

CONFORMED COPY

LOAN NUMBER 4548 CHA

Project Agreement

(Third Henan Provincial Highway Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

HENAN PROVINCE

Dated February 5, 2001

LOAN NUMBER 4548 CHA

PROJECT AGREEMENT

AGREEMENT, dated February 5, 2001, 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 equal to one hundred fifty million Dollars (\$150,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Henan agree to undertake such obligations toward the Bank as are set forth in this Agreement; 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 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) 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 the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and environmental 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 Henan shall otherwise agree, Henan 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) 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 the Project Agreement and the Project.

(b) For the purposes of Section 9.08 of the General Conditions and without limitation thereto, Henan shall:

(i) prepare, 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 Henan, a plan for the future operation of the Project; and

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

Section 2.04. (a) Henan shall, at the request of the Bank, exchange views with the Bank with regard to 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 the 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 as well as 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 facsimile 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, NW
Washington, DC 20433
United States of America

Cable address:

Telex:

Facsimile

INTBAFRAD
Washington, D.C.

248423 (MCI) or
64145 (MCI)

(1-202) 477-6391

For Henan:

People's Government of Henan Province
No. 10 Weierlu
Zhengzhou, Henan
People's Republic of China

Facsimile

(86-0371) 744 98 62

(86-0371) 572 35 20

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 may be taken or executed by the Governor or a Vice Governor of Henan or such other person or persons as said Governor or Vice Governor 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 Beijing, People's Republic of China, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Yukon Huang

Authorized Representative

HENAN PROVINCE

By /s/ Zhu Guangyao

Authorized Representative

SCHEDULE 1

Procurement

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 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines) and the following provisions of Section I of this Schedule.

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 works under Part A.1 of the Project, except for works for the construction of the service area and administration and maintenance facilities, shall be prequalified in accordance with the provisions of paragraphs 2.9 and 2.10 of the Guidelines.

(b) Grouping of contracts

To the extent practicable, contracts for goods shall be grouped in bid packages estimated to cost \$1,000,000 equivalent or more each.

(c) Two-stage bidding procedure

The bidding procedure for the supply and installation of electronic, electrical and mechanical equipment under Part A.1 of the Project shall be carried out in two stages in accordance with the provisions of paragraph 2.6 of the Guidelines.

(d) 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 (other than goods manufactured in the Hong Kong Special Administrative Region or the Macau Special Administrative Region of the Borrower and works carried out by contractors from either said regions).

(e) 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 2.12 of the Guidelines.

(f) Notification and Advertising

The invitation to prequalify or bid for each contract estimated to cost \$10,000,000 equivalent or more shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

Part C: Other Procurement Procedures

1. National Competitive Bidding

Works for the construction of the service area and administrative and maintenance facilities under Part A.1 (a), and works under Parts A.2 and B of the Project, estimated to cost less than \$5,000,000 equivalent per contract, up to an aggregate amount not to exceed \$64,600,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. Procurement of Small Works

Works under Part B of the Project estimated to cost less than \$1,200,000 equivalent per contract, up to an aggregate amount not to exceed \$11,400,000

equivalent, may be procured under lump-sum, fixed-price 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.

3. International Shopping

Goods for road maintenance, laboratories, research and environment protection purposes, estimated to cost less than \$250,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 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.

4. Direct Contracting

Contracts for the supply of power for the Zhumadian-Xinyang Expressway, including works associated therewith, costing \$2,000,000 equivalent or less in the aggregate, may, with the Bank's prior agreement, be procured in accordance with the provisions of paragraph 3.7 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 1.

2. Prior Review

(a) The procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply with respect to: (i) each contract for works estimated to cost the equivalent of \$2,000,000 or more; (ii) the first three contracts for works under Part B of the Project estimated to cost less than \$2,000,000 equivalent, subject to sub-paragraph (b) below; and (iii) each contract for goods estimated to cost the equivalent of \$ 250,000 or more.

(b) With respect to (A) any of the first three contracts for works under Part B of the Project estimated to cost less than \$1,200,000 and to be procured in accordance with the procedures referred to in paragraph C (2) above; and (B) the contracts for the supply of power for the Zhumadian-Xinyang Expressway, the following procedures shall apply:

(i) prior to the execution of any contract under sub-paragraph (b)(A) above, the Borrower shall provide to the Bank a report on the comparison and evaluation of quotations received;

(ii) prior to the execution of any contract under sub-paragraphs (b)(A) and (B) above, the Borrower shall provide to the Bank a copy of the specifications and the draft contract; and

(iii) the procedures set forth in paragraphs 2(f), 2(g) 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

Part A: General

Consultants' services shall be procured in accordance with the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997 and January 1999 (the Consultant Guidelines) and the following provisions of Section II of this Schedule.

Part B: Quality- and Cost-based Selection

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

Part C: Other Procedures for the Selection of Consultants

1. Selection Based on Consultants' Qualifications

Services under Parts C.2 and C.3 of the Project and for the provision of training, estimated to cost less than \$100,000 equivalent per contract, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

2. Individual Consultants

Tasks under Parts C.2 (a) and C.3 of the Project that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines and estimated to cost less than \$100,000 equivalent per contract, shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Bank of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under 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 Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of

Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Bank for its prior review and approval. The contract shall be awarded only after the said approval shall have been given.

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 Consultant Guidelines shall apply.

SCHEDULE 2

Implementation Program

A. Environmental Protection. Land Acquisition and Resettlement

1. Henan shall:

(a) carry out the EAPs and the RAPs in a manner satisfactory to the Bank; and

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

2. In respect of Part B of the Project, for any LRIPC Sub-project which requires acquisition of land, temporarily or permanently, Henan shall, prior to commencing work on such Sub-project: (a) prepare a resettlement action plan satisfactory to the Bank, in accordance with the principles and procedures set forth in the Resettlement Policy Framework; and (b) carry out such plan in a manner satisfactory to the Bank.

3. In respect of Part B of the Project, for any LRIPC Sub-project which requires a re-alignment of a rural road or road segment, Henan shall: (a) prior to commencing work on such Sub-project, prepare a supplementary environmental action plan consistent with the sectoral environmental action plan dated November 1999 in respect of Part B of the Project, and satisfactory to the Bank; and (b) carry out such supplementary environmental action plan in a manner satisfactory to the Bank.

4. Henan shall:

(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 EAPs, the RAPs and, in respect of the LRIPC Sub-projects, the resettlement action plans and the supplementary environmental action plans, if any; and

(b) prepare under terms of reference acceptable to the Bank, and furnish to the Bank: (i) an annual environmental monitoring report, by March 31 of each year starting in 2001 through the construction period of the Zhumadian-Xinyang Expressway and during the first three years following completion of construction of said Expressway; (ii) during the period of implementation of the Project, by March 31 and September 30 of each year, commencing on March 31, 2001, an internal monitoring report prepared by the appropriate agencies of Henan on the implementation and impact of resettlement activities during the preceding six-months period; and (iii) by June 30 and December 31 of each year, commencing on June 30, 2001, an external monitoring report prepared by an independent entity acceptable to the Bank on the implementation

and impact of resettlement activities during the same six-months period.

B. Zhumadian-Xinyang Expressway

1. In respect of Part A of the Project, Henan shall provide to the Bank a monthly report on the progress of the civil works on the Zhumadian-Xinyang Expressway.

2. Henan shall, by March 31, 2003, prepare and furnish to the Bank for its review and comment, an analysis and recommendations on the structure of toll rates on the Zhumadian-Xinyang Expressway, taking into consideration the results of studies on toll-rate structures under Bank-financed highway projects in China and the experience with toll rates on major roads in China.

C. Local Road Improvement

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

2. Prior to commencing works on any LRIPC Sub-project, Henan shall prepare, using indicators acceptable to the Bank, and furnish to the Bank for its prior approval: (i) an economic and social benefits analysis; (ii) a technical analysis, including alternative engineering designs, proposed work plans and estimated costs; (iii) if necessary pursuant to the provisions of paragraph A (3) of this Schedule, a supplementary environmental action plan; and (iv) if necessary pursuant to the provisions of paragraph A (2) of this Schedule, a resettlement action plan in accordance with the Resettlement Policy Framework.

3. Henan shall provide basic all-weather road accessibility to ninety-eight villages in eight poor counties of the prefectures of Zhumadian and Xinyang, in a manner satisfactory to the Bank, by December 31, 2000.

D. Institutional Development

1. Henan shall maintain its inter-agency Leading Group for Traffic Safety and the Traffic Safety Secretariat through out the period of implementation of the Project.

2. Henan shall: (a) carry out the training under Part C.1 of the Project in accordance with a program acceptable to the Bank; and to that end (b) by December 31, 2000, and thereafter by October 1 of each year, furnish to the Bank for its prior approval a rolling two-year training program.

3. Henan shall: (i) by December 31, 2003 complete a study on long-term performance of asphalt pavement, under terms of reference acceptable to the Bank; (ii) furnish said study to the Bank for its review and comments; and (iii) thereafter, implement the recommendations of said study taking into consideration the Bank's views thereon.

4. Henan shall: (i) by June 30, 2001 complete a study on a provincial conceptual framework for traffic engineering systems, under terms of reference acceptable to the Bank; (ii) furnish said study to the Bank for its review and comments; and (iii) thereafter, implement the recommendations of said study taking into consideration the Bank's views thereon.

5. Henan shall, by March 31 of each year commencing in 2001 through 2005, furnish to the Bank a report on annual highway expenditures for the preceding calendar year, said report to indicate: (i) the length of each class of highways according to their condition as of December 31 of such preceding calendar year; (ii) the completed physical works and actual expenditures during such year with respect to new construction, upgrading or improvement, rehabilitation, periodic and routine maintenance against the planned physical targets and budgeted funds; and (iii) the

targets for the current calendar year in respect of physical works and expenditures.

6. Henan shall:

(a) by December 15, 2000 prepare and furnish to the Bank for its review and comments, an institutional development and reform plan for its highway sector for the following five years, such plan to cover the areas of, inter alia, road safety, organizational development and strengthening, training needs, equipment needs, management systems development and trade facilitation; and

(b) on the basis of said plan, (i) by December 31, 2000 and thereafter by October 1 of each year, prepare and provide to the Bank for its review and comments, an annual program of implementation; and (ii) carry out such annual program of implementation taking into consideration the Bank's view thereon.

E. Monitoring and Reporting

1. Henan shall maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Bank, the carrying out of the Project and the achievement of the objectives thereof;

2. Henan shall prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank quarterly progress reports, not later than February 28, May 31, August 31 and November 30 in each calendar year, commencing on May 31, 2001, said reports to:

(a) summarize the results of such monitoring and evaluation activities on the progress achieved in the carrying out of the Project during the preceding calendar quarter (or, in the case of the first such report furnished in each calendar year, during the preceding calendar year);

(b) set forth physical and financial progress in the implementation of the Project, both cumulatively, and in respect the period under review; and

(c) set out any additional measures recommended to ensure the efficient carrying out of the Project and the achievement of its objectives during such following calendar year.

3. After furnishing each such report, Henan shall review the same with the Borrower and the Bank, and, thereafter, promptly take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Bank's views on the matter.

