
LOAN NUMBER 3248-VIE

PROJECT AGREEMENT

(Ho Chi Minh City Third Ring Road Technical Assistance Project)

between

ASIAN DEVELOPMENT BANK

and

CUU LONG CORPORATION FOR INVESTMENT, DEVELOPMENT AND PROJECT
MANAGEMENT OF INFRASTRUCTURE

DATED 4 May 2015

VIE 43393

PROJECT AGREEMENT

PROJECT AGREEMENT dated 4 May 2015 between ASIAN DEVELOPMENT BANK ("ADB") and CUU LONG CORPORATION FOR INVESTMENT, DEVELOPMENT AND PROJECT MANAGEMENT OF INFRASTRUCTURE ("Cuu Long CIPM").

WHEREAS

(A) by a Loan Agreement of even date herewith between Socialist Republic of Viet Nam ("Borrower") and ADB ("Loan Agreement"), ADB has agreed to make to the Borrower a loan in various currencies equivalent to eight million four hundred seventy-five thousand Special Drawing Rights (SDR8,475,000) on the terms and conditions set forth in the Loan Agreement, but only on the condition that Cuu Long CIPM agrees to undertake certain obligations towards ADB set forth herein; and

(B) Cuu Long CIPM, 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) Cuu Long CIPM shall carry out the TA 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 TA Project, Cuu Long CIPM shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to Cuu Long CIPM, and all obligations set forth in this Project Agreement.

Section 2.02. Cuu Long CIPM shall make available, promptly as needed, and on terms and conditions acceptable to ADB, the funds, facilities, services and other resources as required, in addition to the proceeds of the Loan, for the carrying out of the TA Project.

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

(b) Except as ADB may otherwise agree, Cuu Long CIPM 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. Cuu Long CIPM shall carry out the TA Project in accordance with plans, design standards, specifications and work schedules acceptable to ADB. Cuu Long CIPM 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) To the extent applicable, Cuu Long CIPM 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) To the extent applicable and without limiting the generality of the foregoing, Cuu Long CIPM undertakes to insure, or cause to be insured, any goods to be imported for the TA 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 any such goods.

Section 2.06. Cuu Long CIPM 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 TA Project, to record the progress of the TA 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 Cuu Long CIPM shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) Cuu Long CIPM shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the TA Project, the performance of its obligations under this Project Agreement, or the accomplishment of the purposes of the Loan.

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

Section 2.08. (a) Cuu Long CIPM 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 TA Project; (iv) the administration, operations and financial condition of Cuu Long CIPM; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, Cuu Long CIPM shall furnish to ADB periodic reports on the execution of the TA Project. 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 TA Project, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, Cuu Long CIPM 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 TA Project, including its cost, the performance by Cuu Long CIPM of its obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) Cuu Long CIPM shall (i) maintain separate accounts and records for the TA Project; (ii) prepare annual financial statements for the TA Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements for the TA 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, if such procedures are used) and a management letter (which sets out the deficiencies in the internal control of the TA 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 TA 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) In addition to annual audited financial statements referred to in subsection (a) hereinabove, Cuu Long CIPM shall (i) provide its annual financial statements prepared in accordance with national accrual-based financing reporting standards; (ii) have its financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are sound and generally acceptable in the relevant industry, in accordance with international standards for auditing or the national equivalent acceptable to ADB; and (iii) furnish to ADB, no later than 1 month after approval by the relevant authority, copies of such audited financial statements in the English language and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(d) Cuu Long CIPM shall enable ADB, upon ADB's request, to discuss the financial statements for the TA Project and its financial affairs where they relate to the TA

Project with the auditors appointed by Cuu Long CIPM pursuant to subsections (a)(iii) and (c) 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 Cuu Long CIPM, unless Cuu Long CIPM shall otherwise agree.

Section 2.10. Cuu Long CIPM shall enable ADB's representatives to inspect the TA Project and any relevant records and documents.

Section 2.11. (a) Cuu Long CIPM 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 TA Project or in the conduct of its operations.

(b) Cuu Long CIPM 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) Cuu Long CIPM shall at all times operate and maintain its buildings, 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, Cuu Long CIPM 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 or the Loan Agreement.

Section 2.13. Except as ADB may otherwise agree, Cuu Long CIPM shall apply the proceeds of the Loan to the financing of expenditures on the TA 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 TA Project.

Section 2.14. Cuu Long CIPM 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 the TA Project. Cuu Long CIPM 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 Cuu Long CIPM 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.

(b) If the Loan Agreement terminates in accordance with its terms before the date specified in subsection (a) hereinabove, ADB shall promptly notify Cuu Long CIPM of this event.

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) 636-2015.

With a copy to:

Asian Development Bank
Units 701 – 706, Sun Red River Building
23 Phan Chu Trinh Str.
Ha Noi
Viet Nam

Facsimile Number:

(84 4) 39 331 373.

For Cuu Long CIPM

Cuu Long Corporation for Investment, Development
and Project Management of Infrastructure
127B Dinh Tien Hoang Str., Ward 3
Binh Thanh Dist.
Ho Chi Minh City
Viet Nam

Facsimile Number:

(08) 38411872.

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 by or on behalf of Cuu Long CIPM may be taken or executed by its General Director or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) Cuu Long CIPM 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 _____
TOMOYUKI KIMURA
Country Director
Viet Nam Resident Mission

CUU LONG CORPORATION FOR
INVESTMENT, DEVELOPMENT AND
PROJECT MANAGEMENT OF
INFRASTRUCTURE


By _____
DUONG TUAN MINH
General Director