
LOAN NUMBER 3114-PRC

PROJECT AGREEMENT

(Guangdong Chaonan Water Resources Development and Protection Demonstration
Project)

between

ASIAN DEVELOPMENT BANK

and

GUANGDONG PROVINCIAL GOVERNMENT

CHAONAN DISTRICT GOVERNMENT

DATED 30 MAY 2014

PRC 46079

PROJECT AGREEMENT

PROJECT AGREEMENT dated 30 May 2014 among ASIAN DEVELOPMENT BANK ("ADB"), GUANGDONG PROVINCIAL GOVERNMENT ("GPG") and CHAONAN DISTRICT GOVERNMENT ("CDG").

WHEREAS

(A) by a Loan Agreement of even date herewith between the People's Republic of China ("Borrower") and ADB, ADB has agreed to make to the Borrower a loan of one hundred million Dollars (\$100,000,000) 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 by GPG and the Shantou Municipal Government ("SMG") to CDG and that GPG and CDG agree to undertake certain obligations towards ADB set forth herein; and

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

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) GPG shall make the proceeds of the Loan available, through SMG, to CDG promptly upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms on which the proceeds of the Loan shall be made available to CDG shall include (i) commitment charge and interest at the rates identical to those applied to the Loan; (ii) the repayment period including the grace period identical to that applied to the Loan; (iii) CDG bearing the foreign exchange and interest rate variation risks; and (iv) CDG agreeing to perform all obligations set forth in the Loan Agreement and the Project Agreement, to the extent that they are applicable to CDG.

(b) GPG shall cause CDG to, and CDG shall, carry out the Project with due diligence and efficiency, and in conformity with sound applicable technical, financial, business, and development practices.

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

Section 2.02. GPG shall, and shall cause CDG to, make available, promptly as needed, and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other resources as 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, CDG 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, CDG shall procure all items of expenditures to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to the Loan Agreement. ADB may refuse to finance a contract where any such item has 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. CDG shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. CDG 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) CDG shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of 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, CDG undertakes to insure, or cause to be insured, the Goods to be imported for the Project 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. GPG and CDG shall maintain, or cause to be maintained, records and accounts adequate to identify the 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, their operations and financial conditions.

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

(b) GPG and CDG shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of

their obligations under this Project Agreement or the accomplishment of the purposes of the Loan.

(c) ADB, GPG and CDG 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, GPG, CDG and the Loan.

Section 2.08. (a) GPG and CDG 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 items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial conditions of GPG (insofar as it is relevant to the Project) and CDG; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, CDG shall furnish to ADB periodic 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 period under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following period.

(c) Promptly after physical completion of the Project, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, CDG 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 GPG and CDG of their obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) GPG shall, and shall cause CDG to (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with financial reporting standards acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of the Loan Agreement as well as on the use of the procedures for imprest account(s) and statement of expenditures) and a management letter; and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose on its website, the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt.

(c) GPG and CDG shall enable ADB, upon ADB's request, to discuss the financial statements for the Project, and financial affairs of GPG and CDG where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and

shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of GPG or CDG, unless GPG or CDG shall otherwise agree.

Section 2.10. CDG shall enable ADB's representatives to inspect the Project, the Goods and Works and any relevant records and documents as they relate to the Project.

Section 2.11. (a) GPG and CDG shall at all times conduct their operations in accordance with sound applicable technical, financial, business, development and operational practices, and under the supervision of competent and experienced management and personnel.

(b) CDG 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 applicable technical, financial, business, development, operational and maintenance practices.

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

Section 2.13. Except as ADB may otherwise agree, GPG and CDG 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 items of expenditures financed out of such proceeds are used exclusively in the carrying out of the Project.

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 comes into force and effect. ADB shall promptly notify GPG and CDG of such date.

Section 3.02. This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms.

Section 3.03. 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, mail or facsimile 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
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2534.

For GPG

Guangdong Provincial Finance Department
Floor 11, No. 26, Cangbian Road
Guangzhou 510030
People's Republic of China

Facsimile Number:

+86 20 83330007.

For CDG

Chaonan District Government
Chaoyang Road, Xiashan Town
Chaonan District, Shantou Municipality
Guangdong 515144
People's Republic of China

Facsimile Number:

+86 754 87750104.

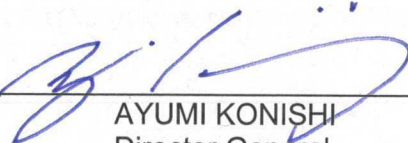
Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project by or on behalf of GPG and CDG may be taken or executed by the Governor or a Vice Governor of GPG and the Governor of CDG, respectively, or by such other person or persons as such person shall designate in writing notified to ADB.

(b) GPG and CDG shall furnish to ADB sufficient evidence of the authority of each person who will act under subsection (a) hereinabove, together with the authenticated specimen signature of each such person.

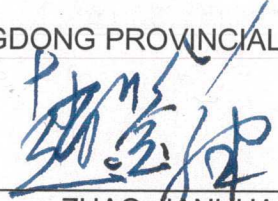
Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action 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 as of the day and year first above written, and to be delivered at the principal office of ADB.

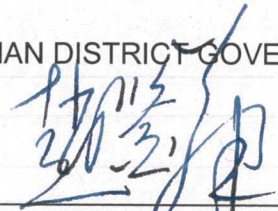
ASIAN DEVELOPMENT BANK

By 
AYUMI KONISHI
Director General
East Asia Department

GUANGDONG PROVINCIAL GOVERNMENT

By 
ZHAO JIANHUA
Authorized Representative

CHAONAN DISTRICT GOVERNMENT

By 
ZHAO JIANHUA
Authorized Representative

SCHEDULE

Execution of Project; Financial Matters

Implementation Arrangements

1. GPG and CDG shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the PAM and this Project Agreement, the provisions of this Project Agreement shall prevail. CDG shall establish a project management office which shall have such functions as are set out in the PAM.
2. Within 3 months of the Effective Date, GPG shall cause CDG to enter into a Project Implementation Agreement with CWSC, in the form and substance acceptable to ADB. The Project Implementation Agreement shall, *inter alia*, include CWSC's obligations set forth in the Project Agreement and the PAM and shall require CWSC to comply with the IEE, EMP, RP, GAP and SAP, to the extent applicable to CWSC.

Counterpart Funds

3. GPG shall and shall cause SMG and CDG to ensure that (a) counterpart funds necessary for the smooth and successful completion of the Project are provided in a timely manner; (b) additional funds, as and when needed, shall be provided to meet any Project shortfall or cost overruns; and (c) funds and resources necessary for the operation and maintenance of the Project facilities are provided in a timely manner.

Institutional and Tariff Reforms

4. CDG shall ensure that CWSC shall own, operate and directly charge the end-users of the water distribution networks in (a) Longtian and Xiasha towns by 31 December 2019; (b) Liangying, and Lugang towns by 31 December 2022; and (c) Chendian, Chengtian, Jingdu, Simapu, and Xiancheng towns by 31 December 2025.
5. CDG shall ensure that by 31 December 2019 (a) water charges through towns shall be stopped; and (b) water tariffs for industrial use shall be set, at least, at the level as set for the residents of the Chaonan District. CDG shall further ensure that water tariffs shall be regularly reviewed and, if needed, adjusted to ensure timely availability of adequate funds for the operation and maintenance of the Project facilities established under Output 2.
6. CDG shall ensure that the water resources development and action plan developed under the Project shall be endorsed and implemented by CDG by 31 December 2020 and shall serve as a basis for CDG's five-year social and economic development plan.

Waste Water Collection and Treatment

7. CDG shall ensure that (a) by 31 December 2015, up to 3 additional waste water collection and treatment plants, Chendian, Simapu and Longtian, each with a capacity of 30,000 cubic meters per day shall be constructed and shall become fully operational according to the Chaonan District Waste Water Treatment Plan (2013-2020) and the

residents of their respective service areas shall be connected to the sanitation and sewage networks of these waste water collection and treatment plants; (b) by 31 December 2020, the three new waste water collection and treatment plants and the 2 existing waste water collection and treatment plants in Liangying and Xiashan towns shall be expanded to capacities as follows: Chendian, 50,000 cubic meters per day; Simapu, 50,000 cubic meters per day; Longtian, 70,000 cubic meters per day; Liangying, 60,000 cubic meters per day; and Xiashan, 70,000 cubic meters per day, respectively, and the residents of their respective service areas shall be connected to the sanitation and sewage networks of these waste water collection and treatment plants; and (c) by 31 December 2020, waste water management facilities in Qiufeng and Chengpo villages shall be in place and shall become fully functional.

Change of Control

8. In the event CDG plans to (a) sell, permit CWSC to issue, transfer or assign any shares of CWSC; or (b) otherwise make or permit any material organizational change in CWSC, either financial or operational, where such change may have an adverse effect on CWSC's ability to perform its obligations under the Project Agreement and/or the Project Implementation Agreement, CDG shall and shall cause CWSC to consult ADB at least 6 months prior to the implementation of such change. CDG shall ensure and shall cause CWSC to ensure that such change is carried out in a lawful and transparent manner.

Environment

9. CDG shall ensure that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the IEE, the EMP, and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report; or (ii) which are subsequently agreed between ADB and CDG.

10. CDG shall ensure that all planting activities under the Project, including water conservation reforestation, rehabilitation of construction sites and post construction landscaping around Jinxi, Longxi, and Qiufeng reservoirs shall only use plant species which are native to the Danan mountain ranges of the Chaonan District and are sourced from local stock within the Chaonan District or neighboring counties. In the event that non-native seedlings are required for rapid stabilization of exposed soils and sites, CDG shall ensure that only sterile seedlings are used to prevent weed spread.

11. To avoid pollution of the reservoir waters, CDG shall ensure that no pesticides and no top dressing fertilizers shall be used for any activities under the Project, including water conservation reforestation, rehabilitation of construction sites and post construction landscaping around Jinxi, Longxi, and Qiufeng reservoirs.

12. CDG shall ensure that emergency preparedness and response mechanisms for drinking water source protection and supply safety shall be developed for the Project in accordance with all applicable laws and regulations of the Borrower and the SPS.

Land Acquisition and Involuntary Resettlement

13. CDG shall ensure that all land and all rights-of-way required for the Project are made available to the Works contractor in a manner and within timeframes compliant with the RP and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the RP, and any corrective or preventative actions (i) set forth in the Safeguards Monitoring Report, or (ii) which are subsequently agreed between ADB and CDG.

14. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, CDG shall ensure that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to the displaced persons under the Involuntary Resettlement Safeguards as described in and in accordance with the RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

15. CDG shall ensure that the Project does not have any indigenous peoples impacts, all within the meaning of the SPS. In the event that the Project does have any such impact, CDG shall take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

16. CDG shall make available necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards–Related Provisions in Bidding Documents and Works Contracts

17. CDG shall ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP and the RP (to the extent they concern impacts on the respective affected people under the Environmental Safeguards and the Involuntary Resettlement Safeguards during construction), and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report; or (ii) which are subsequently agreed between ADB and CDG;
- (b) make available a budget for all such environmental and social measures;

- (c) provide CDG with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP and the RP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction;
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition as early as possible and no later than the completion of construction; and
- (f) (i) comply with all applicable labor laws of the Borrower on the prohibition of child and forced labor; (ii) give equal pay for equal work regardless of gender, ethnicity or social group; (iii) give priority to women in the employment and training opportunities generated in the Project's construction and operation phases; (iv) disseminate information on sexually or other transmitted diseases (including HIV/AIDS) and human trafficking to sub-contractors/employees and local communities surrounding the Project construction sites; and (v) implement HIV/AIDS and human trafficking awareness activities.

Safeguards Monitoring and Reporting

18. CDG shall do the following:

- (a) submit Safeguards Monitoring Reports to ADB
 - (i) in respect of implementation of and compliance with the Environmental Safeguards and the EMP, semi-annually during construction and the implementation of the Project and the EMP, and thereafter annually during operation, until the issuance of ADB's Project completion report unless a longer period is agreed in the EMP; and
 - (ii) in respect of implementation of and compliance with the Involuntary Resettlement Safeguards and of the RP, semi-annually during the implementation of the Project and the RP until the issuance of ADB's Project completion report unless a longer period is agreed in the RP

and disclose relevant information from such reports to the respective affected people under the Environmental Safeguards and the Involuntary Resettlement Safeguards promptly upon submission;

- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP and the RP, promptly

inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and

- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the RP promptly after becoming aware of the breach.

Grievance Redress Mechanism

19. CDG shall ensure that a joint safeguards grievance redress mechanism acceptable to ADB is established in accordance with the provisions of the IEE, EMP and RP at the Project Management Office, within the timeframes specified in the relevant IEE, EMP and RP, to consider safeguards complaints.

20. The grievance redress mechanism referred to in paragraph 19 herein above shall function to (i) review and document eligible complaints of Project stakeholders; (ii) proactively address grievances; (iii) provide the complainants with notice of the chosen mechanism and/or action; and (iv) prepare and make available to ADB upon request periodic reports to summarize (a) the number of complaints received and resolved; (b) chosen actions; and (c) final outcomes of the grievances and make these reports available to ADB upon request.

Gender

21. CDG shall ensure: (a) that the GAP is fully implemented in a timely manner over the entire period of the Project and following ADB's Policy on Gender and Development (1998); (b) that adequate resources are allocated for this purpose; and (c) periodic reporting of the GAP implementation to ADB.

Social Development

22. CDG shall ensure that (a) the SAP is fully implemented and monitored in a timely manner, and reported to ADB annually, and (b) adequate resources are allocated for this purpose.

Governance and Anticorruption

23. GPG shall and shall cause the Project Executing Agency and the Project Implementing Agencies to: (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

24. GPG shall and shall cause the Project Executing Agency and the Project Implementing Agencies to ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of GPG, the Project Executing Agency and the Project Implementing Agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

Prohibited List of Investments

25. GPG and CDG shall ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.