
LOAN NUMBER 2181 - PRC

LOAN AGREEMENT
(Ordinary Operations)
(Central Sichuan Roads Development Project)

between

PEOPLE'S REPUBLIC OF CHINA

and

ASIAN DEVELOPMENT BANK

DATED 3 APRIL 2006

LAL: PRC 34174

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 3 April 2006 between PEOPLE'S REPUBLIC OF CHINA (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

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

(B) the Project will be carried out by the Sichuan Provincial Government (hereinafter called SPG), through the Sichuan Provincial Communication Department (hereinafter called SPCD), and Sichuan Yaxi Expressway Company Ltd. (hereinafter called the Company), and, for this purpose the Borrower will make available to SPG, and through SPG, to the Company the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB, SPG and the Company.

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001, are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein (said Ordinary Operations Loan Regulations being hereinafter called the Loan Regulations).

Section 1.02. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the Loan Regulations have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "Company" means Sichuan Yaxi Expressway Company Ltd., a limited liability company set up by SPCD and incorporated pursuant to the Registration Certificate;

(b) "Concession Framework Agreement" means an agreement to be entered into between SPCD and the Company, which, among others, authorizes the Company to undertake the operation and maintenance, and management of the Project expressway and the right to collect tolls on the Project expressway;

(c) “Environmental Impact Assessment or EIA” means the environmental impact assessment prepared by SPCD and submitted for approval to the Borrower’s State of Environmental Protection Administration on December 2004;

(d) “Ethnic Minority Development Plan” means the ethnic minority development plan endorsed by SPCD on April 2005;

(e) “Onlending Agreement” means the agreement between SPG and the Company referred to in Section 3.01(b) of this Loan Agreement;

(f) “Project Executing Agency”, for the purpose of, and within the meaning of, the Loan Regulations means SPCD, which shall be responsible for overall implementation of the Project;

(g) “Project expressway” means the expressway to be constructed under the Project, as described in Schedule 1 to this Loan Agreement;

(h) “Project facilities” means the Project expressway, local roads, facilities and equipment to be constructed, installed and provided under the Project;

(i) “Project Implementing Agency” means, the Company which shall be responsible for the direct carrying out the local road component, for construction of the Project expressway, and in the period as required and stipulated under the Concession Framework Agreement, for the operation and maintenance, and management of the Project expressway, or any successor thereto;

(j) “Registration Certificate” means the registration certificate dated 2 September 2005, issued, reviewed, and reconfirmed from time to time, by the Sichuan Provincial Administration of Industry and Commerce for the purpose of incorporation of the Company;

(k) “Resettlement Plan or RP” means the Resettlement Plan dated March 2005 prepared by Sichuan Provincial Design Institute and acceptable to ADB, as may be amended from time to time by agreement between SPG and ADB;

(l) “SPCD” means Sichuan Provincial Communications Department, or any successor thereto;

(m) “SPG” means Sichuan Provincial Government, an administrative subdivision of the Borrower, or any successor thereto; and

(n) “Tendering and Bidding Law” means the Tendering and Bidding Law of the Borrower adopted on 30 August 1999 and effective as of 1 January 2000, as amended from time to time.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of six hundred million dollars (\$600,000,000), as such

amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a term of 26 years, including a grace period of 6 years, as provided in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of LIBOR and 0.60% as provided by Section 3.02 of the Loan Regulations.

Section 2.03. (a) The Borrower shall pay a commitment charge at the rate of three-fourths of one percent (0.75%) per annum. Such charge shall accrue on amounts of the Loan (less amounts withdrawn from time to time), during successive periods commencing sixty (60) days after the date of this Loan Agreement, as follows:

during the first twelve-month period, on \$90,000,000;
 during the second twelve-month period, on \$270,000,000;
 during the third twelve-month period, on \$510,000,000; and
 thereafter, on the full amount of the Loan.

(b) If any amount of the Loan is cancelled, the amount of each portion of the Loan stated in paragraph (a) of this Section shall be reduced in the same proportion as the cancellation bears to the full amount of the Loan before such cancellation.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on March 15 and September 15 in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall make the proceeds of the Loan available to SPG upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms for making available to SPG the proceeds of the Loan shall include (i) commitment charge and interest at the same rate as that of the Loan; (ii) a repayment period including a grace period identical to those of the Loan; and (iii) SPG bearing the foreign exchange and interest variation risks of such proceeds of the Loan relented thereto.

(b) The Borrower shall cause SPG to onlend the proceeds of the Loan to the Company under an Onlending Agreement for the Project upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms for onlending the proceeds of the Loan shall include (i) commitment charge and interest at the same rate as that of the Loan; (ii) a repayment period including a grace period identical to those of the Loan; and (iii) the Company bearing the foreign exchange and interest rate variation risks of such portion of the proceeds of the Loan onlent thereto.

(c) The Borrower shall cause SPG, and shall ensure that SPG cause the Company, to apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provision of this Loan Agreement and the Project 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 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 the Borrower 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. ADB may refuse to finance a contract where goods or services have not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 31 March 2012 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV
Particular Covenants

Section 4.01. (a) The Borrower shall cause SPG, and through SPG, SPCD and the Company to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental, roads construction, and operation and maintenance practices.

(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 6 to this Loan Agreement and the Schedule to the Project Agreement.

Section 4.02. The Borrower shall make available to SPG, and cause SPG to make available to the Company, promptly as needed and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. The Borrower shall take all action which shall be necessary on its part to enable SPG, and through SPG, SPCD and the Company to perform their obligations under the Project Agreement, including the establishment and maintenance of tariffs as stipulated in paragraph 8 of the Schedule to the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) The Borrower shall cause SPG to exercise its rights under the Onlending Agreement in such a manner as to protect the interests of the Borrower, SPG and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the Onlending Agreement shall be assigned, amended, abrogated or waived without the prior concurrence of ADB.

ARTICLE V
Suspension; Cancellation; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(l) of the Loan Regulations:

(a) Any party to the Onlending Agreement shall have failed to perform any material obligation under the Onlending Agreement.

(b) The Borrower, SPG, SPCD or the Company, without obtaining prior agreement of ADB, shall have made any material organizational changes, either financial, operational or structural, or any material changes to the legal character, ownership or control of the Company, if such changes may adversely affect its ability to perform its obligations under this Loan Agreement, the Project Agreement and the Onlending Agreement.

Section 5.02. The following are specified as additional events for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: any of the events specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. 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 10.01(f) of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
Sanlihe, Xicheng District
Beijing 100820
People's Republic of china

Cable Address:

22486 MFPRC CN

Facsimile Number:

+86 10 6855 1125

For ADB

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

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

+63 2 6362444
+63 2 6362426

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.

PEOPLE'S REPUBLIC OF CHINA

By

H.E. MR. LI JINJUN
Authorized Representative

ASIAN DEVELOPMENT BANK

By

HARUHIKO KURODA
President

SCHEDULE 1

Description of the Project

I. Objective

1. The principal objective of the Project is to develop an integrated road transport system to support sustainable economic development in Sichuan province. The Project will (i) reduce traffic accidents and vehicle operating costs; (ii) improve access between Chengdu and Kunming; (iii) provide additional transport capacity to accommodate growing traffic; (iv) provide improved access to employment, markets, and social services; and (v) develop capacity of local communications bureaus.

II. Scope

2. The Project scope includes:

- (i) construction of a 244 kilometer (km), four-lane access-controlled toll expressway from Ya'an to Lugu, including access roads, interchanges with toll stations, tunnels, bridges, administrative stations, and service areas;
- (ii) upgrading of 678 km of local roads to improve access to poor remote areas, and construction of roadside stations;
- (iii) rehabilitation of four public transport centers; and
- (iv) developing capacity of local communications bureaus for maintenance.

The Project will include the provision of consulting services as described in Schedule 5.

3. The Project is expected to be completed by 30 September 2011.

SCHEDULE 2
Amortization Schedule
(Central Sichuan Roads Development Project)

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Period</u>	<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed in Percentage)
1	15 March 2012	0.83
2	15 September 2012	0.87
3	15 March 2013	0.91
4	15 September 2013	0.96
5	15 March 2014	1.01
6	15 September 2014	1.06
7	15 March 2015	1.11
8	15 September 2015	1.16
9	15 March 2016	1.22
10	15 September 2016	1.28
11	15 March 2017	1.35
12	15 September 2017	1.42
13	15 March 2018	1.49
14	15 September 2018	1.56
15	15 March 2019	1.64
16	15 September 2019	1.72
17	15 March 2020	1.81
18	15 September 2020	1.90
19	15 March 2021	1.99
20	15 September 2021	2.09
21	15 March 2022	2.20
22	15 September 2022	2.31
23	15 March 2023	2.42
24	15 September 2023	2.54
25	15 March 2024	2.67
26	15 September 2024	2.80
27	15 March 2025	2.94

Schedule 2

<u>Period</u>	<u>Date Payment Due</u>	<u>Installment Share</u> (Expressed in percentage)
28	15 September 2025	3.09
29	15 March 2026	3.25
30	15 September 2026	3.41
31	15 March 2027	3.58
32	15 September 2027	3.76
33	15 March 2028	3.94
34	15 September 2028	4.14
35	15 March 2029	4.35
36	15 September 2029	4.57
37	15 March 2030	4.79
38	15 September 2030	5.03
39	15 March 2031	5.29
40	15 September 2031	5.54
		100.00
		100.00

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

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.

Taxes

2. No withdrawals from the Loan Account shall be made in respect of any local taxes.

Percentages of Bank Financing

3. 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.

4. Notwithstanding paragraph 5 of this Schedule, any contract awarded to a local supplier after effective international competitive bidding or international shopping pursuant to the relevant provisions of Schedule 4 to this Loan Agreement shall be financed out of the proceeds of the Loan on the following basis:

- (a) where the goods procured from a local supplier are manufactured locally, 100 percent of the ex-factory price of the goods supplied (exclusive of any taxes); and
- (b) where the goods procured from a local supplier have been entirely imported, 100 percent of the foreign-currency component of the contract price.

Local Expenditure

5. Except as ADB may otherwise agree, no withdrawals from the Loan Account shall be made in respect of any local expenditure on the Project.

Interest and Commitment Charge

6. The amount allocated to Category 3 is for financing interest and commitment charge on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charge.

Reallocation

7. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table and subject to paragraph 5 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 the Borrower, (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 the Borrower, reallocate such excess amount to any other Category.

Statement of Expenditures

8. The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures for civil works for Project in accordance with the ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and detailed arrangements agreed upon between the Borrower and the ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed the equivalent of \$ 100,000.

Condition for Withdrawal from Loan Account

9. Notwithstanding any other provision of this Loan Agreement, no withdrawal shall be made from the Loan Account for the ultimate benefit of the Project Implementing Agency until the following condition shall have been met: the Borrower shall have certified to ADB that the Onlending Agreement, which shall include the terms and conditions as referred to in Section 3.01(b), shall have been duly executed and delivered on behalf of SPG and the Company and shall have become fully effective and binding upon the parties thereto in accordance with its terms.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Central Sichuan Roads Development Project)					
CATEGORY				PERCENTAGE OF ADB FINANCING	
Number	Item	Amount Allocated (\$)		Percentage	Basis for Withdrawal from the Loan Account
		Category	Subcategory		
1	Civil Works	506,900,000			
1A	Expressway and local roads		505,900,000	40	percent of total expenditure (40% for foreign and 0% for local)
1B	Public Transport Centers		1,000,000	40	percent of total expenditure (40 % for foreign and 0% for local)
2	Consulting Services and Training	2,100,000		100	percent of foreign expenditure
3	Interest and Commitment Charge	72,100,000		100	percent of amounts due
4	Unallocated	18,900,000			
	Total	600,000,000			

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 the Borrower, SPG, SPCD and the Company.

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, except as otherwise provided in paragraph 6, 7, and 8 below.

4. (a) Each civil works contract estimated to cost the equivalent of more than \$10,000,000 and each supply contract for equipment or materials estimated to cost the equivalent of more than \$1,000,000 shall be awarded on the basis of international competitive bidding as described in Chapter II of the Guidelines for Procurement. Bidders for civil works contracts shall be prequalified before bidding.

(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 either the first prequalification invitation or 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 prequalification invitation and 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) Each supply contract for equipment or materials estimated to cost the equivalent of \$1,000,000 or less (other than minor items) shall be awarded on the basis of international shopping as described in Chapter III of the Guidelines for Procurement.

(b) Each draft invitation to bid and related bid document need not be submitted to ADB for approval before they are issued.

6. In comparing bids under international competitive bidding, a margin of preference may be provided, at the option of the Borrower and in accordance with the provisions of the Attachment to this Schedule, for:

(a) goods manufactured in the territory of the Borrower, provided that the bidder offering such goods shall have established to the satisfaction of the Borrower and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods; and

(b) civil works to be carried out by eligible domestic contractors, as defined by ADB.

7. Civil works contracts for the Public Transportation Centers may be awarded on the basis of local competitive bidding among contractors in accordance with the standard procurement procedures provided for in the Tendering and Bidding Law of the Borrower and acceptable to ADB.

(a) The first draft English version of the bidding documents shall be submitted to ADB for review and approval. Thereafter, the approved bidding documents shall be used as a model for the Project.

(b) Promptly after each contract is awarded, ADB shall be furnished with three copies of the contract as executed. ADB reserves the right to refuse to finance a contract where the civil works have not been procured under procedure substantially in accordance with those agreed between the Borrower and ADB, the Guidelines for Procurement or the provisions of this Loan Agreement.

8. (a) The Borrower 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) The Borrower 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.

Preference for Domestically Manufactured Goods

1. In the procurement of goods through international competitive bidding, goods manufactured in the territory of the Borrower may be granted a margin of preference in accordance with the following provisions, provided that the bidder shall have established to the satisfaction of the Borrower 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 the Borrower which meet the minimum domestic value added requirement;

Category II -- bids offering other goods manufactured in the territory of the Borrower; 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

3. 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.

4. (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 the Borrower;
- (ii) firms have majority ownership by nationals of the Borrower; 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.

5. 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 the Borrower and ADB.

SCHEDULE 5**Consultants**

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

- (a) project management during construction;
- (b) tunnel and bridge engineering;
- (c) road safety auditing of the Project design and safety recommendations on the completed construction works;
- (d) quality control procedures;
- (e) vehicle emission and environmental monitoring and recommendations on environmental mitigations measures;
- (f) development of a capacity in vehicle emissions;
- (g) formulation of a capacity development program;
- (h) project performance management system.

The terms of reference of the international consultants shall be as determined by agreement between ADB, SPCD, and the Company.

2. The selection, engagement and services of the international 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 the Borrower, SPG and the Company.

3. The international consultants shall be selected and engaged as a firm by SPCD or the Company 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. 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..

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(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.

4. The Borrower has requested that the internationally-recruited consultants to be selected pursuant to the provisions of paragraph 3 of this Schedule to collaborate with domestic consultants. ADB has agreed to the request and for this purpose, the specific arrangements relating to the collaboration shall be included in the proposals to be submitted to ADB pursuant to the provisions of paragraph 3 of this Schedule.

5. The domestic consultants shall be selected and engaged in accordance with government procedures satisfactory to ADB. Promptly after the contract is signed, ADB shall be furnished with three copies of the signed contract..

6. The Borrower 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; Financial Matters; Poverty Reduction; Ownership of the Project Facilities and Project Company

Implementation Arrangements - Project Management

1. SPCD will be the Executing Agency responsible for overall implementation of the Project.
2. The Company shall be the Project Implementing Agency. The Company shall be responsible for construction of the Project expressway, and for the period as required and stipulated under the Concession Framework Agreement for the operation and maintenance, and management of the Project expressway. The Company shall also be responsible for the carrying out of the local road component. The Company shall have sufficient technical expertise for the purposes of the Project, including engineers with experience in implementing internationally financed projects. A project director will be responsible for overall project management, approval of contracts, and payments and a project manager will be responsible for physical implementation activities on a day-to-day basis and the preparation of progress reports.

Counterpart Financing

3. Without limiting the generality of Section 4.02 above, the Borrower shall ensure that the Company shall obtain, on a timely basis, all funds and resources necessary for construction, operation and maintenance, and management of the Project expressway and shall ensure, through measures including, among others, investment of additional equity in the Company, that the Company shall comply with Section 2.16 of the Project Agreement. The Borrower shall take, and shall cause SPG through SPCD to take, all necessary measures, including the provision of additional funds, to ensure that the Company can successfully construct the expressway, and operate and manage it after completion. The Borrower shall take, and will cause SPG through SPCD to take, all necessary measures, including the provision of funds to the relevant prefecture and county communications bureaus, to ensure that the local roads construction and improvements are completed before opening of the Project expressway.

Poverty Reduction

4. The Borrower shall cause SPG to implement the social development action plan (SDAP) in a timely manner and to extend the coverage and quality of public utilities, basic health, and basic education in the Project area to enhance the poverty reduction impacts.

Change in Ownership

5. In the event that (a) any change in ownership of the Project facilities, or (b) any sale, transfer, or assignment of SPG's or the Company's interest in the Project expressway, is anticipated, the Borrower shall, and shall ensure that SPCD and the Company, consult ADB at least six months prior to the implementation of such change. The Borrower shall, and shall ensure that SPCD and the Company, undertake any proposed change in the ownership of the Project facilities in a legal and transparent manner and does not affect repayment of the Loan.

Approval of the EIA

6. The Borrower shall cause the State of Environmental Protection Administration to approve the EIA before the completion of the preliminary design of the Project.