

11. The Borrower shall cause the Project Executing Agencies to 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 Initial Environmental Examination, the Environmental Management Plan and the Resettlement Plan, 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 Environmental Management Plan or the Resettlement Plan promptly after becoming aware of the breach.

12. The Borrower shall cause the PMU to submit requests for withdrawal from the Loan Account for land acquisition and resettlement expenditures and manage these expenditures in compliance with the final RPs based on detailed design of the Subprojects and in accordance with the milestones set out in each such RP.

Prohibited List of Investments

13. 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 Safeguard Policy Statement.

Labor Standards and Health

14. The Borrower, through the Project Executing Agencies, shall ensure that, all Works contractors: (a) comply with all applicable labor laws; (b) use their best efforts to employ women and local people, including disadvantaged people, living in the vicinity of the Project; (c) disseminate information at worksites on health safety for those employed during construction; (d) provide equal pay to men and women for equal work; (e) provide safe working conditions and separate culturally appropriate facilities for male and female workers; and (f) abstain from child labor.

Gender and Development

15. The Borrower through the Project Executing Agencies shall ensure that the Gender Action Plan is fully implemented and that all Project activities are designed and implemented in accordance with ADB's Policy on Gender and Development (1998) including, but not limited to the requirement for: (a) 30% of the overall staff positions and 30% of the management positions in the PMUs to be female; (b) with the support of VWU, 30% of Project-related employment opportunities (construction and post construction) to be female; and (c) the disaggregation of all monitoring and evaluation data by gender.

Schedule 5

Governance and Corruption

16. The Borrower, the Project Executing Agencies and the Project Implementing 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 Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

17. The Borrower, the Project Executing Agencies and the Project Implementing 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 executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

18. The Borrower shall ensure that the Project Executing Agencies publicly discloses on its website information related to (a) the intended and actual utilization of Loan proceeds; and (b) award of procurement contracts, such as (i) the list of participating bidders for each contract, (ii) name of the winning bidder, (iii) basic details on bidding procedures adopted, (iv) amount of the contract awarded, and (v) list of Goods and/or services purchased.

GRANT NUMBER 0329-VIE(SF)

GRANT AGREEMENT
(Urban Environmental Infrastructure Fund)

(Greater Mekong Subregion Corridor Towns Development Project)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 17 JANUARY 2013

GRANT AGREEMENT
(Special Operations)

GRANT AGREEMENT dated 17 January 2013 between SOCIALIST REPUBLIC OF VIET NAM ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Recipient has applied to Urban Environmental Infrastructure Fund under the Urban Partnership Financing Facility ("UEIF-UPFF") for a grant to be administered by ADB for the purposes of Subprojects 4 and 10 of the Project described in Schedule 1 to the Loan Agreement (such expression, as defined in Recital B below);

(B) the Recipient has applied to ADB for a loan for the purposes of the Project other than Subprojects 4 and 10 and by an agreement of even date herewith between the Recipient and ADB ("Loan Agreement"), ADB has agreed to provide to the Recipient from its Special Funds Resources an amount in various currencies equivalent to eighty four million one hundred eighty three thousand Special Drawing Rights (SDR 84,183,000) for the purposes of the Project other than Subprojects 4 and 10;

(C) the Project will be carried out by Provincial People's Committees of Quang Tri and Tay Ninh ("Project Executing Agencies"), and for this purpose the Recipient will make available to the Project Executing Agencies the proceeds of the grant provided for herein upon terms and conditions satisfactory to ADB; and

(D) the UEIF-UPFF has agreed to provide a grant for the purposes of Subprojects 4 and 10 of the Project described in Schedule 1 to the Loan Agreement, and ADB has agreed to administer the grant; and

(E) ADB has agreed to make the proceeds of the grant available to the Recipient upon the terms and conditions hereinafter set forth, and in the Project Agreement of even date herewith between ADB and the Project Executing Agencies;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All provisions of the Externally Financed Grant Regulations, dated 8 April 2009 ("Grant Regulations"), are hereby made applicable to this Grant Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. Wherever used in this Grant Agreement, the several terms defined in the Grant Regulations and the Loan Agreement have the respective meanings therein set forth.

ARTICLE II

The Grant

Section 2.01. ADB agrees to make available to the Recipient on terms and conditions set forth in this Grant Agreement an amount of one million Dollars ($1,000,000).

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. (a) The Recipient shall make the proceeds of the Grant available to the Project Executing Agencies upon terms and conditions satisfactory to ADB and shall cause the Project Executing Agencies to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement and the Project Agreement.

(b) The Recipient shall cause the proceeds of the Grant to be applied to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement and the Project Agreement.

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

Section 3.03. Except as ADB may otherwise agree, the Recipient shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Grant in accordance with the provisions of Schedule 4 to the Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, the Recipient shall cause all items of expenditure financed out of the proceeds of the Grant to be used exclusively in the carrying out of the Project.

Section 3.05. Withdrawals from the Grant Account in respect of Goods, Works and Consulting Services shall be made only on account of expenditures relating to:

(a) Goods which are produced in and supplied from and Works and Consulting 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, Works and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.06. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2019 or such other date as may from time to time be agreed between the Recipient and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 5 to the Loan Agreement and the Project Agreement.

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

Section 4.03. (a) The Recipient 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 use of the Grant proceeds and compliance with the financial covenants of this Grant Agreement as well as on the use of the procedures for imprest fund and statement of expenditures) 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 Recipient shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Recipient'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 Recipient, unless the Recipient shall otherwise agree.

Section 4.04. The Recipient shall take all actions which shall be necessary on its part to enable the Project Executing Agencies 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

Suspension

Section 5.01. The following is specified as an additional event for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations: the Recipient shall have failed to perform any of its obligations under the Loan Agreement.

ARTICLE VI

Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Grant Agreement for the purposes of Section 9.01(e) of the Grant Regulations: the ADB Loan Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the Recipient and all conditions to its effectiveness (other than a condition requiring effectiveness of this Grant Agreement) shall have been fulfilled.

Section 6.02. A date 90 days after the date of this Grant Agreement is specified for the effectiveness of the Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

ARTICLE VII

Delegation of Authority

Section 7.01. The Recipient hereby designates the Project Executing Agencies as its agents for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 and 3.05 of this Grant Agreement and under Sections 5.01, 5.02 and 5.03 of the Grant Regulations.

Section 7.02. Any action taken or any agreement entered into by each Project Executing Agency pursuant to the authority conferred under Section 7.01 of this Grant Agreement shall be fully binding on the Recipient and shall have the same force and effect as if taken by the Recipient.

Section 7.03. The authority conferred on the Project Executing Agencies under Section 7.01 of this Grant Agreement may be revoked or modified by agreement between the Recipient and ADB.

ARTICLE VIII

Miscellaneous

Section 8.01. The State Bank of Vietnam of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

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

Facsimile Numbers:

(84-4) 38250-612
(84-4) 38258-385.

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2018.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant 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 _____
NGUYEN VAN BINH
Governor
State Bank of Vietnam

ASIAN DEVELOPMENT BANK

By _____
TOMOYUKI KIMURA
Country Director
Viet Nam Resident Mission

SCHEDULE

Allocation and Withdrawal of Grant 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 Grant and the allocation of amounts of the Grant to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, each item of expenditure shall be financed out of the proceeds of the Grant on the basis of the percentages set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Grant proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Recipient, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant 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 Grant allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Recipient, reallocate such excess amount to any other Category.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Grant proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

Attachment to Schedule

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS
(Greater Mekong Subregion Corridor Towns Development Project)

Number	Item	Amount Allocated* ($)		Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Works	770,000		
1A	Dong Ha Materials Recovery Facility		385,000	100% of total expenditure claimed*
1B	Moc Bai Materials Recovery Facility		385,000	100% of total expenditure claimed*
2	Consulting Services	70,000		
2A	Dong Ha Materials Recovery Facility - DED		21,000	100% of total expenditure claimed*
2B	Dong Ha Materials Recovery Facility - CS		14,000	100% of total expenditure claimed*
2C	Moc Bai Materials Recovery Facility - DED		21,000	100% of total expenditure claimed*
2D	Moc Bai Materials Recovery Facility - CS		14,000	100% of total expenditure claimed*
3	Unallocated	160,000		
	Total	1,000,000		

DED = detailed engineering design, CS = construction supervision
* Exclusive of taxes and duties imposed within the territory of the Recipient.