

CONFIRMED COPY

LOAN NUMBER 3986 CHA

Project Agreement

(Second Shaanxi Provincial Highway Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

SHAANXI PROVINCE

Dated April 17, 1996

LOAN NUMBER 3986 CHA

PROJECT AGREEMENT

AGREEMENT, dated April 17, 1996, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and SHAANXI PROVINCE (Shaanxi).

WHEREAS by the Loan Agreement of even date herewith between PEOPLE'S REPUBLIC OF CHINA (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount equal to two hundred and ten million dollars (\$210,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Shaanxi agree to undertake such obligations toward the Bank as are set forth in this Agreement;

WHEREAS Shaanxi, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) Shaanxi declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and engineering practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and Shaanxi shall otherwise agree, Shaanxi shall carry out the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. (a) Shaanxi shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section, Shaanxi shall:

(i) prepare, or cause to be prepared, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Bank and Shaanxi, a plan for the future operation of the Project; and

(ii) afford the Bank a reasonable opportunity to exchange views with Shaanxi on said plan.

Section 2.04.(a) Shaanxi shall, at the request of the Bank, exchange views with the Bank with regard to the progress of the Project, the performance of its obligations under this Agreement and other matters relating to the purposes of the Loan.

(b) Shaanxi shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Loan, or the performance by Shaanxi of its obligations under this Agreement.

ARTICLE III

Financial Covenants

Section 3.01. (a) Shaanxi shall maintain, or cause to be maintained, records and accounts adequate to reflect, in accordance with sound accounting practices, the operations, resources and expenditures in respect of the Project of the departments or agencies of Shaanxi responsible for carrying out the Project or any part thereof.

(b) Shaanxi shall:

(i) have the records and accounts referred to in paragraph (a) of this Section for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and

(iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

ARTICLE IV

Effective Date; Termination; Cancellation and Suspension

Section 4.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 4.02. This Agreement and all obligations of the Bank and of Shaanxi thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify Shaanxi thereof.

Section 4.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE V

Miscellaneous Provisions

Section 5.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

248423 (MCI) or
64145 (MCI)

For Shaanxi:

Shaanxi Provincial Transport Department
Xincheng
Xian 710004
People's Republic of China

Cable address:

2201 Xian

Telex:

700259 SPTD CN

Section 5.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of Shaanxi may be taken or executed by Governor or Vice Governor of Shaanxi or such other person or persons as Governor or Vice Governor of Shaanxi shall designate in writing, and Shaanxi shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 5.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Russell J. Cheetham

Regional Vice President
East Asia and Pacific

SHAANXI PROVINCE

By /s/ Li Daoyu

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: General

Goods and works shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 (the Guidelines) and the following provisions of this Section, as applicable.

Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods and works shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provisions shall apply to goods and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B:

(a) Prequalification

Bidders for all contracts for works shall be prequalified in accordance with the provisions of paragraphs 2.9 and 2.10 of the Guidelines.

(b) Preference for domestically manufactured goods and domestic contractors

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower and works to be carried out by domestic contractors.

(c) Dispute Review Board

Each contract for works estimated to cost \$50,000,000 equivalent or more shall include the provisions for a dispute review board set forth in the standard bidding documents for works referred to in paragraph 2.42 of the Guidelines.

Part C: Other Procurement Procedures

1. Limited International Bidding

Goods, which the Bank agrees can only be purchased from a limited number of suppliers, may be procured for up to an aggregate amount not exceeding \$1,000,000 equivalent under contracts awarded in accordance with the provisions of paragraph 3.2 of the Guidelines.

2. International Shopping

Goods estimated to cost less than \$250,000 equivalent per contract, up to an aggregate amount not to exceed \$2,500,000 equivalent, may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

3. National Competitive Bidding

Except as provided in paragraph 4 of this Part C, works for Parts A and B of the Project estimated to cost less than \$2,000,000 equivalent per contract, up to an aggregate amount not to exceed \$59,700,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

4. Procurement of Small Works and Force Account

(a) Except as provided in sub-paragraph (b) hereunder, works for Part B of the Project estimated to cost less than \$500,000 equivalent per contract, up to an aggregate amount not to exceed \$23,800,000 equivalent, may be procured under contracts awarded on the basis of quotations obtained from three (3) qualified domestic contractors in response to a written invitation. The invitation shall include a detailed description of the works, including basic specifications, the required completion date, a basic form of agreement acceptable to the Bank, and relevant drawings, where applicable. The award shall be made to the contractor who offers the lowest price quotation for the required work, and who has the experience and resources to complete the contract successfully.

(b) For RIPA Sub-projects located in mountainous or remote areas, works under Part B of the Project which meet the requirements of paragraph 3.8 of the Guidelines, and estimated to cost less than \$500,000 equivalent per assignment, up to an aggregate amount not to exceed \$15,900,000 equivalent, may, with the Bank's prior agreement, be carried out by force account in accordance with the provisions of said paragraph of the Guidelines.

(c) Works under Part A(2) of the Project and for black spot improvement under Part D of the Project, which meet the requirements of paragraph 3.8 of the Guidelines, and estimated to cost less than \$500,000 equivalent per assignment, up to an aggregate amount not to exceed \$13,800,000 equivalent, may, with the Bank's prior agreement, be carried out by force account in accordance with the provisions of said paragraph of the Guidelines.

Part D: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Bank, and with the provisions of said paragraph.

2. Prior Review

With respect to each contract: (a) for works under Parts A and B of the Project estimated to cost \$2,000,000 equivalent or more; and (b) for goods estimated to cost more than \$250,000 equivalent, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II: Employment of Consultants

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications thereto as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Bank shall be used.

2. Notwithstanding the provisions of Paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts, shall not apply to:

(a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each; or

(b) contracts for the employment of individual consultants estimated to cost less than \$50,000 equivalent each.

However, said exceptions to prior Bank review shall not apply to: (i) the terms of reference for such contracts; (ii) single-source selection of consulting firms; (iii) assignments of a critical nature, as reasonably determined by the Bank; (iv) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above; or (v) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

SCHEDULE 2

Implementation Program

A. Parts A and B of the Project: Environment, Land Acquisition and Resettlement .

1. In respect of Part A of the Project, Shaanxi shall:

(a) carry out each High-grade Highway EAP and each High-grade Highway RAP in a manner satisfactory to the Bank; and

(b) furnish any proposed revision of the plans referred to in paragraph (a) above to the Bank for its prior approval.

2. In respect of Part B of the Project,

(a) Shaanxi declares its commitment to the Bank's policies on (i) protection of the environment, and (ii) resettlement and compensation for persons whose standard of living or whose right, title or interest to house, land or other assets are adversely affected, temporarily or permanently, by implementation of the Project.

(b) To this end, Shaanxi shall: (i) prior to commencing construction on a RIPA Sub-project, furnish to the Bank an environmental action plan and resettlement action plan for such RIPA Sub-project satisfactory to the Bank, prepared in accordance with the basic policies, planning principles and institutional arrangements applied in the First Year RIPA EAPs and First Year RIPA RAPs; and (ii) thereafter, carry out such environmental action plan and resettlement action plan in a manner satisfactory to the Bank; and

(c) For any RIPA Sub-project which involves new road construction, substantial widening, or land acquisition or special areas such as national parks,

natural reserves and areas of significant cultural heritage, Shaanxi shall furnish to the Bank an environmental impact assessment satisfactory to the Bank in addition to the environmental action plan referred to in paragraph (b) above.

3. Shaanxi shall, in respect of Parts A and B of the Project:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Bank, the carrying out of the High-grade Highway EAPs and RAPs, and the environmental action plans and resettlement action plans in respect of the RIPA Sub-projects; and

(b) prepare, under terms of reference acceptable to the Bank, and furnish to the Bank: (i) an annual environmental monitoring report during the construction phase and for each of the first three (3) years following completion of construction; (ii) by March 31 and September 30 of each year starting September 30, 1996, internal monitoring reports prepared by appropriate agencies of Shaanxi, and by June 30 and December 31 of each year starting December 31, 1996, external monitoring reports prepared by an independent agency acceptable to the Bank, regarding the implementation and impact of the resettlement activities during the previous six months.

B. Part B of the Project: RIPA Sub-projects

1. Shaanxi shall select each RIPA Sub-project on the basis of technical and socio-economic criteria acceptable to the Bank.

2. Shaanxi shall prepare and submit to the Bank for its approval, by June 30 of each year, an annual work plan and budget for the following year, such annual work plan to include, inter alia: (a) all RIPA Sub-projects proposed for the year; (b) an economic and social benefit analysis using indicators acceptable to the Bank; (c) an implementation and supervision schedule; (d) a maintenance plan; and (e) environmental action plans and resettlement action plans in respect of all the proposed RIPA Sub-projects as described in paragraph 2(b) of Part A of this Schedule, all in form and substance satisfactory to the Bank.

C. Part C of the Project: Institutional Strengthening and Training

1. Shaanxi shall: (a) carry out the training under Part C (1) of the Project in accordance with a training program acceptable to the Bank; and (b) to that end, furnish to the Bank for its prior approval, by June 30 of each year commencing in 1996, a rolling two-year training implementation schedule.

2. Shaanxi shall: (a) maintain a review panel satisfactory to the Bank to guide a study of the Xian East-West Bypass and provide comments on the results and recommendations of said study; (b) by August 31, 1997 complete such study in accordance with terms of reference satisfactory to the Bank and furnish the study to said panel and the Bank for review; and (c) take appropriate steps to implement the recommendations of such study, taking into account the comments of said review panel and the Bank.

3. Shaanxi shall: (a) by June 30, 1996 establish a Leading Group to guide a study on highway maintenance and provide comments on the results and recommendations of said study; (b) by December 31, 1998 complete said study in accordance with terms of reference satisfactory to the Bank and furnish the study together with the comments of said Leading Group to the Bank for review; and (c) take appropriate steps to implement the recommendations of said study, taking into consideration the comments thereon of said Leading Group and the Bank.

4. Shaanxi shall furnish to the Bank for its review and comments, by April 30 of each year commencing in 1997 until 2003, an annual highway maintenance report which shall (a) indicate the length and condition of each class of road; (b) establish targets for the following year, including an estimate of the required physical works and the costs thereof; and (c) measure the results and the actual expenditures of the past year against the targets and the budgeted funds therefor.

5. Shaanxi shall, by June 30, 1999, furnish to the Bank for its review and

comments, an analysis and recommendation of the structure of toll-rates on the High-grade Highways taking into consideration the results of studies on toll-rates structures conducted under other Bank-financed highway projects in China and the experience with toll-rates on major roads in Shaanxi and other parts of China.

D. Part D of the Project: Road Safety Program

1. Shaanxi shall maintain: (a) a Leading Group, which shall include representatives from SPTD and from the provincial agency responsible for traffic safety, for traffic safety coordination, policy-making and planning, with functions and responsibilities acceptable to the Bank; and (b) a Traffic Safety Unit within SPTD, with functions and responsibilities acceptable to the Bank, to serve as the secretariat for said Leading Group and to carry out the pilot black spot improvement program described in paragraph 2(a) below.

2. Shaanxi shall, pursuant to terms of reference acceptable to the Bank: (a) by December 31, 2000 complete a black spot identification and improvement program; (b) by December 31, 1998 complete a study of the driver training system; and (c) by December 31, 2001 have an expert acceptable to the Bank prepare an evaluation of its Road Safety Program according to indicators acceptable to the Bank.

E. Reporting and Monitoring

Without limitation upon the provisions of Section 9.07 of the General Conditions, Shaanxi shall prepare on the basis of guidelines acceptable to the Bank and submit to the Bank: (a) a monthly report of the progress of works for the High-grade Highways; (b) a quarterly report of the progress of implementation of all components of the Project; and (c) by March 31 of each year commencing in 1997 and ending three (3) years after completion of the Project, an annual monitoring report in a form satisfactory to the Bank covering all components of the Project and assessing the extent to which various implementation and development objectives have been obtained in the course of Project execution and operation.

