

法規名稱：LOAN AGREEMENT BETWEEN THE MINISTRY OF FINANCE OF THE REPUBLIC OF CHINA AND THE NATIONAL PLANNING COUNCIL AND THE MINISTRY OF FINANCE OF THE HASHEMITE KINGDOM OF JORDAN IN REGARD TO THE SAFIA-QABA HIGHWAY CONSTRUCTION PROJECT

簽訂日期：民國 63 年 09 月 23 日

生效日期：民國 63 年 09 月 23 日

THIS AGREEMENT dated the 23rd day of September 1974, by and among the National Planning Council (Borrower), an agency of the Government of the Hashemite Kingdom of Jordan, the Ministry of Finance of the Hashemite Kingdom of Jordan (Guarantor), and the Ministry of Finance of the Republic of China (Lender).

WITNESSETH:

WHEREAS, the Borrower has requested the Lender to establish a loan in lawful United States Dollars for the purpose of enabling the Borrower to complete the Safi-Aqaba Highway Construction (Project) in the Hashemite Kingdom of Jordan; and

WHEREAS, the aggregate foreign currency amount for the construction of the Project is estimated to be equal or exceeding U.S. Dollars Eight Million (US\$8,000,000); and

WHEREAS, the Borrower agrees to provide and to meet all local currency and foreign currency expenses of the project construction in excess of the loan amount extended by the Government of the Republic of China from the resources of the Government of the Hashemite Kingdom of Jordan; and

WHEREAS, the Government of the Republic of China agrees through the request of the Government of the Hashemite Kingdom of Jordan to designate "Ret-Ser Engineering Agency" (Contractor) of the Government of the Republic of China to implement the Construction of the Project work through contractual relationship to the Ministry of Public Works; and

WHEREAS, the Guarantor, in consideration of the covenants and agreements of the Lender contained in this Agreement, has agreed to guarantee unconditionally the repayment to the Lender of the indebtedness incurred by the Borrower under this Agreement, and

WHEREAS, the establishment of the Loan will facilitate the promotion of mutual economic cooperation and friendship between the Hashemite Kingdom of Jordan and the Government of the Republic of China;

NOW, THEREFORE, the parties here to in consideration of the premises and their respective obligations, undertakings and commitments hereinafter set forth covenant and agree as follows:

ARTICLE I

Amount, Purpose and Availability of the Loan

The Lender hereby establishes in favor of the Borrower a loan in

the principal amount of Eight Million U.S. Dollars (US\$8,000,000) to assist the Borrower in the execution of the Project. Except as the Lender may otherwise consent in writing, disbursement shall not be made under the Loan subsequent to August 30,1977 (Available date). Any part of the Loan which is not disbursed on or before said date may be cancelled by the Lender.

ARTICLE II

Repayment of the Loan, Promissory Notes

Repayment: The Borrower unconditionally covenants and agrees to repay the principal amount of the Loan, to pay interest thereon, and to satisfy certain other undertakings as follows:

(1) Principal. The Borrower shall repay to the order of the Lender:

der:

With respect to the aggregate disbursements made by the Lender repayment in twenty (20) equal sucoces sive semiannual installments shall be made starting from the date at the deginning of the third year after project completion, with each installments in the principal amount of U.s. \$400,000. Tthe beginning date of repayment and due date for subsequent semi-annual installments shall be based on the actual date of completion of the project.

(2) Interest. The Borrower shall pay interest to the Lender on

the principal amount of the Loan disbursed and outstanding from time to time. Such interest payment shall be made on January 10 and July 10 of each year commencing with the first such date subsequent to the initial disbursements by the Lender, computed at the rate of seven (7%) percent per annum on basis of actual number of days using a 360 day factor. Interest shall not be charged on the principal payment for the date on which such payment is made. Interest accruing on disbursements made by the Lender within thirty (30) calendar days prior to any interest payment date shall not be payable on such interest date but shall be payable on the next succeeding interest payment date.

(3) Promissory Notes. The Borrower shall issue and deliver to t

he Lender a negotiable promissory note ("Note ") in substantially the form of Annex "A" to this Agreement. Such a Note shall be: (a) dated as of its date of issue; (b) payable in U.s. Dollar currency; and (c) printed in English language on a sheet of safety paper. Such a Note shall be valid and enforceable only to the extent of: (1) The agregate amount of all the disbursements under the Loan; (2) the Interest t- hereon. although the Note shall bear interest from the date thereof, appropriate adjustment will be made so that interest shall be payable only from the dates of the respective d-

isbursement under the Loan. Upon payment in full by the Borrower of all amounts owing to the Lender under this Agreement and the Notes issued hereunder, the Notes will be canceled and returned to the Borrower.

(4) Exchange of Notes. After disbursement of the Loan, if the t-

total aggregate amount is less than the total principal amount, the Borrower shall be entitled, upon written request, to exchange for the outstanding Note a new Note in a principal amount equal to the principal amount of Note surrendered less (a) the aggregate of any repayments of principal amount of Note surrendered (b) any-ratable reduction attributable to the outstanding installments of the Notes surrendered. Such a new Note is to be dated the date to which interest shall have been paid on the Note surrendered and shall conform otherwise to the requirements of subparagraph (3) of this paragraph A.

(5) Prepayments. Upon one month's prior notice from the Borrower

to the Lender, the Borrower shall have the right to repay at any time in advance of maturity, without premium or penalty, all or part of the outstanding principal amounts of the Loan and the Note. And such prepayments shall be applied to the outstanding installments of principal of the Loan and Notes in the inverse order of their maturity.

ARTICLE III

A Guarantee. Without limitation or restriction upon any of the

other covenants of the Guarantor contained in this Agreement, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of all indebtedness of the Borrower to the Lender under or as the result of this Agreement. The Guarantor hereby waives diligence, presentment, demand, protest and notice of any kind, as well as any requirement that the Lender, its assignee or endorsees exhaust any right or take any action against the Borrower.

The Guarantor hereby consents to any extension of (1) the Availability Date and (2) the time of payment and any renewal of the indebtedness of the Borrower under this Agreement or the Note. This guarantee will not be discharged or affected by any circumstance (other than complete payment by the Borrower or the Guarantor) which might constitute a legal or equitable discharge, the intention of the Guarantor being that its guarantee is absolute and unconditional in any and all circumstances.

B Endorsements of Notes. As further evidence of its guarantee,

the Guarantor shall endorse the Note issued by the Borrower in the form specified in Annex "A" to this Agreement.

ARTICLE IV

Disbursement Procedure

A Compliance with Condition Precedent. When all conditions pre-

cedent to the utilization of the Loan (as provided in Article VI hereof) have been complied with, the Loan may be utilized from time to time in accordance with procedures stipulated herein.

B Letters of Credit. To facilitate the disbursement of fund to

the contractor for implementation of the total amount thereof shall not exceed the amount of loan under this Loan Agreement, will be issued to a Bank designated by the Government of the Republic of China in favor of the Contractor. Procedure for payment application shall be as follows:

- (1) Pursuant to the construction contract executed between the Borrower and the Contractor for SafiAqaba Highway Project, application for contract advance payment, monthly progress payments etc.. shall be prepared by the Contractor, certified and approved by the Ministry of Public Works. Only the U. S. Dollar portion of the project disbursement will be paid under the letters of credit from the Loan proceed. Approved payment certificate by the Borrower shall be submitted by the Borrower to the designated Authority of the Government of the Republic of China and letter of credit will be issued accordingly. The Contractor shall submit the certified payment documents together with a payment application signed by the designated representative of the Contractor for the amount to be paid to the Bank designated by the Government of the Republic of China. Payment under the letters of credit by the Bank through reimbursement from the Loan proceed will indicate the date of principal disbursement for the amount requested and will also be the starting date for the interest for each such disbursements.
- (2) Aggregate amount of disbursements through all payment certification mentioned above until the completion of the project, will be the total aggregate amount of the Loan proceed disbursed. Interest shall be computed to January 10 and July 10 each year from the date of disbursement of the principal and shall become due at each interest payment date as mentioned in Article II of this Agreement.
- (3) The contract payments to the Contractor in U.S. Dollar currency from the Loan and in Jordanian currency will be made according to a 60% and 40% ratio respectively withdrawn. The remaining portion contract cost shall be the obligation and responsibility of the Borrower for making payment to the

Contractor according to the stipulations of the construction contract between the Ministry of Public Works and the Contractor.

ARTICLE V

Representations, Warranties and Covenants

A Representations and Warranties-Borrower. The Borrower represe-

nts and warrants that the Loan extended hereunder is reasonably necessary to meet the foreign currency requirements for the construction of the Project.

(1) Authority. The Borrower has full power, authority, and legal

right to incur the indebtedness and other obligations provided for in this Agreement, to execute and deliver this Agreement and the Note, and to perform and observe the terms and provisions of this Agreement and the Note. This Agreement does and the Note will, constitute valid, binding and obligations of the the Borrower, enforceable in accordance with the terms hereof and thereof.

(2) Legality. There is no constitutional provision, treaty, sta-

tute, regulation, decree or similar authority or other legal or contractual obligation binding on the Borrower which would be violated by its execution and delivery of this Agreement or the Note or the performance or observance of any of the terms hereof and thereof.

B Affirmative Covenants-Borrower.

Until all of the indebtedness under this Agreement and the Note has been paid in full, the Borrower covenants that except as the Lender may otherwise consent in writing.

(1) Use of the Proceeds. All funds disbursed to or for the acco-

unt of the Borrower under this Agreement, will be used to finance the construction of the Project, and for no other purpose.

(2) Information and Documents. The Borrower shall furnish to the

Lender all reasonable information concerning the expenditures paid out of the Loan and the operation and implementation status of the Project. The Borrower shall also furnish to the Lender such opinions of counsel, evidence of authority, authenticated specimen signatures and other relevant documents and information as the Lender may reasonably request.

(3) Record. The Borrower shall maintain records adequately to d-

isclose the utilization of the disbursement to the Project and to record the physical progress of the Project including

cost of work.

- (4) Inspection. The Borrower shall permit the representatives a-

nd agents of the Lender to inspect the facilities, activities, books, records and account of the Borrower. The Borrower shall cause its officials, employees and agents to give their full cooperation and assistance in connection therewith.

- (5) Further Assurance. The Borrower shall obtain any authorizat-

ion approval, license or consent from any official, agency or instrumentality of the Hashemite Kingdom of Jordan which may be necessary for the Borrower to fulfill its obligations under this Agreement and Note.

- (6) Completion of the Project. The Borrower shall prosecute the

Project to completion and shall provide funds from its own resources, or obtain from other sources on a basis satisfactory to the Lender, such funds including local and foreign currency as may be required by the Borrower to complete the entire Project.

C Representations and Warranties - Guarantor. The Guarantor repr-

sents and warrants:

- (1) Authority. The Guarantor has full power, authority, and leg-

al right to incur the indebtedness and other obligations provided for in this Agreement, to execute and deliver this Agreement, to endorse guarantee on the Notes, and to perform and observe the terms and provisions of this Agreement and the Note. This Agreement does, and the Note when endorsed by the Guarantor with its guarantee will, constitute valid, binding and enforceable obligations of the Guarantor in accordance with the respective terms hereof and thereof.

- (2) Legality. There is no constitutional provision, treaty, sta-

tute, regulation, decree or similar authority or other legal or contractual obligation binding on the Guarantor which would be violated by its execution and delivery of the Guarantee and this Agreement or the performance or observance of any of the terms hereof and thereof.

- (3) Full Faith and Credit. The guarantee and all of the covenan-

ts of Guarantor contained in this Agreement constitutes unconditional direct obligations of it for the payment and performance of which its full faith and credit is pledged.

D General Covenants - Guarantor. Until all of the indebtedness

under this Agreement and the Note has been paid in full, the

Guarantor consents and agrees that except as the Lender may otherwise consent in writing:

(1) Cooperation. The Guarantor shall not take any action which

would prevent or interfere with the performance by the Borrower of any of the covenants, agreements, and obligations of the Borrower contained in this Agreement and shall take or cause to be taken all actions necessary or appropriate to enable the Borrower to perform such covenants, agreements and obligations.

(2) Subrogation. Regardless of any payment by the Guarantor und-

er Article III of this Agreement, the Guarantor shall not enjoy the right of subrogation to the claims and demands of the Lender, nor the right to enforce any lien or other security for or on account of the granting of this Guarantee, nor in anyway affect the right of the Lender to enforce repayment to the extent that the whole or a portion of the debt is still left unpaid.

ARTICLE VI

Conditions Precedent

As a condition precedent to any disbursement by the Lender under this Agreement, the Lender shall be furnished the following in form and substance satisfactory to him.

(1) The Note. The Note required by subparagraph (3) of paragraph

A of Article II hereof.

(2) Legal Opinion. An opinion of legal counsel acceptable to the

Lender:

(a) Verifying the representatives and warranties of the Borrower set forth in subparagraphs (1) and (2) of paragraph A of Article V hereof; (b) Verifying the representatives and warranties of the Guarantor set forth in subparagraphs (1) through (3) of paragraph C of Article V hereof; and (c) to the effect no present tax or other charges will be levied or imposed by the Hashemite Kingdom of Jordan, or any political or taxing authority thereof, on the indebtedness of the Borrower incurred under this Agreement or on any Notes evidencing such indebtedness or on the Lender with respect to payment of the indebtedness of the Borrower incurred hereunder. If (c) is not true, such opinion shall describe tax and verify that no legal requirement prohibits the payment of such tax by the Borrower or the Guarantor and the remittance in full of the indebtedness of the Borrower incurred hereunder or the increase of the interest rate to yield to the Lender, after deduction of the tax, interest at the rates specified in subparagraph (2) paragraph A, A-

rticle II hereof. Such opinion shall refer to all pertinent laws, ordinances, regulations, resolutions and other relevant documents.

(3) Evidence of Authority. Evidence of the authority of each pe-

rson who:(a) has signed this Agreement on behalf of the Borrower; (b) has signed this Agreement on behalf of the Guarantor (c) has executed or will execute the Notes on behalf of the Borrower; (d) has executed or will execute the guarantee of the Guarantor on the Note; (e) will sign the statement, reports, certificates, and other documents required by this Agreement, and will otherwise act as a representative of the Borrower in the operation of this Agreement.

(4) Sepcimen Signatures. The authenticated specimen signature of

each person named pursuant to subparagraph (3) above.

(5) Construction Contract and Schedule. Evidence showing the co-

nstruction contract for the Project has been concluded indicating total project costtogether with the progress schedule for implementation of project construction.

(6) Exchange Assurance. Evidence that the Borrower has obtained

or caused to be obtained from the proper Jordanian Governmental authorities assurances that sufficient U.S. Dollar currency will be made available to service payments when due of the Borrower's indebtedness incurred under this Agreement.

(7) Project Cost Exceeding Loan Proceed. Evidence that the Borr-

ower has obtained from proper Jordanian Government authority assurances that sufficient self provided local and foreign currency resources are available to meet the project requirement which is in excess of the Loan provided under this Agreement.

ARTICLE VII

Cancellation and Suspension

The Borrower may cancel the unused Portion of the Loan any time by giving to the Lender written notice of such cancellation. If an event of default occurs or an event now unforeseen should occur which in the reasonable judgement of the Lender, would render unlikely the successful completion of the Project and the Lender shall so notify the Borrower in writing, the Lender may suspend disbursement until receipt of satisfactory evidence taht any cause of such suspension has been eliminated in a manner satisfactory to the Lender.

Any such suspension or cancellation shall be without prejudice to the rights and obligations of the parties with respect to pre-emptively committed funds or disbursements made pursuant to t-

his Agreement prior to such suspension or cancellation.

ARTICLE VIII

Events of Default

If any of the following events (Event of Default) shall have occurred and is continuing:

- (1) A failure of the Borrower or the Guarantor to pay any amount due under this Agreement or the Note;
- (2) Any representation or warranty made in or in connection with the execution and delivery of this Agreement, any Note, or any certificate shall at any time prove to have been incorrect in any material respect;
- (3) A failure by the Borrower or the Guarantor to perform any other covenant or obligation under this Agreement or the Notes and such failure remains unremedied for a period of thirty (30) calendar days after written notice thereof shall have been given to the Borrower, or to Guarantor, by the Lender;
- (4) Any Governmental authority shall have taken any action which in the opinion of the Government of the Republic of China adversely affects the Borrower or the Guarantor to pay its indebtedness incurred hereunder;

the Lender, by written notice to the Borrower or the Guarantor, shall make immediately due and payable (a) the entire principal indebtedness then outstanding under this Loan (b) accrued interest to the date of payment, without presentment, demand protest or other notice of any kind, all of which are hereby expressly waived by the Borrower and the Guarantor. Upon the giving of such notice any security which may exist with respect to such amount or Note shall become enforceable.

ARTICLE IX

Miscellaneous

A Disposition of Indebtness. The lender may transfer, negotiate,

grant participation in, or otherwise dispose of all or any portion of the Borrower's Note.

B Taxes. The borrower and Guarantor agree to pay or cause to be

paid all present and future taxes, duties, fees or other charges, if any, levied or assessed by any government, or in connection with the execution, issuance, delivery or registration of this Agreement or the Note of the payment of principal or interest hereunder and thereunder.

C Further Exchange of Promissory Notes. Upon request of the Len-

der made from time to time the Borrower shall issue and deliver to the Lender, in exchange for any Note previously issued to the Lender, its new Note or Notes in such denomination as

the Lender may specify, dated the date to which interest shall have been paid on the Note or Notes surrendered, an in an aggregate principal amount equal to the unpaid principal on the Note or Notes surrendered. Any such new Notes shall conform to the requirements of this Agreement and shall be substantially in the form of Annex "A" to this Agreement, except for such modifications as the Lender may specify to give effect to any of the provisions of this paragraph.

D Language. All notice, communications, reports, opinions and o-

ther documents given under this Agreement, unless submitted in the English language, shall be accompanied by one English translation for each copy of the foregoing so submitted. The English version of any of the foregoing shall prevail in case of conflict.

E Waiver. No failure or delay on the part of the Lender to exer-

cise any right, power, or privilege under this Agreement or the Note shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement or the Note preclude any further exercise thereof or the exercise of any other right, power or privilege.

F Expenses. All statement, reports, certificates, opinions and

other documents or information furnished to the Lender under the Agreement shall be supplied by the Borrower or the Guarantor without cost to the Lender. Further, the Borrower or the Guarantor hereby agree to reimburse the Lender on demand in U. S. Dollar for cost and expenses such as Bank Commission for establishment of letter or letters of credit, out of pocket expenses (including printing cost, legal fees) incurred by the Lender in connection with the preparation, establishment, operation, and enforcement of this Agreement or the protection or presentation of any right or claim of the Lender in connection with this Agreement or the Note.

G Governing Law. This Agreement and each Note issued pursuant to

this Agreement shall be governed by, and construed in accordance with the laws of the Republic of China. The Borrower and the Guarantor further agree that to the extent that the Borrower or any of its property has or hereafter may acquire any immunity from suit on the grounds of sovereignty, the Borrower hereby waives such right of sovereign immunity in respect of its obligations under this Agreement and the Notes, and that any legal action or proceedings with respect to this Agreement or the Note against either or them may be brought in the court in the Republic of China, in Hashemite Kingdom of Jordan or in any appropriate jurisdiction in a third country determined by

the Lender.

H Notice. All notices and other communications hereunder shall

be given in writing and shall be addressed set forth below, or
at such other places as such party may designate in writing:

Ministry of Finance, Taipei, Republic of China

National Planning Council, amman, Hashemite kingdom of Jordan

IN WITNESS WHEREOF, the parties hereto have caused this Agree-
ment to be duly executed in Amman, on the date first mentioned
above.

For the Government of the Republic of China

Ambassador Shu-ming Wang

On behalf of the Ministry

of Finance of the Republic

of China

For the Government of the hashemite kingdom of Jordan

Dr. khalil Salim

President,

National Planning council