

Public Disclosure Authorized

CONFORMED COPY

GRANT NUMBER H078- CE

Project Agreement

(Community Development and Livelihood Improvement “Gemi Diriya” Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

GEMI DIRIYA FOUNDATION

Public Disclosure Authorized

Dated July 29, 2004



GRANT NUMBER H078- CE

PROJECT AGREEMENT

AGREEMENT, dated July 29, 2004, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and GEMI DIRIYA FOUNDATION (the Foundation), a company incorporated and registered under the Sri Lanka Companies Act (No. 17 of 1982).

WHEREAS (A) by the Development Grant Agreement of even date herewith between the Democratic Socialist Republic of Sri Lanka (the Recipient) and the Association, the Association has agreed to make available to the Recipient an amount in various currencies equivalent to thirty-four million, two hundred thousand Special Drawing Rights (SDR34,200,000), on the terms and conditions set forth in the Development Grant Agreement, but only on condition that the Foundation agrees to undertake such obligations toward the Association as are set forth in this Agreement;

(B) in accordance with a subsidiary grant agreement to be entered into between the Recipient and the Foundation (the Subsidiary Grant Agreement), the Grant proceeds provided under the Development Grant Agreement will be made available by the Recipient to the Foundation; and

WHEREAS the Foundation, in consideration of the Association's entering into the Development Grant Agreement with the Recipient, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE 1

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Grant Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) The Foundation declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Grant Agreement, and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, and grant practices, and shall provide,

or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and the Foundation shall otherwise agree, the Foundation shall carry out the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works, and consultants' services required for the Project and to be financed out of the proceeds of the Grant shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. (a) The Foundation shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement.

(b) For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Foundation shall:

- (i) prepare, on the basis of guidelines acceptable to the Association and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Association and the Foundation, a plan for the future operation of the Project; and
- (ii) afford the Association a reasonable opportunity to exchange views with the Foundation on the plan.

Section 2.04. The Foundation shall carry out all its obligations under the Subsidiary Grant Agreement. Except as the Association shall otherwise agree, the Foundation shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Grant Agreement or any provision thereof.

Section 2.05. (a) The Foundation shall, at the request of the Association, exchange views with the Association with regard to the progress of the Project, the performance of its obligations under this Agreement and under the Subsidiary Grant Agreement, and other matters relating to the purposes of the Grant.

(b) The Foundation shall promptly inform the Association and the Recipient of any condition that interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Grant, or the performance by the Foundation of its obligations under this Agreement and under the Subsidiary Grant Agreement.

ARTICLE III

Management and Operations of the Foundation

Section 3.01. The Foundation shall carry on its operations and conduct its affairs in accordance with sound administrative and financial practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. The Foundation shall take out and maintain with responsible insurers, or make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Foundation shall establish and maintain a financial management system, including records and accounts, and prepare financial statements in accordance with consistently applied accounting standards, acceptable to the Association, adequate to reflect the operations, resources and expenditures related to the Project.

- (b) The Foundation shall:
- (i) commencing with the Fiscal Year in which the Effective Date falls, to and including the Fiscal Year in which the last withdrawal from the Grant Account is made, have the financial statements referred to in paragraph (a) of this Section for each Fiscal Year, or other period agreed to by the Association, audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;
 - (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year or such other period agreed to by the Association, (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year, or such other period agreed to by the Association, as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Association; and

- (iii) furnish to the Association such other information concerning such records and accounts, and the audit of such financial statements, and concerning said auditors, as the Association may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Grant Account were made on the basis of reports referred to in Part A.5 of Schedule 1 to the Development Grant Agreement (Report-based Disbursements) or on the basis of statements of expenditure, the Foundation shall:

- (i) retain, until at least one year after the Association has received the audit report for, or covering, the Fiscal Year in which the last withdrawal from the Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (ii) enable the Association's representatives to examine such records; and
- (iii) ensure that such statements of expenditures are included in the audit for each Fiscal Year or other period agreed to by the Association, referred to in paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon the Gemi Diriya Foundation's progress reporting obligations set out in paragraph 12(b) of Schedule 2 to this Agreement, the Foundation shall prepare and furnish to the Association a Financial Monitoring Report, in form and substance satisfactory to the Association, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Grant, and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first Financial Monitoring Report shall be furnished to the Association not later than forty-five (45) days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter,

each Financial Monitoring Report shall be furnished to the Association not later than forty-five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Development Grant Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Association and of the Foundation thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Grant Agreement shall terminate in accordance with its terms; or
- (ii) the date on which the Foundation is dissolved or wound up or ceases to exist.

Section 5.03. All the provisions of this agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this 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 or by mail, telex, or facsimile to the party to which it is required or permitted to be given or made at such party's 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. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:

For the Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

Telex:

Facsimile:

INDEVAS 248423 (MCI) or (202) 477-6391
Washington, D.C. 64145 (MCI)

For the Foundation:

Gemi Diriya Foundation
c/o Ministry of Samurdhi
7A, Reid Avenue
Colombo 7
Sri Lanka

Facsimile:

94-1-2682029

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of the Foundation, may be taken or executed by the Chief Executive Officer of the Foundation or such other person or persons as the Chief Executive Officer shall designate in writing, and the Foundation shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Colombo, Sri Lanka, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Peter C. Harrold

Country Director, Sri Lanka
South Asia Region

GEMI DIRIYA FOUNDATION

By /s/ Gamimi Batuwitige

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I. Procurement of Good and Works

Part A: General

Goods and works shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines) and the provisions of the following Parts of this Section I.

Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods and works shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provisions shall apply to goods and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) Grouping of Contracts

To the extent practicable, contracts for goods shall be grouped in bid packages estimated to cost \$100,000 equivalent or more each.

(b) Preference for Domestically Manufactured Goods

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Recipient.

Part C: Other Procurement Procedures

1. National Competitive Bidding

(a) Goods and equipment estimated to cost \$50,000 equivalent or more but less than \$200,000 equivalent per contract may be procured under contracts awarded on the basis of competitive bidding advertised nationally, in accordance with procedures satisfactory to the Association and the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

(b) Works required for the Project estimated to cost \$50,000 equivalent or more but less than \$500,000 equivalent per contract may be procured under contracts awarded on the basis of competitive bidding advertised nationally, in accordance with

procedures satisfactory to the Association and the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

(c) In order to ensure economy, efficiency, transparency and broad consistency with the provision of Section 1 of the Guidelines:

- (i) invitations to bid shall be advertised in at least one national newspaper with a wide circulation, at least 30 days prior to the deadline for the submission of bids;
- (ii) bid documents shall be made available, by mail or in person, to all who are willing to pay the required fee;
- (iii) foreign bidders shall not be precluded from bidding and no preference of any kind shall be given to national bidders in the bidding process;
- (iv) qualification criteria (in case prequalification was not carried out) shall be stated in the bidding documents, and, if a registration process is required, a foreign firm declared as the lowest evaluated bidder shall be given a reasonable opportunity of registering, without let or hindrance;
- (v) bids shall be opened in public in one location, immediately after the deadline for submission of bids;
- (vi) bids shall not be rejected merely on the basis of a comparison with an official estimate without the prior concurrence of the Association;
- (vii) contracts shall be awarded to the lowest evaluated bidders;
- (viii) post-bidding negotiations shall not be allowed with the lowest evaluated or any other bidders;
- (ix) rebidding shall not be carried out without the Association's prior concurrence;
- (x) all bidders/contractors shall provide bid/performance security as indicated in the bidding/contract documents;
- (xi) evaluation of bids shall be made in strict adherence to the criteria disclosed in the bidding documents, in a format and specified period agreed by the Association;

- (xii) a bidder's bid security shall apply only to a specific bid, and a contractor's performance security shall apply only to the specific contract under which it was furnished;
- (xiii) bids shall not be invited on the basis of percentage premium or discount over the estimated cost;
- (xiv) extension of bid validity shall not be allowed unless justified by exceptional circumstances; and
- (xv) there shall not be any restrictions on the means of delivery of the bids.

2. National Shopping

Goods and equipment estimated to cost less than \$50,000 equivalent per contract may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

3. Direct Contracting

Proprietary equipment and spares, books, periodicals, software, training materials, and small equipment, estimated to cost less than US\$1000 equivalent per contract may be procured with the Association's prior agreement, under direct contracting in accordance with the provisions of paragraph 3.7 of the Guidelines.

4. Community Participation

Goods and works required for Sub-Projects shall be procured in accordance with procedures acceptable to the Association and paragraph 3.15 of the Guidelines.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Association and with the provisions of said paragraph 1.

2. Prior Review

The procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply:

(a) with respect to the first contract for works and goods awarded through national competitive bidding irrespective of value, and each subsequent contract for: (i) works estimated to cost \$500,000 or more; and (ii) goods estimated to cost \$250,000 or more; and

(b) with respect to the first contract for Sub-Projects in each district irrespective of value, and each subsequent Sub-Project containing any contracts estimated to cost \$100,000 or more.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

Part A: General

Consultants' services shall be procured in accordance with the provisions of Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the World Bank in January 1997 and revised in September 1997, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto, and the following provisions of this Section.

Part B: Quality- and Cost-Based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provisions shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph. The shortlist of consultants for services estimated to cost less than \$100,000 equivalent per contract may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.

Part C: Other Procedures for the Selection of Consultants

1. Quality-based Selection

Services for complex tasks may be procured, with the Association's approval, under contracts awarded in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

2. Selection Based on Consultants' Qualifications

Services estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

3. Single-Source Selection

(a) Local community support services to be provided by consulting firms estimated to cost less than \$25,000 equivalent per contract (or any other applicable threshold notified by the Association from time to time) may, with the Association's prior agreement, be procured in accordance with the provisions of paragraphs 3.8 through 3.11 of the Consultant Guidelines.

(b) A contract to train community and local-level service providers estimated to cost less than \$200,000 equivalent may, with the Association's prior agreement, be procured in accordance with the provisions of paragraphs 3.8 through 3.11 of the Consultant Guidelines.

4. Selection Under a Fixed Budget

Services by Support Organizations and Village Organizations to mobilize village communities for Parts A and E of the Project may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.5 of the Consultant Guidelines.

5. Least-Cost Selection

Services for carrying out various audits under the Project estimated to cost less than \$200,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

6. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.4 of the Consultant Guidelines.

7. Service Delivery Contractors

Support services by junior-level support staff for project implementation and monitoring and services for technology development may be procured under contracts awarded in accordance with the provisions of paragraph 3.19 of the Consultant Guidelines.

Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Association and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the report on the comparison of the qualifications and experience of candidates, the qualifications, experience and the terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given. The provisions of paragraph 3 of Appendix 1 to the Consultant Guidelines shall also apply to such contracts.

(c) With respect to each contract for the employment of consulting firms or individual consultants to cost the equivalent of \$50,000 or more financed under a Sub-Project, the procedures set forth in paragraphs 2, 3, and 5 of Appendix 1 to the Consultant Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

SCHEDULE 2

Implementation Program

General Implementation and Project Management

1. The Foundation shall implement the Project in accordance with the Implementation Plan, the Community Operational Manual, and the Environmental Management Framework agreed with the Association, and except as the Association shall otherwise agree, the Foundation shall not amend or waive any provision thereof if, in the opinion of the Association, such amendment or waiver may materially and adversely affect the implementation of the Project.
2. The Foundation shall ensure that throughout project implementation period its chief executive officer shall be assisted by suitably qualified and experienced procurement, financial, and operational specialists and other staff in adequate numbers, whose qualifications and experience are satisfactory and acceptable to the Association, to perform project implementation and monitoring functions.
3. The Foundation shall appoint by no later than September 30, 2004, and thereafter maintain during project implementation period, internal auditors, whose qualifications and experience are satisfactory and acceptable to the Association.
4. The Foundation shall establish by no later than September 30, 2005, and thereafter maintain during the Project implementation period, a satisfactory computerized financial management system for the Project that is acceptable to the Association.

Sub-Projects

5. The Foundation shall ensure that:
 - (a) Sub-Projects are selected and appraised in accordance with the criteria and procedure specified in the Implementation Plan and the Community Operational Manual;
 - (b) Sub-Grants are released to Village Organizations and Pradeshiya Sabhas implementing the project in a timely manner in accordance with Sub-Grant Agreements, which are in form and substance acceptable to the Association; and
 - (c) the Sub-Grant Agreements shall specify, among other things, that:
 - (i) Sub-Grants shall be used exclusively to finance goods, works, and services required for preparation, approval, and implementation of village development plans and in accordance with terms and conditions set forth in the Community Operational Manual;
 - (ii) the amount of each Sub-Grant shall be calculated according to a predetermined cost-sharing formula as agreed with the Association and specified in the Community Operational Manual; and
 - (iii) goods, works, and services shall be procured in accordance

with procedures referred to in this Agreement and set forth in the Community Operational Manual.

6. The Foundation shall prepare, by no later than September 30, 2004, a detailed list of accredited and competent Support Organizations and service providers and widely publish such list, in accordance with guidelines and procedures set forth in Community Operational Manual, to enable Village Organizations and Pradeshiya Sabhas to select one of the listed Support Organizations in a transparent manner, satisfactory to the Association.

Land Use and Acquisition

7. The Foundation shall ensure that:

(a) the Project shall be implemented as far as reasonably practicable on publicly-owned land, using exclusively land free from squatters, encroachments, or other encumbrances;

(b) the Project shall not involve any involuntary land acquisition; and

(c) where unavoidable, voluntary land acquisition shall be kept to a minimum, and undertaken exclusively on the basis of mutually agreed sales transactions or voluntary land donations, and in accordance with guidelines and procedures set forth in the Implementation Plan and the Community Operational Manual.

Monitoring and Evaluation; Mid-Term Review

8. The Foundation shall:

(a) carry out an evaluation of Project implementation in the learning-pilot batch of twenty-four Gram Niladhari Divisions not later than June 30, 2005;

(b) review with the Association the lessons learned; and

(c) thereafter incorporate such lessons in the design and implementation of subsequent batches of Gram Niladhari Divisions in which the Project will be implemented.

9. The Foundation shall:

(a) prepare, by no later than October 31 of each year starting from Fiscal Year 2004, an annual plan for implementing the Project in the following Fiscal Year, based on a demand-driven approach, including an assessment of the potential financing available from the Grant and other sources of funding (including the Recipient's own resources and community contributions); and

(b) finalize the annual plan, with the Association's approval, by not later than December 31 of the Fiscal Year.

10. The Foundation shall:

(a) carry out a six-monthly independent technical, social, environmental, and process audit of project activities beginning December 31, 2004, and thereafter at periodic intervals throughout the project implementation period.

(b) review with the Association and other stakeholders the lessons learned from this audit and incorporate suitable measures in future project activities.

11. The Foundation shall:

(a) carry out a second base-line survey of the Project by not later than June 30, 2006, and furnish to the Association the reports of such survey; and

(b) carry out an impact evaluation at Project completion, and furnish to the Association the reports of such evaluation.

12. The Foundation shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Association, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about June 30, 2006, a report integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a), above, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date;

(c) review with the Association, by September 30, 2006, or such later date as the Association shall request, the report referred to in (b) above, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter; and

(d) The review referred to in sub-paragraph (c), above, shall be based on the Project's monitoring reports as well as specific in-depth studies including, but not limited to, the following: (i) effectiveness and efficiency of the Foundation and the institutional and implementation arrangements; (ii) performance of Support Organizations; (iii) the second base-line survey carried out pursuant to paragraph 11(a), above; and (iv) assessment of the "before" and "after" situation in the Project areas.

