LOAN NUMBER 2195-VIE (SF)

LOAN AGREEMENT
(Special Operations)

(Central Region Transport Networks Improvement Sector Project)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 30 NOVEMBER 2005

FAS:VIE 34356

LOAN AGREEMENT
(Special Operations)

LOAN AGREEMENT dated 30 November 2005 between the SOCIALIST REPUBLIC OF VIET NAM ("Viet Nam") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) Viet Nam has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement; and

(B) Viet Nam has applied to the Nordic Development Fund (hereinafter called NDF) for funds (hereinafter called the NDF Loan) to finance the portion of the Project described in Schedule 5, paragraphs 3(b) and 3(c) of this Loan Agreement; and

(C) ADB has agreed to make a grant to Viet Nam from ADB's Special Funds resources upon the terms and conditions set forth in the Grant Agreement, as defined below; and

(D) ADB has agreed to provide to make a loan to Viet Nam from ADB's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 May 2004 (the "Loan Regulations"), are hereby made applicable to the Loan made pursuant to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modification: the term "Borrower", wherever it appears in the Loan Regulations, shall be substituted by the term "Viet Nam" as defined in the opening paragraph of this Loan Agreement.

Section 1.02. The definitions set forth in the Loan Regulations are applicable to this Loan Agreement, in each case unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "DONRE" means Viet Nam's Department of Natural Resources and Environment within the Ministry of Natural Resources and Environment and any successor thereto;

(b) "EMP" means Environmental Management Plan;

(c) "Grant Agreement" means the agreement of even date herewith between ADB and Viet Nam in respect of Part C-2 of the Project as described in Schedule 1 to this Loan Agreement;

(d) "Grant Regulations" means the Grant Regulations referred to in Section 1.01 of the Grant Agreement;

(e) "HIV/AIDS" means human immunodeficiency virus/acquired immune deficiency syndrome;

(f) "IEE" means Initial Environmental Examination;

(g) "MOT" means Viet Nam's Ministry of Transport and any successor thereto;

(h) "NDF Loan Agreement" means the agreement between Viet Nam and NDF, referred to in Recital (B) of this Loan Agreement;

(i) "Participating Provinces" means those 19 provinces in which work will be carried out under the Project and as further identified in paragraph 1 of Schedule 1 to this Agreement;

(j) "PDOT" means Viet Nam's Provincial Department of Transport and any successor thereto;

(k) "PMU-1" means Project Management Unit 1;

(l) "PPC" means Viet Nam's Provincial Peoples' Committee and any successor thereto;

(m) "PPMU" means provincial Project Management Unit;

(n) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means MOT which is responsible for the carrying out of the Project;

(o) "Project facilities" means the roads and bridges to be reconstructed, the structures to be built and the equipment purchased pursuant to this Loan Agreement;

(p) "RP" means Resettlement Plan;

(q) "SGIA" means second generation imprest account;

(r) "SIEE" means summary initial environmental assessment;

(s) "STI" means sexually transmitted infections; and

(t) "sub-project" means a sub-project financed or to be financed under Part A or Part B, as described in Schedule 1 to this Loan Agreement.

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to Viet Nam from ADB's Special Funds resources an amount in various currencies equivalent to sixty-five million, one hundred and ninety-seven thousand Special Drawing Rights (SDR 65,197,000) (the "Loan").

Section 2.02. (a) Viet Nam shall pay to ADB an interest charge at the rate of one percent (1%) per annum during the grace period, and one and one-half percent (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 paragraph (a) of this Section means the period prior to payment of the first principal amount of the Loan on the payment date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.04. The interest charge and any other charge on the Loan shall be payable semiannually on 1 May and 1 November in each year.

Section 2.04. Viet Nam 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.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. Viet Nam shall cause the proceeds of the Loan to be applied to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The goods and services and other items of expenditure to be financed out of the proceeds of the Loan and the respective allocation of amounts of the Loan among different categories of such goods and services and other items of expenditure shall be 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 Viet Nam and ADB.

Section 3.03. Except as ADB may otherwise agree, all goods and services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 and Schedule 5 to this Loan Agreement.

Section 3.04. Withdrawals from the Loan Account in respect of goods and services shall be made only on account of expenditures relating to

(a) goods which are produced in and supplied from and services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement, and

(b) goods and services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 December 2010 or such other date as may from time to time be agreed between Viet Nam and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, Viet Nam shall perform, or cause to be performed, all obligations set forth in Schedule 6 to this Loan Agreement.

Section 4.02. (a) Viet Nam shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than 6 months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including 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 account/statement of expenditures), all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) Viet Nam shall enable ADB, upon ADB's request, to discuss Viet Nam's financial statements for the Project and its financial affairs related to the Project from time to time with Viet Nam's auditors, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of Viet Nam unless Viet Nam shall otherwise agree.

Section 4.03. Viet Nam shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Loan, and any relevant records and documents.

ARTICLE V

Suspension; Cancellation; Acceleration of Maturity

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

(a) Viet Nam shall have failed to perform any of its obligations under the Grant Agreement; or

(b) Viet Nam shall have failed to perform any of its obligations under the NDF Loan Agreement.

Section 5.02. The following are specified as additional events for acceleration of maturity of the loan for the purposes of Section 8.07(d) of the Loan Regulations: either 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 execution and delivery of the Grant Agreement on behalf of Viet Nam shall have been duly authorized or ratified by all necessary corporate and government actions; and

(b) the NDF Loan Agreement, in an amount of approximately eleven million U.S. dollars ($11,000,000), shall have been duly executed and delivered, and all conditions precedent to its effectiveness (other than a condition requiring effectiveness of this Loan Agreement) shall have been fulfilled or arrangements satisfactory to ADB shall have been made for the fulfillment thereof within a period of time satisfactory to ADB.

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: on behalf of Viet Nam, that the Grant Agreement has been duly authorized or ratified by, and executed and delivered on behalf of Viet Nam and is legally binding upon Viet Nam in accordance with its terms, subject only to the effectiveness of this Loan Agreement.

Section 6.03. A date ninety (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 Governor of the State Bank of Viet Nam is designated as representative of Viet Nam 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 Viet Nam

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

Facsimile Numbers:

(84-4) 8250-612
(84-4) 8258-385

For ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2336

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

SOCIALIST REPUBLIC OF ~~VIET~~ NAM

By _____
LE DUC THUY
Authorized Representative

ASIAN DEVELOPMENT BANK

By _____
BRADFORD R. PHILIPS
Country Director
Viet Nam Resident Mission

SCHEDULE 1

Description of the Project

1. The objectives of the Project are to improve roads to an all-weather standard connecting rural areas and district and provincial centers, implement pilot provincial road safety programs, and establish sustainable road and bridge asset management systems for provincial road networks. The civil works will be divided into three phases: (i) phase 1 will cover roads in four Participating Provinces (Nghe An, Thua Thien Hue, Binh Thuan and Lam Dong Provinces) for which RPs have been approved; (ii) phase 2 will cover five Participating Provinces (Ha Tinh, Quang Tri, Ninh Thuan, Dak Lak and Dak Nong Provinces) for which sub-projects have been identified but not fully prepared for implementation; and (iii) phase 3 will cover ten Participating Provinces (Binh Dinh, Da Nang, Gia Lai, Khanh Hoa, Kon Tum, Phu Yen, Quang Binh, Quang Nam, Quang Ngai, Thanh Hoa Provinces) for which sub-projects will be selected during Project implementation. The Project will have the following components:

Part A: Network Improvements

(i) Improvement of approximately 1,200 kilometers of provincial and district roads to Viet Nam single-lane or two-lane standards with a sealed surface; and

(ii) Repair or replacement of bridges and culverts.

Part B: Institutional Development

PDOTs will be assisted to carry out core road management activities in the Participating Provinces enabling the PDOTs to:

(i) Increase the effectiveness of road maintenance activities through: (a) use of a road maintenance management system; (b) improved efficiency of road maintenance delivery through use of contracts procured under competitive bidding; and (c) increased allocation of maintenance funds; and

(ii) establish a pilot provincial road safety program in three Participating Provinces.

Part C: Gender, HIV, Anti-Trafficking Prevention Program

This component will utilize the Grant proceeds and will have two parts:

Part C-1 will be targeted at construction workers by requiring that civil works contractors allow a preventive education and awareness program as further described in paragraph 16 of Schedule 6 to this Loan Agreement.

Part C-2 will target Project communities, civil servants, and the mobile population to:

(i) conduct a baseline survey on STI/HIV/AIDS and village populations;

(ii) form village monitoring groups;

(iii) implement preventive education and awareness through peer education and training of trainers;

(iv) promote behavior, communication and change awareness, including preparation of information, education and communication materials; and

(v) provide STI services/counseling and voluntary testing, condom promotion and distribution.

This component will utilize consulting services.

2. The Project is expected to be completed by 30 June 2010.

AMORTIZATION SCHEDULE

VIE: Central Region Transport Networks Improvement Sector Project

Date Payment Due	Payment of Principal (expressed in SDR)*
01-May-2014	1,358,270.00
01-Nov-2014	1,358,270.00
01-May-2015	1,358,270.00
01-Nov-2015	1,358,270.00
01-May-2016	1,358,270.00
01-Nov-2016	1,358,270.00
01-May-2017	1,358,270.00
01-Nov-2017	1,358,270.00
01-May-2018	1,358,270.00
01-Nov-2018	1,358,270.00
01-May-2019	1,358,270.00
01-Nov-2019	1,358,270.00
01-May-2020	1,358,270.00
01-Nov-2020	1,358,270.00
01-May-2021	1,358,270.00
01-Nov-2021	1,358,270.00
01-May-2022	1,358,270.00
01-Nov-2022	1,358,270.00
01-May-2023	1,358,270.00
01-Nov-2023	1,358,270.00
01-May-2024	1,358,270.00
01-Nov-2024	1,358,270.00
01-May-2025	1,358,270.00
01-Nov-2025	1,358,270.00
01-May-2026	1,358,270.00
01-Nov-2026	1,358,270.00
01-May-2027	1,358,270.00
01-Nov-2027	1,358,270.00

* The figures in this column represent SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

Date Payment Due	Payment of Principal (expressed in SDR)*
01-May-2028	1,358,270.00
01-Nov-2028	1,358,270.00
01-May-2029	1,358,270.00
01-Nov-2029	1,358,270.00
01-May-2030	1,358,270.00
01-Nov-2030	1,358,270.00
01-May-2031	1,358,270.00
01-Nov-2031	1,358,270.00
01-May-2032	1,358,270.00
01-Nov-2032	1,358,270.00
01-May-2033	1,358,270.00
01-Nov-2033	1,358,270.00
01-May-2034	1,358,270.00
01-Nov-2034	1,358,270.00
01-May-2035	1,358,270.00
01-Nov-2035	1,358,270.00
01-May-2036	1,358,270.00
01-Nov-2036	1,358,270.00
01-May-2037	1,358,270.00
01-Nov-2037	1,358,310.00
TOTAL	**65,197,000.00**

* The figures in this column represent SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity 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 goods, services and other items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories listed in the Table 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 3 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 of this Schedule,

(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 Viet Nam, (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 then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to Viet Nam, reallocate such excess amount to any other Category.

Schedule 3

Imprest Account; Statement of Expenditures

5. (a) Except as ADB may otherwise agree, Viet Nam shall establish, within three months of the Effective Date, an imprest account at a commercial bank acceptable to ADB. During phase 2 and phase 3 of the Project, as described in para. 1 of Schedule 1 to this Loan Agreement, and as may be agreed to by Viet Nam and ADB, PDOTs in selected Participating Provinces may establish a Second Generation Imprest Account (SGIA) at the provincial branch of a commercial bank acceptable to ADB. Selection of such PDOTs shall be based on capacity to manage and maintain an SGIA. The imprest account, and each of the SGIAs which may be set up, shall be established, managed, replenished and liquidated in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and detailed arrangements agreed upon between Viet Nam and ADB. The initial amount to be deposited into the imprest account shall be equivalent to six months' estimated expenditure, but in any event not exceeding the equivalent of five million dollars ($5,000,000). The initial amount to be deposited into each of the SGIAs shall be equivalent to six months' estimated expenditure, but in any event not exceeding the equivalent of one hundred thousand dollars ($100,000).

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest account, in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and detailed arrangements agreed upon between Viet Nam and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of $100,000.

Retroactive Financing

6. Withdrawals from the Loan Account may be made for reimbursement of reasonable expenditures incurred under the Project before the Effective Date, but not earlier than 21 March 2005, in connection with the Civil Works Preparation Consulting Services, as described in para. 3(a) of Schedule 5 to this Loan Agreement, subject to a maximum equivalent to $2,500,000.

Attachment to Schedule 3

TABLE

Category	Item	Amount Allocated (SDR)		PERCENTAGE OF ADB FINANCING	
		Category	Subcategory	Percentage	Basis for Withdrawal from the Loan Account
1	Civil Works	61,651,000			
1A	Roads		61,409,000	78	percent of total expenditure
1B	Support to PMU1		242,000	100	percent of total expenditure
2	Consulting Services	1,380,000		100	percent of total expenditure
3	Interest Charges	2,166,000		100	percent of amounts due
	TOTAL	65,197,000			

SCHEDULE 4

Procurement

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply in the procurement of goods and services to be financed out of the proceeds of the Loan. In this Schedule and the Attachment hereto, the term "goods" includes equipment and materials; the term "services" does not include consulting services.

2. Procurement of goods and services shall be subject to the provisions of the "Guidelines for Procurement under Asian Development Bank Loans" dated November 2004 (hereinafter called the Guidelines for Procurement), as amended from time to time, which have been furnished to Viet Nam.

3. Procurement of goods and services shall be made without any restriction against, or preference for, any particular supplier or contractor or any particular class of suppliers or contractors.

4. (a) Each civil works contract estimated to cost the equivalent of more than $2,000,000 and each supply contract for equipment or materials estimated to cost the equivalent of more than $500,000 shall be awarded on the basis of international competitive bidding as described in Chapter II of the Guidelines for Procurement.

(b) For contracts to be awarded on the basis of international competitive bidding, there shall be submitted to ADB, as soon as possible, and in any event not later than 90 days before the issuance of the first invitation to bid for the Project, a General Procurement Notice (which ADB will arrange to publish separately) in such form and detail and containing such information as ADB shall reasonably request. ADB shall be provided the necessary information to update such General Procurement Notice annually as long as any goods and works remain to be procured on the basis of international competitive bidding.

(c) For contracts to be awarded on the basis of international competitive bidding, procurement actions shall be subject to review by ADB in accordance with the procedures set forth in Chapter IV of the Guidelines for Procurement. Each draft invitation to bid, to be submitted to ADB for approval under such procedures, shall reach ADB at least 21 days before it is issued and shall contain such information as ADB shall reasonably request to enable ADB to arrange for the separate publication of such invitation.

5. (a) All civil works contracts estimated to cost the equivalent of $2,000,000 or less and each supply contract for equipment or materials estimated to cost the equivalent of $500,000 or less may be awarded on the basis of local competitive bidding among contractors in accordance with the standard procurement procedures of Viet Nam and acceptable to ADB. Selection and engagement of contractors shall be subject to the approval of ADB. As soon as the bids received have been evaluated, the proposal for award of contract shall be submitted to ADB for approval. For this purpose, ADB shall be furnished with three copies of (i) an account of the public opening of bids; (ii) a summary and evaluation of the bids; (iii) the proposal for award; and (iv) a draft contract or a draft letter of acceptance. Promptly after each contract is awarded, ADB shall be furnished with three copies of the contract as executed.

6. In order to be eligible to bid on a contract under local competitive bidding procedures, an enterprise previously owned by the state must be legally and financially independent from and autonomous of MOT and operating under Viet Nam's commercial laws.

7. For the first civil works contract to be procured using local competitive bidding, Viet Nam shall provide to ADB a complete set of draft bidding documents for review and approval prior to such documents being issued to bidders. Subsequently, Viet Nam shall submit all bidding documents to ADB subsequent to awarding the contract. If any documentation is then found to have deviated from the previously approved format, then all expenses under that contract may be ineligible for funding from the Loan proceeds.

8. Equipment and spare parts required for the Project, and estimated to cost, in the aggregate, the equivalent of $100,000 or less, may be procured directly from the manufacturers of the original equipment or their agents. Prior to such procurement, a list of individual items to be procured, an estimate of their costs, an indication of potential sources of supply and any related documents shall be submitted to ADB for approval. After award, three copies of each contract for such items shall be furnished to ADB.

9. (a) Viet Nam shall ensure that all ADB-financed goods and services 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) Viet Nam shall ensure that all ADB-financed contracts for the procurement of goods and services 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.

Attachment to Schedule 4
(Page 1)

Preference for Domestically Manufactured Goods

1. In the procurement of goods through international competitive bidding, goods manufactured in the territory of Viet Nam may be granted a margin of preference in accordance with the following provisions, provided that the bidder shall have established to the satisfaction of Viet Nam and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods. The 20 percent domestic value added applies to the total ex-factory bid price of the goods and not only to one item in a list.

(a) For application of domestic preference, all responsive bids shall first be classified into the following three categories:

Category I -- bids offering goods manufactured in the territory of Viet Nam which meet the minimum domestic value added requirement;

Category II -- bids offering other goods manufactured in the territory of Viet Nam; and

Category III -- bids offering imported goods.

(b) The lowest evaluated bid of each category shall then be determined by comparing all evaluated bids in each category among themselves, without taking into account customs duties and other import taxes levied in connection with the importation, and sales and similar taxes levied in connection with the sale or delivery, pursuant to the bids, of the goods.

(c) Such lowest evaluated bids shall next be compared with each other and if, as a result of this comparison, a bid from Category I or Category II is found to be the lowest, it shall be selected for the award of contract.

d) If, however, as a result of the comparison under subparagraph (c) above, the lowest bid is found to be from Category III, it shall be further compared with the lowest evaluated bid from Category I. For the purpose of this further comparison only, an upward adjustment shall be made to the lowest evaluated bid price of Category III by adding either

(i) the amount of customs duties and other import taxes which a nonexempt importer would have to pay for the importation of the goods offered in such Category III bid; or

(ii) 15 percent of the CIF bid price of such goods if the customs duties and import taxes referred to above exceed 15 percent of the CIF bid price.

If, after such further comparison, the Category I bid is determined to be the lowest, it shall be selected for the award of contract; if not, the lowest evaluated bid from Category III shall be selected for the award.

2. (a) Bidders applying for the preference shall provide evidence necessary to establish the eligibility of a bid for the preference, including the minimum domestic value added.

(b) The bidding documents shall clearly indicate the preference to be granted, the information required to establish the eligibility of a bid for the preference claimed, and the procedures to be followed in the comparison of bids, all as set forth above.

Preference for Domestic Contractors

5. In the selection of civil-works contractors, single-responsibility turnkey (including design-build) contractors or supply-and-installation contractors where the CIF cost of goods to be used for or in the permanent works under such contracts is less than 60 percent of the total cost of such works, eligible domestic contractors, as defined below, through international competitive bidding may be granted a margin of preference in accordance with the following provisions.

(a) For application of domestic preference, all responsive bids shall first be classified into the following two categories:

Category I -- bids offered by domestic contractors and joint ventures eligible for the preference in accordance with the applicable criteria as set forth in paragraph 6 below; and

Category II -- bids offered by other contractors.

(b) The lowest evaluated bid of each category shall then be determined by comparing all evaluated bids in each category among themselves.

(c) Such lowest evaluated bids shall next be compared with each other and if, as a result of this comparison, a bid from Category I is found to be the lowest, it shall be selected for the award of contract.

(d) If, however, as a result of the comparison under subparagraph (c) above, the lowest bid is found to be from Category II, it shall be further compared with the lowest evaluated bid from Category I. For the purpose of this further comparison only, an upward adjustment shall be made to the lowest evaluated bid price of Category II by adding an amount equal to seven-and-one-half percent of the bid price. If, after such comparison, the Category I bid is determined to be the lowest, it shall be selected for the award of contract; if not, the lowest evaluated bid from Category II shall be selected.

6. (a) To be eligible for the preference set forth in paragraph 5 above, domestic contractors must meet the following criteria:

(i) firms are registered in the territory of Viet Nam;

(ii) firms have majority ownership by nationals of Viet Nam; and

(iii) firms will not subcontract more than 50 percent of the total value of their work to foreign contractors.

(b) A joint venture between a domestic contractor and its foreign partner shall be eligible for the preference only if it meets the following criteria:

(i) the domestic partner(s) is individually eligible for the preference according to the criteria stated above;

(ii) the domestic partner(s) would not qualify for the contract works on technical or financial grounds without the foreign participation; and

(iii) the domestic partner(s) will, under the arrangements proposed, carry out at least 50 percent of the contract works measured in terms of value.

(c) Contractors applying for the preference shall be required to provide, as part of the data for qualification, necessary information, including details of ownership, for determining whether, according to the applicable criteria, a particular firm or group of firms qualifies for the preference.

7. The bidding documents shall clearly indicate the preference to be granted, the information required to establish the eligibility of firms for the preference claimed, and the procedures to be followed in the comparison of bids, all as set forth above. Bidders applying for the preference shall provide such additional information in support of such eligibility as may be requested by Viet Nam and ADB.

SCHEDULE 5

Consultants

1. The services of consultants shall be utilized in the carrying out of the Project, particularly with regard to:

(a) selection of sub-projects, preparation of implementation documentation, and assistance in bidding;

(b) construction supervision, including, as needed and applicable, implementation of resettlement plans, ethnic minority development plans, and environmental management plans;

(c) Project performance monitoring and evaluation;

(d) institutional strengthening and capacity building for PDOTs in administration and management of provincial road networks;

(e) preparing and implementing a provincial road safety program;

(f) gender, HIV and anti-trafficking prevention;

(g) external monitoring of resettlement implementation; and

(h) clearance of unexploded ordinance.

The terms of reference of the consultants shall be as determined by agreement between ADB and the Executing Agency. The terms of reference of the consultants who shall be engaged under the packages described in paras. 3(b) and 3(c) of this Schedule shall be as determined in additional consultation with NDF.

2. The selection, engagement and services of the consultants shall be subject to the provisions of this Schedule and the provisions of the "Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers" dated January 2005 (hereinafter called the Guidelines on the Use of Consultants), as amended from time to time, which have been furnished to Viet Nam and the Executing Agency.

3. The consultants for the services described in paras. 1(a) through (f), inclusive, of this Schedule shall be engaged in four packages:

(a) Civil Works Preparation Consulting Services to assist in preparation of detailed designs and civil works bidding (using areas of expertise described in paras. 1(a) and (b) above);

(b) Project Implementation Services to prepare implementation documentation and construction supervision (using areas of expertise described in paras. 1(a), (b) and (c) above);

(c) Institutional Development Services to prepare and implement institutional strengthening, capacity building and road safety programs for PDOTs (using areas of expertise described in paras. 1(d) and (e) above); and

(d) Gender, HIV and Anti-Trafficking Prevention Program to design and implement the campaign program (using areas of expertise described in para. 1 (f) above).

4. (a) For the services described in para. 3(a) of this Schedule a contract may be negotiated by the Executing Agency with the consultants who have been engaged in preparing the civil works designs for this Project. Before a contract is signed with such consultants, three copies of the draft contract as negotiated shall be furnished to ADB for approval. Promptly after the contract is signed, ADB shall be furnished with three copies of the signed contract. If any substantial amendment of the contract is proposed after its execution, the proposed changes shall be submitted to ADB for prior approval.

(b) Except as ADB may otherwise agree, the negotiation of a contract with the above-mentioned consultants shall be concluded within 90 days of the date of submission of the technical and financial proposal. If a contract cannot be successfully negotiated within 90 days, other consultants shall be engaged in accordance with such other procedures, consistent with the Guidelines on the Use of Consultants, as shall be determined by ADB in consultation with Viet Nam.

5. The consultants for the services described in paras. 3(b) and 3(c) of this Schedule shall be selected and engaged as a firm by the Executing Agency in accordance with procedures acceptable to NDF.

6. The consultants for the services described in para. 3(d) of this Schedule shall be selected and engaged as a firm by the Executing Agency using the quality-and-cost-based selection (QCBS) method in accordance with the following procedures.

(a) Invitation for technical and financial proposals. The invitation to submit technical and financial proposals (hereinafter called the Request for Proposals or RFP) and all related documents shall be approved by ADB before they are issued. For this purpose, three copies of the draft RFP, the names of consultants to be short-listed, the proposed criteria for evaluation of both proposals, a draft consultancy contract, and other related documents shall be submitted to ADB. Unless otherwise agreed by the Borrower and ADB, full technical proposals will be required and a period of at least 45 days shall be allowed for submission of both proposals. A copy of the final RFP as issued, together with all related documents, shall be furnished to ADB for information promptly after issuance. The validity period for the technical and financial proposals as provided in the RFP shall usually not exceed three months from the date specified for submission of the technical and financial proposals. The approval of ADB shall be obtained for any request to extend such validity period. Except as ADB may otherwise agree, the validity period, including any extensions, shall not exceed a maximum total period of nine months. If the contract is not signed within the validity period in accordance with the Guidelines on the Use of Consultants, the selection shall be invalid and the selection and engagement process as provided in this paragraph shall be followed again.

(b) Evaluation and scoring of technical proposals. Immediately after the technical proposals have been evaluated and scored, approval of ADB shall be obtained to the evaluation and scoring of the technical proposals. For this purpose, ADB shall be furnished with three copies of the technical proposals.

(c) Public opening of financial proposals. The financial proposals of the firms whose technical proposals meet the minimum qualifying technical score shall be opened publicly after adequate notice is given to such firms or their representatives to attend the opening of the financial proposals.

(d) Evaluation and scoring of financial proposals and ranking of technical and financial proposals. After the financial proposals have been evaluated and scored, the ranking of the technical and financial proposals shall be made. Before negotiations are started with the first-ranked consultants, approval of ADB shall be obtained to the evaluation and scoring of the financial proposals and the ranking of the technical and financial proposals. For this purpose, ADB shall be provided with three copies of (i) the evaluation and scoring of the financial proposals and (ii) the ranking of the technical and financial proposals.

(e) Execution of contract. After the conclusion of negotiations but before the signing of the contract, ADB shall be furnished with the contract as negotiated for approval. Promptly after the contract is signed, ADB shall be furnished with three copies of the signed contract. If any substantial amendment of the contract is proposed after its execution, the proposed changes shall be submitted to ADB for prior approval.

7. (a) The services of domestic consultants shall be utilized for the purpose of the services described in paras. 1(g) and (h) of this Schedule. The terms of reference of the consultants shall be as determined by agreement between ADB and the Executing Agency.

(b) The above-mentioned consultants shall be selected and engaged in accordance with procedures acceptable to ADB, and the selection and engagement of the consultants shall be subject to the approval of ADB with regard to their competence and experience for carrying out the assignment. Promptly after the contract is signed, ADB shall be furnished with three copies of the signed contract. If any substantial amendment of the contract is proposed after its execution, the proposed changes shall be submitted to ADB for approval.

8. Viet Nam 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.

SCHEDULE 6

Execution of Project and Operation of Project Facilities; Safeguards and Other Matters

Project Implementation and Coordination

1. The MOT shall be the Project Executing Agency with responsibility and coordination delegated to PMU-1. PMU-1 shall be responsible for awarding all consulting services and civil works contracts. If a PDOT is selected to open an SGIA pursuant to paragraph 5(a) of Schedule 3 to this Loan Agreement, then the PDOT in that Participating Province shall also be authorized to award civil works contracts.

2. The PDOT for each Participating Province shall act as the Implementing Agency for its province and, through a PPMU, be responsible for day-to-day Project implementation.

3. MOT's vice-minister shall be responsible for overall Project coordination.

Sub-project Selection

4. A road section sub-project shall be eligible for financing under the loan if it: (a) is economically, technically, and environmentally feasible and has an economic internal rate of return greater than 12 percent; (b) has received all applicable Governmental clearances; (c) is part of the Borrower's Provincial Road Sector Development Plan; and (d) complies with Viet Nam's procedural requirements and ADB's resettlement, ethnic minorities and environment policies. A proposed road sub-project shall be excluded from the Project if the road (i) connects to an international border, or (ii) will cause significant adverse environmental impacts. For all sub-projects selected for possible inclusion in the Project, MOT shall produce an appraisal report for approval by ADB.

Road Sector

5. Viet Nam shall ensure that the Project facilities are maintained to design standards and in accordance with sound maintenance practices. Viet Nam shall further ensure that by the end of the Project, annual road maintenance plans for the following year are prepared and implemented for the provincial and district roads in each of the Participating Provinces on the basis of agreed upon maintenance standards, traffic volume and assessment of needs. The draft maintenance plans shall be submitted to ADB prior to being finalized and the final plans shall take into account comments made by ADB.

6. Viet Nam shall implement the Provincial Road Sector Policy Action Plan prepared and agreed upon with ADB. In particular, Viet Nam shall ensure that:

(i) for all Participating Provinces, the PPCs shall propose to their respective provincial People's Councils that the road maintenance budget allocations for provincial road networks be increased by 100% by Project completion, using fiscal year 2004 as the base year for determining compliance;

(ii) PDOTs in the ten Participating Provinces covered by the services described in para. 3(c) of Schedule 5 to this Loan Agreement (i.e., Da Nang, Quang Nam, Khanh Hoa, Ninh Thuan, Binh Thuan, Kon Tum, Gia Lai, Dak Lak, Dak Nong and Lam Dong Provinces) utilize, by Project completion, the road maintenance management system developed as part of the referenced services;

(iii) PDOTs and MOT incorporate road safety audit recommendations developed under the Project into the road network improvements resulting from the Project; and

(iv) by the end of the Project PDOTs shall have adopted an open competitive bidding process for at least 50% of the periodic road maintenance program in the Participating Provinces.

7. Viet Nam shall keep ADB informed of the transport sector development process and provide ADB with copies of all relevant information.

8. Viet Nam and ADB shall, from time to time, exchange views on progress in carrying out the policies and actions recommended by transport and road studies. Viet Nam shall maintain a policy dialogue with ADB on problems and constraints affecting the growth and development of the road sector and, in particular, on road maintenance and investment, and road user charges.

Resettlement

9. MOT shall be responsible for the timely acquisition of the land required for each sub-project and for compensation and, if required, relocation, resettlement and rehabilitation of people affected by any sub-project of the Project. MOT shall be responsible for preparing a new RP for any sub-project requiring one under the Resettlement Framework (i.e., for sub-projects not yet having an approved RP and which will cause resettlement impacts) and shall submit such RP to ADB for approval prior to implementation. Each RP shall be prepared after completion of a detailed design and such design shall be completed prior to commencing resettlement activities. Each RP shall be prepared in compliance with ADB's *Policy on Involuntary Resettlement*. In preparing an RP for sub-projects not yet having an approved RP, MOT shall specifically assess the sub-project's impact on any minority groups or ethnic minorities likely to be affected.

10. For each Participating Province the relevant PPC shall be responsible for implementing sub-project land acquisition and resettlement plans through the resettlement committees in the relevant province and district and which committees shall be closely involved in resettlement implementation. With the assistance of an international resettlement specialist, MOT and its local consultants shall conduct training in compensation standards, procedures, entitlements, implementation, grievance processes, and monitoring procedures for the provincial and district resettlement committees.

11. MOT shall ensure that such land acquisition, compensation, relocation and resettlement is carried out in accordance with the approved RPs and Resettlement Framework agreed upon between Viet Nam and ADB, Viet Nam's laws, regulations, procedures and ADB's requirements as defined in ADB's *Policy on Involuntary Resettlement*. In case of discrepancies between Viet Nam's laws, regulations, and procedures and ADB's requirements, ADB's requirements shall apply. Each PPMU shall provide PMU-1 with monthly reports on land acquisition and resettlement. MOT shall provide ADB with quarterly status reports on the land acquisition and resettlement process as part of the progress reports required under Section 6.05 of the Loan Regulations, and shall provide a report immediately following completion of an RP's implementation.

12. If, at any time after a RP has been approved, significant realignment of any part of a sub-project is required, MOT shall revise and update that RP for that sub-project to take into account the realignment. The updated RP shall be updated in accordance with ADB's *Policy on Involuntary Resettlement* and submitted to ADB for approval prior to commencement of any land acquisition activities for the realigned sub-project. Significant realignment occurs when the previously approved alignment is moved entirely outside the construction corridor of the previous design over a distance greater than 100 meters or the impact of the realignment affects a significant number of people not previously affected by the Project.

13. MOT shall ensure that, prior to the award of any civil works contracts for any road segment to be financed from the Loan proceeds: (i) a detailed measurement survey (DMS) for each such segment and validated compensation unit rates for all categories of losses and allowances has been completed; (ii) ADB has been provided a final database of affected persons, a summary of the updated DMS data, and replacement cost tables for each sub-project; and (iii) an updated RP, incorporating subparagraphs (i) and (ii) herein, has been submitted to and approved by ADB.

14. MOT shall ensure that civil works contractors are not issued a notice of possession of site for construction works with respect to any specific section of a road unless, for that section, MOT has (i) satisfactorily completed, in accordance with the approved RP, compensation payment and relocation to new sites; and (ii) ensured that required rehabilitation assistance is in place and the area required for civil works is free of all encumbrances.

Social Safeguards

15. If, when preparing an RP, pursuant to para. 9 of this Schedule, for sub-projects not yet having an approved RP, MOT determines that a sub-project will affect any minority group or ethnic minority, then MOT shall ensure that (i) Ethnic Minority Specific Actions (EMSA) are prepared if the negative impacts on ethnic minorities are found to be limited, or (ii) Ethnic Minority Development Plans (EMDP) are prepared and implemented if the impacts on ethnic minorities are significant. Preparation of Ethnic Minority Specific Actions and Ethnic Minority Development Plans shall be in accordance with the approved and agreed upon Ethnic Minority Development Framework, ADB's *Policy on Indigenous Peoples*, and in coordination with the Government's ethnic minorities programs and shall be subject to ADB's approval.

16. MOT shall ensure that civil works contractors do not differentiate in wages between male and female workers and that no child labor is employed in the Project's construction activities and camps. MOT shall further ensure that the civil works contracts include mandatory provisions on health, sanitation and appropriate working conditions, including health, safety and accommodation, for construction workers at campsites during the construction period. In addition, MOT shall ensure that contractors are contractually required to allow the Gender, HIV and Anti-Trafficking Prevention Program consultants (as described in paragraph 3(d) of Schedule 5 to this Loan Agreement) to conduct information and education campaigns on health and safety and STI/HIV/AIDS programs targeted at construction workers (as also described in para. 1, Part C, of Schedule 1 to this Loan Agreement)..

Environmental Management

17. Viet Nam shall ensure that the Government's laws and regulations governing environmental impact assessments, as well as ADB's *Environment Policy (2002)* are followed. If there is any discrepancy between the Government's laws and regulations, and ADB's *Environment Policy*, then the ADB *Policy* requirements shall apply.

18. For each sub-project for which an IEE has not been prepared, the relevant PDOT shall prepare an IEE, which includes an EMP specific to that sub-project. Prior to civil works contracts being awarded for the sub-project, MOT shall ensure that IEEs: (a) are based on the Project IEE prepared during Project preparation and follow the Environmental Assessment and Review Procedures set forth in the IEE; and (b) include details of local consultation carried out before and during IEE preparation. For sub-projects confirmed by ADB as environmentally sensitive, the sub-project proposal and the IEE shall be forwarded to ADB for review (as well as an environmental impact assessment if it is determined that there will be a significant environmental impact) and the SIEE (summary environmental impact assessment) shall be made available to the general public at least 120 days before each sub-project is approved.

19. MOT shall: (a) prepare a Project Environmental Management Plan (PEMP) to monitor the contractors' implementation of the EMPs; (b) ensure that specific provisions are included for the preparation, implementation, and monitoring of EMPs in civil works and consulting services contracts; (c) ensure that the environmental mitigation measures in the IEE are adequately implemented by the contractors; and (d) provide adequate budgetary allocation for this activity.

20. Viet Nam and MOT shall ensure that the contract documents for all civil works under the Project include specific measures as indicated in the SIEE and IEE and in accordance with ADB's *Environment Policy* to mitigate negative environmental impacts caused by the construction and to give due consideration to prevention of damage to the natural environment in the design, construction, operation and maintenance of Project facilities. If there are any changes in the specific locations or alignments or infrastructure or Project facilities after the IEE is completed, and which change may have an adverse environmental impact as agreed between Viet Nam and ADB, for either already approved sub-projects or for proposed sub-projects, an additional environmental assessment shall be completed and a process similar to that used for an IEE, and acceptable to ADB, shall be undertaken.

21. Each PDOT, through the relevant PPMU, shall assign an adequate number of environment and social specialists to be responsible, in conjunction with the consultants described in paragraph 1(b) of Schedule 5 to this Loan Agreement, for preparing IEEs and EMPs for the sub-projects and submitting them to ADB, and implementing the EMPs. Viet Nam shall design and conduct appropriate training programs for environment and social specialist staff on topics related to their areas of responsibility.

22 When roads rehabilitated under this Project are within three (3) kilometers of protected or environmentally sensitive areas, including nature reserves, national parks, conservation areas, biodiversity reserves, and cultural and historic sites, Viet Nam shall ensure that a monitoring program is in place and MOT shall monitor performance of the civil works contractor. In the event problems are identified, then the applicable PDOT shall work with the appropriate DONRE office to cooperatively prepare and implement environmental protective measures including, but not limited to, any combination of area demarcation, fencing, checkpoints, speed bumps, wildlife passage zones, patrols or other measures to preserve the integrity of the area from encroachment or environmental degradation due to road improvement and increased access. Viet Nam shall ensure that civil works contracts include a provision requiring implementation of identified environmental protective measures.

23 Viet Nam shall cause (i) the contractors engaged under the civil works contracts to comply strictly with all environmental impact mitigation requirements set out in the contract documents, and (ii) the consultants engaged for construction supervision to monitor closely the compliance by the contractors with the environmental impact mitigation requirements. MOT shall submit to ADB semi-annual reports on implementation of the Environmental Management Plan as stated in the IEE.

24. Viet Nam shall ensure that MOT conducts an unexploded ordnance survey and clearance, and completion of such clearance is certified to ADB by Viet Nam, prior to commencement of civil works.

Auditing and Accounting

25. Without prejudice to the generality of Section 4.02 of this Loan Agreement, Viet Nam shall ensure that a separate accounting system for Project expenditures is maintained in accordance with sound accounting principles. All Project accounts, including financial statements, statements of expenditures and account records, shall be audited annually as part of the regular audit of accounts and financial statements by an independent auditing firm. The consolidated audit reports (in English) shall be submitted to ADB in accordance with the requirements and within the deadlines stated in Section 4.02(a) of this Loan Agreement. The audit opinion shall include (i) a detailed description of the source of funds and expenditures made; (ii) an assessment of the adequacy of accounting and internal controls systems with respect to Project expenditures and other financial transactions, and to ensure safe custody of Project-financed assets; (iii) a determination as to whether Viet Nam, EA and implementing agencies have maintained adequate documentation for all financial transactions, specifically including the SOE and imprest account procedures; and (iv) confirmation of compliance with this Loan Agreement's financial covenants.

Schedule 6

Project Performance Monitoring and Evaluation

26. MOT shall establish a systematic Project performance monitoring and analysis system for use throughout the Project period. A Road Management Information System shall be established at each PDOT in a Participating Province to collect the required data.

27. MOT shall establish Project indicators (baseline data) in the Participating Provinces for each road assisted by the Project, including: (i) traffic volumes and journey times; (ii) goods moved, by value and category, and number of passengers; (iii) average road roughness; (iv) annual expenditures on maintenance in the provincial level national road network; and (v) social and economic impact indicators. For roads assisted by the Project in phase 1 and phase 2, the data shall be collected within one year of the Effective Date; for roads assisted by the Project in phase 3, the data shall be collected within one year of ADB approval of the sub-project appraisal report. A second survey shall be conducted upon Project completion and a third survey two years after Project completion to establish Project impact. The design of the baseline and impact surveys shall include appropriate control areas and an assessment of all Project interventions, including resettlement and other safeguard interventions that affect the livelihood of Project beneficiaries.

28. The PMU-1 shall: (i) collect and consolidate all Project progress reports, site reports, technical and financial reports and submit them to ADB; and (ii) prepare monthly and quarterly progress reports, a midterm Project evaluation report and an overall Project completion report. Quarterly reports shall include updated implementation, financial and procurement-related information, as well as reports submitted by the external monitor for resettlement activities. Monthly and quarterly reports shall be submitted to ADB within 15 days of the end of each month or quarter, as applicable.

29. The PPMUs shall (i) prepare Project progress, technical and financial reports covering site-specific activities; and (ii) collect and consolidate field data and feedback from local participating agencies and contractors. The PPMUs shall submit monthly and quarterly reports and data to the PMU-1 within one (1) week of the end of each month or quarter, as applicable.