
LOAN NUMBER 3353 - VIE

PROJECT AGREEMENT

(Second Greater Mekong Subregion Corridor Towns Development Project)

between

ASIAN DEVELOPMENT BANK

and

PROVINCIAL PEOPLE'S COMMITTEE OF BAC GIANG PROVINCE,
PROVINCIAL PEOPLE'S COMMITTEE OF LAO CAI PROVINCE, AND
PROVINCIAL PEOPLE'S COMMITTEE OF QUANG NINH PROVINCE

DATED March 21, 2016

VIE 46443

PROJECT AGREEMENT

PROJECT AGREEMENT dated March 21, 2016 between ASIAN DEVELOPMENT BANK ("ADB") and PROVINCIAL PEOPLE'S COMMITTEE OF BAC GIANG PROVINCE, PROVINCIAL PEOPLE'S COMMITTEE OF LAO CAI PROVINCE, AND PROVINCIAL PEOPLE'S COMMITTEE OF QUANG NINH PROVINCE (each an "Executing Agency", and collectively, the "Executing Agencies").

WHEREAS

(A) by a Loan Agreement of even date herewith between Socialist Republic of Viet Nam ("Borrower") and ADB, ADB has agreed to make to the Borrower a loan in various currencies equivalent to seventy million eight hundred forty-eight thousand Special Drawing Rights (SDR70,848,000) on the terms and conditions set forth in the Loan Agreement, but only on the condition that a portion of the proceeds of the Loan be relented to the Executing Agencies and that each Executing Agency agrees to undertake certain obligations towards ADB set forth herein; and

(B) Each Executing Agency, 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. (a) 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) Each Executing Agency shall carry out the Parts of the Project applicable to such Executing Agency with due diligence and efficiency, and in conformity with sound applicable technical, financial, business, and development practices.

(b) In the carrying out of any Part of the Project and operation of the applicable Project facilities for which it is responsible, each Executing Agency shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to each Executing Agency, and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. Each Executing Agency shall 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 any Part of the Project applicable to each such Executing Agency.

Section 2.03. (a) In the carrying out of the Parts of the Project applicable to any Executing Agency, such Executing Agency 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, each Executing Agency 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. Each Executing Agency shall carry out the Parts of the Project applicable to it in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. Each Executing Agency 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) Each Executing Agency shall 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, each Executing Agency undertakes to insure, or cause to be insured, the Goods to be imported for the Parts of the Project applicable to it 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. Each Executing Agency 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 Parts of the Project applicable to such Executing Agency, to record the progress of such Parts 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 each Executing Agency shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) Each Executing Agency shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Parts of the Project applicable to it, the performance of its obligations under this Project Agreement or the applicable Subsidiary Loan Agreement to which such Executing Agency is a party, or the accomplishment of the purposes of the Loan.

(c) ADB and each Executing Agency 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 (or any Part for which such Executing Agency is responsible), such Executing Agency and the Loan.

Section 2.08. (a) Each Executing Agency 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 Parts of the Project applicable to it; (iv) the administration, operations and financial condition of such Executing Agency; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, each Executing Agency shall furnish to ADB periodic reports on the execution of the Parts of the Project applicable to it and on the operation and management of the Project facilities for which such Executing Agency is responsible. 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 any Part of the Project applicable to any Executing Agency, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, the applicable Executing Agency 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 such Part of the Project, including its cost, the performance by such Executing Agency of its obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) Each Executing Agency shall (i) maintain separate accounts and records for the Parts of the Project applicable to it; (ii) prepare annual financial statements for such Parts of the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements for such Parts of 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(s) and statement of expenditures) and a management letter (which sets out the deficiencies in the internal control of such Parts of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the close of the fiscal year to which they relate, 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 (or any Parts related thereto) 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.

Section 2.10. The Executing Agencies shall enable ADB's representatives to inspect any Part of the Project, the Goods and Works, all other plants, sites, properties and equipment of such Executing Agency and any relevant records and documents related to the Project.

Section 2.11. (a) Each Executing Agency shall, promptly as required, take all action within its powers to maintain its legal 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 Parts of the Project applicable to it or in the conduct of its operations.

(b) Each Executing Agency shall at all times conduct its operations in accordance with sound applicable technical, financial, business, development and operational practices, and under the supervision of competent and experienced management and personnel.

(c) Each Executing Agency 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, each Executing Agency 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, each Executing Agency shall apply the proceeds of the Loan to the financing of expenditures on the Parts of the Project applicable to such Executing Agency 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 such Parts of the Project.

Section 2.14. Except as ADB may otherwise agree, each Executing Agency shall duly perform all its obligations under the Subsidiary Loan Agreement to which such Executing Agency is a party, 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 such Subsidiary Loan Agreement.

Section 2.15. Each Executing Agency shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its constitutional documents, which, if implemented, could adversely affect the carrying out of any Part of the Project applicable to it or the operation of the Project facilities for which it is responsible. Each Executing Agency shall afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative action thereon.

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 each Executing Agency of such date.

Section 3.02. (a) 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) 636-2018.

For Provincial People's Committee of Bac Giang Province

Bac Giang PPC
No. 82, Hung Vuong Street
Bac Giang City
Bac Giang Province
Viet Nam

Facsimile Number:

(84) 240-385-5012.

For Provincial People's Committee of Lao Cai Province

Lao Cai PPC
Block 2, Tran Hung Dao Street
Nam Cuong Ward
Lao Cai City
Lao Cai Province
Viet Nam

Facsimile Number:

(84) 203-840-006.

For Provincial People's Committee of Quang Ninh Province

Quang Ninh PPC
Hong Ha Ward
Ha Long City
Quang Ninh Province
Viet Nam

Facsimile Number:

(84) 333-835-353.

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 by or on behalf of the applicable Executing Agency may be taken or executed by (i) their Vice Chairman, in the case of the Provincial People's Committee of Bac Giang Province; (ii) their Vice Chairman, in the case of the Provincial People's Committee of Lao Cai Province; and (iii) their Vice Chairman, in the case of the Provincial People's Committee of Quang Ninh Province, or, in each such case, by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) Each Executing Agency 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.

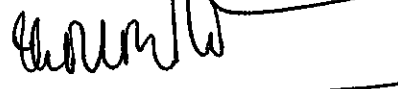
ASIAN DEVELOPMENT BANK

By 
 ERIC SIDGWICK
 Country Director
 Viet Nam Resident Mission

PROVINCIAL PEOPLE'S COMMITTEE
 OF BAC GIANG PROVINCE

By 
 DUONG VAN THAI
 Vice Chairman

PROVINCIAL PEOPLE'S COMMITTEE
 OF LAO CAI PROVINCE


 By _____
 NGUYEN THANH DUONG
 Vice Chairman

PROVINCIAL PEOPLE'S COMMITTEE
 OF QUANG NINH PROVINCE


 By _____
 VU VAN DIEN
 Vice Chairman