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LOAN NUMBER 3400-PRC

PROJECT AGREEMENT  
(Shandong Groundwater Protection Project)

between

ASIAN DEVELOPMENT BANK

and

SHANDONG PROVINCIAL GOVERNMENT

DATED 13 September 2016

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PRC 47047

## PROJECT AGREEMENT

PROJECT AGREEMENT dated 13 September 2016 between ASIAN DEVELOPMENT BANK ("ADB") and SHANDONG PROVINCIAL GOVERNMENT ("SPG").

### 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 fifty million Dollars (\$150,000,000) 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 SPG and that SPG agrees to undertake certain obligations towards ADB set forth herein; and

(B) SPG, in consideration of ADB entering into the Loan Agreement with the Borrower, has 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) SPG shall, and shall cause the Project Implementing Agencies to, carry out the Project with due diligence and efficiency, and in conformity with sound applicable technical, financial, business, and development practices.

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

Section 2.02. SPG shall, and shall cause the Project Implementing Agencies to, make available, promptly as needed, 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, SPG shall, and shall cause the Project Implementing Agencies to, 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, SPG shall, and shall cause the Project Implementing Agencies to, 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. SPG shall, and shall cause the Project Implementing Agencies to, carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. SPG 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) SPG shall, and shall cause the Project Implementing Agencies to, take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, SPG undertakes, and causes the Project Implementing Agencies to undertake, 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. SPG shall, and shall cause the Project Implementing Agencies to, 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, its operations and financial condition.

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

(b) SPG shall, and shall cause the Project Implementing Agencies to, 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 accomplishment of the purposes of the Loan.

(c) ADB and SPG 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, SPG, the Project Implementing Agencies and the Loan.

Section 2.08. (a) SPG shall, and shall cause the Project Implementing Agencies to, 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 condition of SPG and the Project Implementing Agencies; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, SPG 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, SPG 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 SPG and the Project Implementing Agencies of their obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) SPG shall, and shall cause the Project Implementing Agencies to, (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements for the Project 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 fund 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 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 by posting them on ADB's website.

(c) SPG shall, and shall cause the Project Implementing Agencies to, enable ADB, upon ADB's request, to discuss the financial statements for the Project and financial affairs of SPG and the Project Implementing Agencies where they relate to the Project with the auditors appointed by SPG and the Project Implementing Agencies 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 SPC and the Project Implementing Agencies, unless SPG shall otherwise agree.

Section 2.10. SPG shall, and shall cause the Project Implementing Agencies to, enable ADB's representatives to inspect the Project, the Goods and Works and any relevant records and documents.

Section 2.11. (a) SPG shall, and shall cause the Project Implementing Agencies to, promptly as required, take all action within its powers to maintain their 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 operations.

(b) Except as ADB may otherwise agree, SPG shall not, and shall cause the Project Implementing Agencies not to, 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 2.12. Except as ADB may otherwise agree, SPG shall, and shall cause the Project Implementing Agencies to, 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 SPG 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 SPG

Finance Department of Shandong Province  
Jida Road 3#, 250001  
Jinan City, Shandong Province

## Facsimile Number:

(86) 531 82920751/82920751.

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 by or on behalf of SPG may be taken or executed by its governor or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) SPG 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  \_\_\_\_\_  
XINNING JIA  
Authorized Representative

SHANDONG PROVINCIAL GOVERNMENT

By  \_\_\_\_\_  
CHENG ZHIJUN  
Authorized Representative

## SCHEDULE

### Execution of Project; Environmental, Social, Financial and Other Matters

#### General Implementation Arrangements

1. SPG 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 SPG and ADB. In the event of any discrepancy between the PAM and this Project Agreement, the provisions of this Project Agreement shall prevail.

#### Counterpart Funds

2. SPG shall ensure that: (a) all local and foreign currency counterpart funds, including cash advances, necessary for the smooth and successful completion of the Project are provided in a timely manner; and (b) additional funds, as and when needed, shall be provided to meet any project shortfall or cost overruns. SPG shall also ensure that O&M of all Project facilities is fully funded from the government budget.

#### Environment

3. SPG shall ensure that the preparation, design, construction, commissioning, 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; (ii) the Environmental Safeguards; and (iii) all measures and requirements set forth in the EIA, the EMP, and any corrective or preventative actions (a) set forth in a Safeguards Monitoring Report, or (b) which are subsequently agreed between ADB and SPG. In case of any discrepancy or inconsistency among the Borrower's laws, regulations and procedures relating to environment, health and safety and the SPS, the SPS shall prevail.

4. SPG shall continue the implementation of its ongoing water saving and conservation programs for the agricultural, industrial and residential sectors to reduce groundwater abstraction each year during the Project implementation and thereafter, and SPG shall continue its programs to close industrial well fields to protect groundwater resources in the Project area.

5. SPG shall ensure that the policy and regulatory changes needed for the establishment of a trial regional market for water right trading in the Project area are formalized by the end of 2019.

6. SPG shall ensure adequate water allocation and management for the Judian and Mata lake areas and maintain adequate water levels.

7. SPG shall ensure, and make the Project counties to ensure, that no conversion of farmland to other land use, or restriction of access to or use of farm land will happen as a result of the Project, or as a result of increased water supply by the Project, as such a conversion would be considered as 'involuntary restriction on land use' under SPS and require preparation of mitigation measures.



8. SPG shall ensure that Project construction and operation shall not result in any changes to the availability or allocation of freshwater to downstream communities, which might negatively impact their water security or livelihood.

9. Before any Project dredging, SPS shall conduct a second round of sediment sampling, to confirm and expand the results of the first round of sampling. The environment protection bureaus in the Project Implementing Agency shall supervise the sampling, which will be conducted by a certified agency. In particular, sampling in one river, the Yang, in Shouguang County, shall clarify the extent, risks of dredging, and remedial measures associated with benzopyrene, a dangerous pollutant found in the project sites in the first sampling. Results and subsequent actions under the Project, including whether or not dredging should be undertaken, shall be jointly reviewed and decided by the SPG and ADB.

10. SPG shall ensure that all Project activities requiring the use of plants, use only native species from Shandong Province, and they are sourced locally (i.e. in or near the Project sites) to ensure local genetic provenance. This shall include the Project re-vegetation components, landscaping, and rehabilitation of construction sites. If the use of fast-growing non-native species (e.g. grasses) is required for stabilizing bare construction surfaces, only sterilized seedlings (i.e. which cannot propagate) shall be used.

11. Should any changes be made to Associated Facilities which might impact their capacity or functioning, and subsequently the Project viability, SPG and ADB shall jointly review and identify follow-up actions.

12. SPG shall ensure that no large-scale infrastructure development shall be implemented in Judian wetland, in order to protect its hydrological and ecological values.

13. SPG shall ensure that during the operation of the Project, official (existing) ecological flow requirements for Nanzhai and Juchenghe reservoirs shall be complied with.

14. SPG shall ensure that all structures shall be constructed to a flood protection standard of one in 20 years or one in 50 years and embankments shall be designed to be porous for infiltration.

#### Land Acquisition and Involuntary Resettlement

15. SPG 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 RPs 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 RPs, and any corrective or preventative actions (i) set forth in the Safeguards Monitoring Report, or (ii) subsequently agreed between ADB and SPG.

16. Without limiting the application of the SPS or the RPs, SPG 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 RPs; and (b) comprehensive income and livelihood restoration programs have been established in

accordance with the RPs ensuring that the displaced people shall be at least as well off as they would have been in the absence of the Project.

#### Indigenous Peoples

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

#### Human and Financial Resources to Implement Safeguards Requirements

18. SPG shall make available necessary human and budgetary resources to fully implement, as applicable, the EMP and the RPs.

#### Safeguards-Related Provisions in Bidding Documents and Works Contracts

19. SPG shall ensure that all bidding documents and contracts for works contain specific provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the EIA, the EMP and the RPs (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 set forth in (i) a Safeguards Monitoring Report, or (ii) subsequently agreed between ADB and SPG;
- (b) make available a budget for all such environmental and social measures;
- (c) provide SPG with a written notice of any unanticipated environmental, resettlement or indigenous people risks or impacts that arise during construction, implementation or operation of the project that were not considered in the EIA, the EMP and the RPs;
- (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 soon as possible but not later than the completion of construction; and
- (f) monitor relevant environmental impacts caused by construction and installation activities and report to the PMO.

#### Safeguards Monitoring and Reporting

20. SPG shall:

- (a) Submit Safeguards Monitoring Reports to ADB

- (i) in respect of implementation of and compliance with 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 Involuntary Resettlement Safeguards and of the RPs, semi-annually during the implementation of the Project until the issuance of ADB's Project completion report unless a longer period is agreed in the RPs,

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 EIA, the EMP, and the RPs, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
- (c) before the award of any Works contracts, engage qualified and experienced external experts or qualified institutions under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external experts.

#### Gender and Development

21. SPG shall ensure that (a) as set out in the PAM, the SGAP is fully implemented in a timely manner over the entire period of the project and following ADB's Policy on Gender and Development; and (b) adequate resources are allocated for this purpose.

#### Works Contract

22. SPG shall ensure that the Works contractors shall; (a) comply with all applicable labor laws of the Borrower on the prohibition of child and forced labor; (b) comply with relevant measures in the SGAP; (c) give equal pay for equal work regardless of gender, ethnicity or social group; (d) give priority to women in the employment and training opportunities generated in the Project's construction and operation phases; (e) maximize employment of local people who meet job requirements for Project construction, operation and maintenance; (f) disseminate information on sexually transmitted diseases (including HIV/AIDS) and human trafficking to sub-contractors/employees and local communities surrounding the project construction sites; and (g) implement HIV/AIDS and human trafficking awareness activities.

Grievance and Redress Mechanism

23. SPG shall ensure that safeguards grievance redress mechanisms acceptable to ADB are established in accordance with the provisions of the EIA, EMP and RP at the project management office, within the timeframes specified in the relevant EIA, EMP and RP, to consider safeguards complaints.

Change in Ownership

24. SPG shall ensure and cause the Project Implementing Agencies to ensure that during the Project implementation, in the event of (a) any change in the ownership or control of Project facilities; or (b) any sale, transfer or assignment of share or interest that results in a change of control in any agency owning or managing any Project facilities is anticipated, they shall cause the relevant agency to consult with ADB at least 6 months prior to the implementation of such change. SPG shall ensure and cause the Project Implementing Agencies to cause the said agency to further ensure that the new controlling management of the concerned agency complies with (a) all Project related agreements executed between ADB and the Borrower, SPG or Project Implementing Agencies; and (b) the policies of ADB relevant to the Project.

Groundwater Policy Intervention

25. SPG shall ensure that policy dialogues are held and measures introduced to address the causes of excessive groundwater usage, including lack of pricing of resource, weak licensing and permitting system and insufficient abstraction metering and groundwater level monitoring.