

PROJECT AGREEMENT  
(Qingdao Water Resources and Wetland Protection Project)

between

ASIAN DEVELOPMENT BANK

and

QINGDAO MUNICIPAL GOVERNMENT  
JIAOZHOU CITY GOVERNMENT

DATED 25 MAY 2009

## **PROJECT AGREEMENT**

PROJECT AGREEMENT dated 25 May 2009 between ASIAN DEVELOPMENT BANK (hereinafter called ADB) of the one part and QINGDAO MUNICIPAL GOVERNMENT (hereinafter called QMG) and JIAOZHOU CITY GOVERNMENT (hereinafter called JCG) of the other part.

### **WHEREAS**

(A) by a Loan Agreement of even date herewith between the PEOPLE'S REPUBLIC OF CHINA (hereinafter called the Borrower) and ADB, ADB has agreed to make to the Borrower a loan of forty-five million Dollars (\$45,000,000) on the terms and conditions set forth in the Loan Agreement, but only on the condition that the proceeds of the Loan be made available to JCG through QMG and that QMG and JCG agree to undertake certain obligations towards ADB as hereinafter set forth; and

(B) QMG and JCG, in consideration of ADB entering into the Loan Agreement with the Borrower, have agreed to undertake the obligations hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

## **ARTICLE I**

### **Definitions**

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth.

## **ARTICLE II**

### **Particular Covenants**

Section 2.01. (a) The QMG and JCG shall carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, environmental and public utility practices.

(b) In the carrying out of the Project and operation of the Project facilities, QMG and JCG shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to QMG and JCG, and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. QMG and JCG shall make available, promptly as needed, the funds, facilities, services, equipment, land and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, JCG shall employ competent and qualified consultants and contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to the Loan Agreement. ADB may refuse to finance a contract where Goods, Works or consulting 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 2.04. JCG shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. JCG shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.05. (a) JCG shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of the Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, JCG undertakes to insure, or cause to be insured, the Goods to be imported for the Project and to be financed out of the proceeds of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods.

Section 2.06. JCG shall maintain, or cause to be maintained, records and accounts adequate to identify the Goods, Works and consulting services and other items of expenditure financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.07. (a) ADB, QMG and JCG shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) QMG and JCG shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of its obligations under this Project Agreement or the Onlending Agreements, or the accomplishment of the purposes of the Loan.

(c) ADB, QMG and JCG shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, QMG, JCG and the Loan.

Section 2.08. (a) JCG shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loan and the expenditure of the proceeds thereof, (ii) the Goods, Works and consulting services and other items of expenditure financed out of such proceeds, (iii) the Project, (iv) the administration, operations and financial condition of JCG, and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, JCG shall furnish to ADB quarterly reports on the execution of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after physical completion of the Project, but in any event not later than three (3) months thereafter or such later date as ADB may agree for this purpose, JCG shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by JCG of its obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) JCG shall (i) maintain separate accounts for the Project and for its overall operations; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, and related statements) audited annually, in accordance with appropriate auditing standards consistently applied, by the sovereign audit agency of the Borrower or other auditors acceptable to ADB; and (iii) furnish to ADB, promptly after their preparation but in any event not later than six months after the close of the fiscal year to which they relate, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the covenants of the Loan Agreement as well as on the use of the procedures for imprest account/statement of expenditures), all in the English language. JCG shall furnish to ADB such further information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) JCG shall enable ADB, upon ADB's request, to discuss JCG's financial statements and its financial affairs from time to time with the sovereign audit agency of the Borrower or the auditors appointed by JCG pursuant to Section 2.09(a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of JCG unless JCG shall otherwise agree.

Section 2.10. JCG shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loan, all other plants, sites, properties and equipment of JCG, to the extent applicable to the Project, and any relevant records and documents.

Section 2.11. (a) JCG shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to

acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of its business.

(b) JCG shall at all times conduct its business in accordance with sound administrative, financial, environmental and public utility practices, and under the supervision of competent and experienced management and personnel.

(c) JCG shall at all times operate and maintain its plants, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, financial, engineering, environmental, public utility, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, JCG shall not sell, lease or otherwise dispose of any of its assets which shall be required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Project Agreement.

Section 2.13. Except as ADB may otherwise agree, JCG shall apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreement and this Project Agreement, and shall ensure that all Goods, Works and consulting services financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Except as ADB may otherwise agree, JCG shall duly perform all its obligations under the Onlending Agreements, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Onlending Agreements.

### **ARTICLE III**

#### **Effective Date; Termination**

Section 3.01. This Project Agreement shall come into force and effect on the date on which the Loan Agreement shall come into force and effect. ADB shall promptly notify QMG and JCG of such date.

Section 3.02. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreement.

**ARTICLE IV****Miscellaneous**

Section 4.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project 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, facsimile or radiogram to the party to which it is required or permitted to be given or made at its 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 ADB

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

Facsimile Numbers:

(632) 636-2444  
(632) 636-2302.

For QMG

Qingdao Financial Bureau  
No. 208, Ningxia Road, Qingdao  
PRC

Facsimile Number:

(86) 532-85855833

For JCG

Jiaozhou Municipal Government Building  
No.1 Beijing Road  
Jiaozhou, Qingdao  
PRC

Facsimile Number:

(86)532-82288210

Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement or under Section 7.01 of the Loan Agreement: (i) by or on behalf of QMG may be taken or executed by its Mayor or by such other person or persons as the Mayor shall so designate in writing notified to ADB; and (i) by or on behalf of JCG may be taken or executed by its Mayor or by such other person or persons as the Mayor shall so designate in writing notified to ADB.

(b) Each of QMG and JCG shall furnish to ADB sufficient evidence of the authority of each person who will act under paragraph (a) of this Section, together with the authenticated specimen signature of each such person.

Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Project 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.

ASIAN DEVELOPMENT BANK

By   
HARUHIKO KURODA  
President

QINGDAO MUNICIPAL GOVERNMENT

By   
LIU JIAN CHAO  
Authorized Representative

JIAOZHOU CITY GOVERNMENT

By   
LIU JIAN CHAO  
Authorized Representative

## SCHEDULE

### Execution of Project; Financial Matters

#### Counterpart Funding

1. JCG shall ensure that (a) all local and foreign currency counterpart financing necessary for the Project, including cash advances, are provided as and when due to enable completion of the Project activities in the scheduled implementation period; (b) additional counterpart funding is promptly provided for any shortfall of funds or cost overruns; and (c) the wastewater entity to be established by JCG adopts and maintains an appropriate financial management system acceptable to ADB.

#### Capacity Extension of Wastewater Treatment Plant

2. JCG shall ensure the capacity of the WWTP is extended by 50,000 m<sup>3</sup>/day nominally, in a phased manner, and the discharge content is raised from Class II to Class IB in accordance with the Amended Urban Wastewater Treatment Discharge Standards, the 21<sup>st</sup> Notice (2006) of the State Environmental Protection Administration, Beijing, in parallel with the wastewater network extensions to be undertaken under the Project but in any event no later than 2014.

#### Wastewater Tariff Reform

3. JCG shall ensure that the wastewater fees charged to households, institutions and industries in Jiaozhou are gradually brought, by 2014, to a level that ensures full cost recovery of operation and maintenance, depreciation and financial costs including debt service obligations, and a reasonable profit margin for wastewater treatment.

#### Pro-poor Subsidy

4. JCG shall ensure that prior to the implementation of any tariff increases, the City Price Bureau of JCG (a) conducts a comprehensive review to determine the number of poor people, including those living at or below the poverty line, who would be affected by such tariff increase, and the impact of such wastewater adjustments on the poor; (b) prepares a scheme acceptable to ADB, which may include price subsidies or other appropriate measures such as lifeline tariffs, to ensure that the livelihood or standard of living of the affected poor is at least just as good after the tariff increase as it was in the period preceding such increase; (c) holds public hearings to consult with the affected poor; (d) issues a decree before the tariff increase takes effect to ensure that all those affected are provided with subsidy or benefit from other measures taken; and (e) monitors the effectiveness of the subsidy provided or other measures taken.

#### Environmental Issues

5. JCG shall ensure that (a) the regulations for industrial pollution control and water conservation are enforced strictly; (b) a comprehensive plan for reusing the storm water and treated wastewater is developed, adopted and implemented in a timely manner;

(c) the Water Savings Master Plan adopted under the 11<sup>th</sup> 5-year plan for Jiaozhou is carried out effectively; and (d) a community-based monitoring team, acceptable to ADB, is set up to assist with independent monitoring of the environmental impact of the Project activities and, carrying out of the environmental protection awareness education.

6. JCG shall ensure that Project facilities are constructed, operated, maintained, and monitored in strict conformity with (a) all applicable laws, regulations, and standards of the Borrower for environmental protection and ADB's Environment Policy (2002); (b) the environmental mitigation and monitoring measures detailed in the approved EIA, summary IEE, and EMP for the Project are undertaken in strict conformity; and (c) adequate numbers of personnel are engaged to monitor implementation of the EMP, under the guidance of the Jiaozhou Environment Protection Bureau. QMG and JCG shall cooperate closely with ADB in the preparation of the strategic environmental assessment for Jiaozhou Bay under the Technical Assistance, to ensure that appropriate integrated planning methodologies are identified and incorporated in the applicable environmental regulations following approval of the relevant authorities by 2011.

#### Labor and Other Social Issues

7. JCG shall ensure that (a) all applicable labor, health and occupational safety laws of the Borrower are complied with; (b) child labor is prohibited; (c) men and women are paid equally for work of equal value; (d) women are given priority in the employment and training opportunities generated in the Project's construction and operation phases; (e) seventy five (75) percent of the jobs generated by the Project are given to vulnerable groups, with priority being given to women, all other conditions being equal; (f) the community-based monitoring team mentioned in paragraph 5 above is enlisted to monitor selection and recruitment of the construction workers; and (g) compliance with these provisions are closely observed and monitored during Project implementation.

8. JCG, through the PMO, shall undertake ongoing consultations during the Project implementation period to (a) meet the evolving needs and expectations of the users; (b) increase the awareness of the public about the benefits of the Project; (c) encourage the active involvement of local communities to maximize their support for the Project; (d) promote environmental protection; and (e) raise the social acceptance of tariff increases.

#### Resettlement

9. JCG shall ensure that (a) the Resettlement Plan is updated upon completion of the final technical design based on the detailed measurement survey, disclosed to the Affected Persons and submitted to ADB for review and approval prior to award of Works contracts; (b) the Resettlement Plan is implemented promptly and efficiently in accordance with its terms; (c) all land and rights-of-way required by the Project are made available in a timely manner; (d) provisions of the Resettlement Plan, including compensation and entitlements for the Affected Persons are undertaken in accordance with all applicable laws and regulations of the Borrower and ADB's Policy on Involuntary Resettlement (1995); (e) all Affected Persons are given adequate opportunity to participate in resettlement planning and implementation; (f) compensation and resettlement assistance are given to the Affected Persons prior to dispossession and displacement; (g) the Affected Persons are at least as well off as they would have been in the absence of the Project; (h) counterpart funds for land acquisition and resettlement activities are provided in a timely manner; (i) any financial

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obligations in excess of the Resettlement Plan budget estimates are promptly met; and (j) any material change in Project scope during Project implementation is reflected in the Resettlement Plan, the Resettlement Plan is duly updated to reflect such a change and submitted to ADB for review and approval.

10. JCG shall ensure that (a) adequate staff and resources are committed to supervising and monitoring the implementation of the Resettlement Plan, and providing quarterly reports on such implementation to ADB; and (b) an independent agency acceptable to ADB is engaged to carry out monitoring and evaluation, and submit to ADB and JCG (i) semi-annual monitoring reports during implementation of the Resettlement Plan, and (ii) a post evaluation report prior to Project completion.

11. JCG shall also (a) ensure that Works contracts clearly specify the requirement to comply with the Resettlement Plan and indicate the respective entitlements for the permanent and temporary impacts to the Affected Persons; (b) supervise contractors to ensure compliance with the requirements of the Resettlement Plan, applicable laws and regulations of the Borrower, and ADB's Policy on Involuntary Resettlement; and (c) ensure that contractors accord priority to the Affected Persons for employment opportunities generated through the Works contracts.

Operation and Maintenance

12. JCG shall ensure that, upon completion of the Project, (a) the public utility division of the Jiaozhou Construction Bureau is responsible for the operation and maintenance of the Project facilities, including wastewater networks, drainage, river courses management, and also supervision and management of the WWTP; and (b) necessary budget allocations are provided to meet the operation and maintenance costs of the Project facilities during both the Project implementation period and thereafter.

Anticorruption

13. QMG and JCG shall, (a) undertake necessary measures to create and sustain a corruption-free environment for activities under the Project; (b) comply with ADB's Anticorruption Policy (1998, as amended to date); and (c) where appropriate, ensure that relevant provisions of ADB's Anticorruption Policy are included in all bidding documents for the Project. The Borrower (i) acknowledges ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive and coercive practices relating to the Project, and (ii) agrees to cooperate fully with, and cause QMG and JCG to cooperate fully with, any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation. All external costs related to such investigations shall be met by the Project resources.

14. Without limiting the generality of the preceding paragraph, JCG shall also (a) conduct periodic inspections on the suppliers', contractors', consultants' and other service providers' activities related to the Loan proceeds, fund withdrawals and settlements; and (b) ensure that all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of JCG, the PMO, and all suppliers, contractors, consultants and other service providers as they relate to the Project.

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15. In addition to the above requirements, JCG shall also (a) introduce a dual signing system in which the Works contractor awarded a contract also signs an anticorruption contract with the employer; and (b) cause the PMO to set up a Project website that describes the Project and provides the public with information on the Project, including (i) a summary of the audited financial statements of the Project, and (ii) contract awards.

Project Performance Monitoring and Evaluation

16. JCG shall, through the PMO, establish and maintain a PPMS, which shall be designed to permit adequate flexibility to adopt remedial action regarding Project design, schedules, activities, and development impacts. The PPMS shall adopt the following agreed indicators: (a) physical progress of the implementation of the parts and subcomponents of the Project, as indicated in Schedule 1 to this Loan Agreement; (b) results of the capacity building program; (c) water quality and quantity improvements in the rivers and Shaohai Lake, Dagu River and Jiaozhou Bay; (d) improvement in biodiversity conservation in Shaohai Lake and Jiaozhou Bay; and (e) social development. At Project inception, the Borrower shall ensure that JCG, through the PMO, develops comprehensive PPMS procedures to systematically generate data on inputs and outputs of the Project activities, as well as the socioeconomic, health and environmental indicators to measure Project impacts.

17. JCG shall, through the PMO, (a) refine the PPMS framework, confirm achievable targets, monitoring and recording arrangements, and establish systems and procedures no later than six months after Project implementation begins, (b) report to ADB and QMG, at the requisite time intervals, the baseline and progress data, and (c) annually report to ADB and QMG the compliance status of the EMP. The PMO shall be responsible for analyzing and consolidating reported data through its management information system, and for reporting outcomes to ADB and QMG through quarterly progress reports.