

**LOAN AGREEMENT (SECOND HIGHWAY PROJECT) BETWEEN THE  
REPUBLIC OF THE PHILIPPINES AND THE INTERNATIONAL BANK  
FOR RECONSTRUCTION AND DEVELOPMENT**

Note: The Agreement entered into force, December 12, 1973.

Reference: This Agreement is also published in XII DFA TS No. 1, p. 93.

**LOAN AGREEMENT**

AGREEMENT, dated December 12, 1973, between REPUBLIC OF THE PHILIPPINES (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS (A) The Borrower has requested the Bank to assist in the financing of the foreign exchange cost of the Project described in Schedule 2 to this Agreement by making the Loan as hereinafter provided;

(B) The Borrower has requested the United Nations Development Programme (hereinafter called UNDP) to assist in the financing of Part 6 of the Project: and

WHEREAS the Bank has agreed, on the basis inter alia of the foregoing, to make the loan to the Borrower upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

**ARTICLE I**

**GENERAL CONDITIONS; DEFINITIONS**

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated January 31, 1969, with the same force and effect as if they were fully set forth herein, subject, however, to the deletion of Section 5.01 thereof and, in Section 6.02(i) thereof, of the words "or in the Loan Agreement for the purposes of Section 7.01" (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the term "BPH" means the Bureau of Public Highways of the Borrower.

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**ARTICLE II**

**THE LOAN**

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies

equivalent to sixty-eight million dollars (\$68,000,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule I to this Agreement, as such Schedule shall be amended from time to time, for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed under the Loan Agreement; provided, however, that, except as the Bank shall otherwise agree, no withdrawal shall be made on account of expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in, or services supplied from, such territories.

Section 2.03. Except as the Bank shall otherwise agree, the goods and services (other than services of consultants) required for the Project and to be financed out of the proceeds of the Loan, shall be procured on the basis of international competition under procedures consistent with the Guidelines for Procurement under World Bank Loans and IDA Credits, published by the Bank in April 1972, as revised in October 1972, and in accordance with, and subject to, the provisions set forth in Schedule 4 to this Agreement.

Section 2.04. The Closing Date shall be December 31, 1977 or such other date as shall be agreed between the Borrower and the Bank.

Section 2.05. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.06. The Borrower shall pay interest at the rate of seven and one-fourth per cent ( $7\frac{1}{4}\%$ ) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.07. Interest and other charges shall be payable semi-annually on February 1 and August 1 in each year.

Section 2.08. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth, in Schedule 3 to this Agreement. .

Section 2.09. If and when the Bank shall from time to time request, the Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in Article VIII of the General Conditions.

Section 2.10. The Secretary of Finance of the Borrower and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purpose of Section 8.10 of the General Conditions.

### **ARTICLE III**

#### **EXECUTION OF THE PROJECT**

Section 3.01. (a) The Borrower shall carry out the Project with due diligence and efficiency and in conformity with appropriate engineering, administrative and financial practices, and shall provide, promptly as needed, the fund, facilities, services and other resources required for the purpose.

(b) Without limitation or restriction upon its obligations referred to in subsection (a) hereof, the Borrower shall promptly take all requisite steps for the acquisition and retention of all such land and rights in respect of land as may be necessary for the carrying out of the civil works included in the Project.

Section 3.02. In carrying out Parts 4 and 6 of the Project, the Borrower shall employ consultants acceptable to the Bank upon terms and conditions satisfactory to the Bank.

Section 3.03. (a) In carrying out civil works under the Project, the Borrower shall employ contractors acceptable to the Bank upon terms and conditions satisfactory to the Bank.

(b) Except as the Bank shall otherwise agree, the general design standards to be used for highways included in the Project shall be as set forth in Schedule 5 to this Agreement.

Section 3.04. The Borrower shall maintain within BPH a special office to assist in the administration of the Project and in the preparation and supervision of other similar projects financed by the Bank or to be presented for external financing, with functions and responsibilities, and minimum staff satisfactory to the Bank, and shall provide said office with such facilities, resources and funds as shall be required for it to carry out its purposes.

Section 3.05. (a) The Borrower undertakes to insure, or make acquisition transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods.

(b) Except as the Bank shall otherwise agree, all goods and services financed out of the proceeds of the Loan shall be used exclusively for the Project until its completion.

Section 3.06. (a) The Borrower shall furnish to the Bank, promptly upon their preparation, the plans, specifications, reports, contract documents and work and procurement schedules for the Project, and any material modifications thereof or additions thereto, in such detail as the Bank shall reasonably request.

(b) The Borrower: (i) shall maintain records, adequate to record the progress of the Project (including the cost thereof) and to identify the goods and services financed out of the proceeds of the Loan, and to disclose the use thereof in the Project; (ii) shall enable the Bank's accredited representatives to examine the Project, the goods financed out of the proceeds of the Loan and any relevant records and documents; and (iii) shall furnish to the Bank all such information as the Bank shall reasonably request concerning the Project, the expenditure of the proceeds of the Loan and the goods and services financed out of such proceeds.

Section 3.07. Before procuring the weighbridges included in Part 5 of the Project, the Borrower shall submit to the Bank for its concurrence a plan for their location, installation and operation, including the financing of their operation and maintenance, and shall implement said plan.

Section 3.08. (a) Tolls may be imposed on the Burol-Angeles expressway included in Part 1 of the Project, under procedures to be agreed with the Bank before they are imposed. The system of toll collection shall, unless the Bank agrees otherwise, include the following features:

(i) the collection of tolls shall initially be on an experimental basis;

(ii) the system of collection shall be directly operated by BPH;

(iii) tolls shall be set initially at a level not higher than that required to produce revenues sufficient to cover all expenditures related to the collection of such tolls, maintenance costs and, over 20 years, the local currency component of the capital costs of expressway; and

(iv) the monitoring of the traffic during five years after the expressway is opened to public use, to determine semi-annually whether such tolls are causing diversion of a substantial part of the traffic to alternative roads.

(b) The Borrower undertakes (i) not to make any substantial increase in the agreed levels of such tolls during the said five years without consulting the Bank; and (ii) if the monitoring under paragraph (a)(iv) above demonstrates that substantial diversion is taking place, to take all steps required to stop such substantial diversion is taking place, to take all steps required to stop such substantial diversion, including the reduction or removal of such tolls.

## **ARTICLE IV**

### **OTHER COVENANTS**

Section 4.01. (a) It is the mutual intention of the Borrower and the Bank that no other external debt shall enjoy any priority over the Loan or the Bonds by way of a lien on governmental assets.

(b) To that end the Borrower (i) represents that at the date of this Agreement no lien exists on any governmental assets as security for any external debt except as otherwise disclosed in writing by the Borrower to the Bank, and (ii) undertakes that, except as the Bank shall otherwise agree, if any such lien shall be created, it will ipso facto equally and ratably, and at no cost to the Bank or the holders of the Bonds, secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds and in the creation of any such lien express provision will be made to that effect. The Borrower shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing representation and undertaking shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; and (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

As used in this Section, the term "government assets" means assets of the Borrower or of any agency of the Borrower including the Central Bank of the Philippines or any institution performing the functions of a central bank for the Borrower.

(d) The Borrower further undertakes that, within the limits of the laws in force in its territories, it will make the foregoing undertaking effective with respect to liens on the assets of its political subdivisions and their agencies, and to the extent that the Borrower is unable within the limits of the laws in force in its territories to make this undertaking effective, the Borrower will give to the Bank an equivalent lien satisfactory to the Bank.

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Section 4.02. The Borrower shall maintain or cause to be maintained records adequate to reflect in accordance with consistently maintained sound accounting practices the operations, resources and expenditures, in respect of the Project, of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof.

Section 4.03. The Borrower shall: (i) continue to collect, record and analyze in accordance with appropriate statistical methods and procedures such technical, economic and financial information, including traffic data, as shall be reasonably required for proper planning of maintenance, improvement and extension of its national highway system; and (ii) submit to the Bank by December 31, 1974 or such other date as the Bank may agree, a proposal for an information system to collect and process data on all transport modes, as required to plan investments in the transport sector, including a schedule for its implementation, and shall implement such system after affording the Bank a reasonable opportunity to comment thereon.

Section 4.04. The Borrower shall maintain and repair all highways in its national highway system in accordance with sound engineering and financial practices and shall provide, promptly as needed, all funds, equipment, workshop facilities, labor and other resources required for the purpose.

Section 4.05. The Borrower shall take all necessary steps to ensure that the dimensions and axle loads of vehicles using the highways in its national highway system shall not exceed appropriate to the design standards of the highways.

## **ARTICLE V**

### **CONSULTATION, INFORMATION AND INSPECTION**

Section 5.01. The Borrower and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, the Borrower and the Bank shall from time to time, at the request of either party:

(a) exchange views through their representatives with regard to the performance of their respective obligations under the Loan Agreement, the administration, operations, resources and expenditures, in respect of the Project, of the departments or agencies of the Borrower responsible for carrying out any part of the Project, and other matters relating to the purposes of the Loan; and

(b) furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Borrower, such information shall include information with respect to financial and economic conditions in the territories of the Borrower, including its balance of payments, and the external debt of the Borrower,