

CONFORMED COPY

LOAN NUMBER 3748 CHA

Project Agreement

(National Highway Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

HENAN PROVINCE

Dated July 20, 1994

LOAN NUMBER 3748 CHA

PROJECT AGREEMENT

AGREEMENT, dated July 20, 1994, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and HENAN PROVINCE (Henan).

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 in various currencies equivalent to three hundred eighty million dollars (\$380,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Henan and Hebei agree to undertake such obligations toward the Bank as are set forth in this Agreement and the Hebei Project Agreement respectively; and

WHEREAS Henan, 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 General Conditions (as so defined) and the preamble to this Agreement have the respective meanings therein and herein set forth and the following additional terms have the following meanings:

(a) "Environmental Action Plan" means the Anyang-Xinxiang Expressway Environmental Protection Measures, Management, and Monitoring Action Plan, dated September 1993, prepared by Henan Provincial Environmental Protection Institute.

(b) "its part of the Project" means Parts A.1(b), A.2(b), B.1(b), C.1(b), D.1(b), D.2(b), D.3(b), and D.4(b) of the Project.

(c) "Resettlement Action Plan" means the Anyang-Xinxiang Expressway Resettlement Action Plan, dated September 1993, prepared by Henan Provincial High-Grade Highway Construction Authority together with the Implementation Plan for Land Acquisition and Resettlement of Interconnecting Roads, dated May 1993, prepared by the Henan Province Highway Administration Bureau, and clarifications thereto dated November 30, December 25 and 31, 1993.

ARTICLE II

Execution of the Project

Section 2.01. (a) Henan 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 Parts A.1(b), A.2(b), B.1(b), C.1(b), D.1(b), D.2(b), D.3(b), and D.4(b) of 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 its part of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and Henan shall otherwise agree, Henan shall carry out its part of 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. Henan 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 its part of the Project and the Project Agreement.

Section 2.04. (a) Henan 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) Henan 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 Loan, or the performance by Henan of its obligations under this Agreement.

ARTICLE III

Financial Covenants

Section 3.01. (a) Henan 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 Henan responsible for carrying out the Project or any part thereof.

(b) Henan 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 Henan thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify Henan 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.
64145 (WUI) or
197688 (TRT)

Telex:

248423 (RCA),
82987 (FTCC),

For Henan:

Henan People's Government

No. 10 Wei-er Road
Zhengzhou 450003
Henan Province
People's Republic of China

Telex:

46034 HFEA 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 Henan, or by Henan on behalf of the Borrower under the Loan Agreement, may be taken or executed by the Governor or Vice-Governor of Henan or such other person or persons as the Governor or Vice-Governor of Henan shall designate in writing, and Henan 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/ Nicholas Hope

Acting Regional Vice President
East Asia and Pacific

HENAN PROVINCE

By /s/ Li Daoyu

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

1. Except as provided in Part D hereof, goods and works shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines).

(a) For fixed-price contracts, the invitation to bid referred to in paragraph 2.13 of the Guidelines shall provide that, when contract award is delayed beyond the original bid validity period, the successful bidder's bid price will be increased for each week of delay by two predisclosed correction factors acceptable to the Bank, one to be applied to all foreign currency components and the other to the local currency component of the bid price. Such an increase shall not be taken into account in the bid evaluation.

(b) In the procurement of goods and works in accordance with this Part A, the Borrower shall use the relevant standard bidding documents issued or agreed to by the Bank, with such modifications thereto as the Bank shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, the Borrower shall use bidding documents based on other internationally recognized standard forms agreed with the Bank.

2. Bidders for civil works shall be prequalified as provided in paragraph 2.10 of the Guidelines.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in the People's Republic of China may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Preference for Domestic Contractors

In the procurement of works in accordance with the procedures described in Part A.1 hereof, the Borrower may grant a margin of preference to domestic contractors in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraph 5 of Appendix 2 thereto.

Part D: Other Procurement Procedures

1. Except as provided in paragraph 2 hereof, equipment under Part C.1(b) of the Project, up to an aggregate amount not to exceed the equivalent of \$3,000,000, may be procured under contracts awarded through limited international bidding procedures on the basis of evaluation and comparison of bids invited from at least three qualified suppliers eligible under the Guidelines and in accordance with the procedures set forth in Sections I and II of the Guidelines (excluding paragraphs 2.8, 2.9, 2.55 and 2.56 thereof).

2. Equipment under Part C.1(b) of the Project, estimated to cost less than the equivalent of \$250,000 per contract, up to an aggregate amount not to exceed the equivalent of \$2,500,000, may be procured under contracts awarded on the basis of comparison of price quotations solicited from at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

3. Civil works under Parts A.1(b)(ii), A.1(b)(iii), and B.1(b) of the Project, estimated to cost less than the equivalent of \$10,000,000 per contract, up to an aggregate amount not to exceed the equivalent of \$21,000,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Bank.

4. Contracts for construction of transmission lines and installation of equipment under Part A.1 (b)(iv) of the Project, up to an aggregate amount not to exceed the equivalent of \$2,500,000, may be procured on the basis of direct negotiations with contractors.

Part E: Review by the Bank of Procurement Decisions

1. Review of prequalification:

With respect to the prequalification of bidders as provided in Part A.2 hereof, the procedures set forth in paragraph 1 of Appendix 1 to the Guidelines shall apply.

2. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for goods, estimated to cost the equivalent of \$250,000 or more, and civil works, estimated to cost the equivalent of \$2,000,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Henan Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said

paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of the Henan Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Henan Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 5 to the Loan Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Loan Account are to be made on the basis of statements of expenditure.

3. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II: Employment of Consultants

In order to assist Henan in carrying out its part of the Project, Henan shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank on the basis 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. For complex, time-based assignments, the Borrower shall employ such consultants under contracts using the standard form of contract for consultants' services issued or agreed to by the Bank, with such modifications as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, the Borrower shall use other standard forms agreed with the Bank.

SCHEDULE 2

Implementation Program

1. Henan shall jointly with Hebei: (a) by December 31, 1995, establish a permanent Leading Coordinating Group (LCG) for the purposes of providing a joint overall management for implementing the coordination of expressway operation; (b) by December 31, 1996, establish a small permanent Highway Coordination Office (HCO), adequately staffed to act as a secretariat for LCG; and (c) carry out the Hebei-Henan Expressway Operation Coordination Plan, agreed with the Bank, in a manner satisfactory to the Bank.

2. Henan shall jointly with Hebei: (a) undertake and, by June 30, 1996, complete the Hebei-Henan traffic facilitation study referred to in Part D.3 of the Project in accordance with terms of reference satisfactory to the Bank, (b) establish a Core Leading Group to administer the said study, provide guidance to the study group, and review the results and recommendations thereof, and (c) take appropriate steps to implement the study's recommendations, taking into account the views thereon of the Bank.

3. Henan shall jointly with Hebei: (a) undertake and, by June 30, 1998, complete the highway capacity study referred to under Part D.2 of the Project in accordance with terms of reference satisfactory to the Bank, (b) establish a Leading Group to administer the said study, provide guidance to the study, and review the results and recommendations thereof, and (c) take appropriate steps to implement the study's recommendations, taking into account the views thereon of the Bank.

4. Henan shall jointly with Hebei undertake and, by December 31, 1997, complete and furnish to the Bank for its review and comments, an analysis and recommendation for the Highway toll rates following the result of the Xiamen-Quanzhou Highway Toll Rate Study carried out under the Fujian Provincial Highway Project (Loan Number 3681 CHA).

5. Henan shall carry out the plan, agreed to by the Bank, for the construction of the southeastern quarter of the ring road in Anyang city in accordance with a schedule and in a manner satisfactory to the Bank.

6. Henan declares its commitment to the preservation of the environment and, to this end, shall, in respect of its part of the Project, carry out the environmental protection measures, management and monitoring in accordance with the Environmental Action Plan in a manner satisfactory to the Bank.

7. Henan declares its commitment to the Bank's policy on resettlement, and, to this end, shall carry out: (a) the land acquisition and resettlement activities, in respect of its part of the Project, pursuant to the Resettlement Action Plan; and (b) the resettlement monitoring program (aimed at determining the effectiveness and socio-economic impact of each resettlement) set out in the said Resettlement Action Plan, in a manner satisfactory to the Bank.

8. Henan shall carry out training under its part of the Project under terms of reference and in a manner satisfactory to the Bank.

