

CONFORMED COPY

CREDIT NUMBER 1724 GM

Project Agreement

(Water and Electricity Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

THE GAMBIA UTILITIES CORPORATION

Dated November 23, 1987

CREDIT NUMBER 1724 GM

PROJECT AGREEMENT

AGREEMENT, dated November 23, 1987, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and THE GAMBIA UTILITIES CORPORATION (GUC).

WHEREAS (A) by the Development Credit Agreement of even date herewith between the Republic of The Gambia (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to six million three hundred thousand Special Drawing Rights (SDR 6,300,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that GUC agrees to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and GUC, the proceeds of the credit provided for under the Development Credit Agreement will be made available to GUC on the terms and conditions set forth in the Subsidiary Loan Agreement; and

WHEREAS GUC, in consideration of the Association's entering into the Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit 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. GUC declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and public utility practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

Section 2.02. GUC: (i) shall open and thereafter maintain at a commercial bank a project account to be used exclusively for payment for goods and services required for the Project; (ii) shall pay into the Project Account an initial amount of at least 750,000 Dalasis; and (iii) shall keep the Project Account continually replenished so that there shall at any time during the execution of the Project be in the Project Account not less than 150,000 Dalasis.

Section 2.03. 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 Credit shall be governed by the provisions of the Schedule to this Agreement.

Section 2.04. GUC 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.

Section 2.05. GUC shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Association shall otherwise agree, GUC shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.06. (a) GUC 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 Loan Agreement, and other matters relating to the purposes of the Credit.

(b) GUC shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Credit, or the performance by GUC of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of GUC

Section 3.01. GUC shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, engineering and public utility practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers including at least one chartered or equivalently qualified accountant.

Section 3.02. GUC shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and public utility practices.

Section 3.03. GUC 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) GUC shall maintain separate records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) GUC shall:

(i) have its accounts and financial statements (balance sheets, statements of income and expenses and related statements), the Project Account and the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, 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: (A) certified copies of its financial statements for such year as so audited; and (B) the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

(iii) furnish to the Association such other information concerning said accounts and financial statements as well as the audit thereof and said records, as the Association shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, GUC shall:

(i) maintain, in accordance with paragraph (a) of this Section, separate records and accounts reflecting such expenditures;

(ii) retain, until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

(iii) enable the Association's representatives to examine such records; and

(iv) ensure that such separate accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report thereof contains, in respect of such separate accounts, a separate opinion by said auditors as to whether the proceeds of the Credit withdrawn in respect of such expenditures were used for the purposes for which they were provided.

Section 4.02. (a) Except as the Association shall otherwise agree, GUC shall produce for its fiscal year 1988 total revenues equivalent to not less than the sum of its total cash operating expenses.

(b) Before March 31 prior to each of the said fiscal year, GUC shall, on the basis of forecasts prepared by GUC and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Association the results of such review upon its completion.

(c) If any such review shows that GUC would not meet the requirements set forth in paragraph (a) for GUC's fiscal years covered by such review, GUC shall promptly take all necessary measures (including adjustments of the structure or levels of its rates) in order to meet such requirements.

(d) For purposes of this Section:

(i) the term "total revenues" means the sum of total operating revenues and net non-operating income;

- (ii) the term "total operating revenues" means revenues from all sources related to operations;
- (iii) the term "net non-operating income" means the difference between:
 - (A) revenues from all sources not related to operations; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above; and
- (iv) the term "total cash operating expenses" means all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes but excluding provision for depreciation and interest and other charges on debt.

Section 4.03. (a) Except as the Association shall otherwise agree, GUC shall earn: (i) for each of its fiscal years 1989 and 1990 a positive annual rate of return with respect to its water supply and electricity operations on the average current net value of GUC's fixed assets in operation; (ii) for each of its fiscal years 1991 and 1992 an annual rate of return of not less than 2% (with respect to its water supply operations) and 6% (with respect to its electricity operations) of the average current net value of GUC's fixed assets in operation; and (iii) for each of its fiscal years after its fiscal year ending on June 30, 1992, an annual rate of return of not less than 3% (with respect to its water supply operations) and 8% (with respect to its electricity operations) of the average current net value of GUC's fixed assets in operation.

(b) Before March 31 prior to each of the said fiscal years, GUC shall, on the basis of forecasts prepared by GUC and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Association the results of such review upon its completion.

(c) If any such review shows that GUC would not meet the requirements set forth in paragraph (a) for GUC's fiscal years covered by such review, GUC shall promptly take all necessary measures (including adjustments of the structure or levels of its rates) in order to meet such requirements.

(d) For purposes of this Section:

(i) the annual rate of return shall be calculated by dividing GUC's net operating income for the fiscal year in question with respect to its water supply operations or, as the case may be, its electricity operations by one-half of the sum of the current net value of GUC's fixed assets in operation at the beginning and at the end of that fiscal year;

(ii) the term "net operating income" means total operating revenues less total operating expenses;

(iii) the term "total operating revenues" means revenues from all sources related to operations;

(iv) the term "total operating expenses" means all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, and provision for depreciation on a straight-line basis at a rate of not less than 3.2% per annum with respect to its water supply assets and 5.4% per annum with respect to its electricity supply assets of the average current gross value of GUC's fixed assets in operation, or on other basis acceptable to the Association, but excluding interest and other charges on debt;

(v) the average current gross value of GUC's fixed assets in operation shall be calculated as one-half of the sum of the gross value of

GUC's fixed assets in operation with respect to its water supply operations or, as the case may be, with respect to its electricity operations at the beginning and at the end of the fiscal year, as valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Association;

(vi) the term "current net value of GUC's fixed assets in operation" means the gross value of GUC's fixed assets in operation with respect to either its water supply operations or, as the case may be, its electricity operations (but not both operations) less the amount of accumulated depreciation, as valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Association.

Section 4.04. Subject to Sections 4.02 and 4.03 of this Agreement, GUC shall limit its sewerage charges to levels that will yield revenues adequate to cover GUC's cash expenses for the operation and maintenance of its sewerage schemes and debt service and no higher.

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 Credit Agreement becomes effective.

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

(i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or

(ii) the date 20 years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify GUC of this event.

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, telegram, cable, telex or radiogram 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. 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:

INDEVAS
Washington, D.C.

Telex:

440098 (ITT)
248423 (RCA) or

For GUC:

The Gambia Utilities Corporation
P.O. Box 609
Banjul
The Republic of The Gambia

Cable address:

ELECTRICITY
Banjul

Telex:

2302 GUCUTLS

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 GUC, or by GUC on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by GUC's Managing Director or such other person or persons as GUC shall designate in writing, and GUC 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 the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Michael J. Gillette

Acting Regional Vice President
Africa

THE GAMBIA UTILITIES CORPORATION

By /s/ Ousman Ahmadou Sallah

Authorized Representative

SCHEDULE

Procurement and Consultants' Services

Section I. Procurement of Goods and Works

Part A. International Competitive Bidding

1. Except as provided in Part D hereof, goods estimated to cost an amount equivalent to \$100,000 or more and works estimated to cost an amount equivalent to \$200,000 or more shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines).

2. Bidders for civil works shall be prequalified as described in paragraph 2.10 of the Guidelines.

Part B. Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in the Gambia may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs I through 4 of Appendix 2 thereto.

Part C. Preference for Domestic Contractors

In the procurement of works in accordance with the procedures described in Part A.1 hereof, GUC may grant a margin of preference to domestic contractors in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraph 5 of Appendix 2 thereto.

Part D. Other Procurement Procedures

1. Fuel and lubricating oil under Part D of the Project may be purchased under contracts awarded on the basis of comparison of price quotations solicited from at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Association.

2. Goods estimated to cost an amount equivalent to less than \$100,000 and works estimated to cost an amount equivalent to less than \$200,000 may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Association.

Part E. Review by the Association of Procurement Decisions

1. Review of prequalification:

With respect to the prequalification of bidders as provided in Part A.2 hereof, the procedures set forth in paragraph 1 of Appendix 1 to the Guidelines shall apply.

2. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for goods estimated to cost an amount equivalent to \$100,000 or more and each contract for works estimated to cost an amount equivalent to \$200,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Association pursuant to paragraph 2 (d) of said Appendix shall be furnished to the Association prior to the making of the first payment out of the Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix I to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Association pursuant to paragraph 3 of said Appendix shall be furnished to the Association as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 3 to the Development Credit Agreement.

(c) The provisions of the preceding subparagraphs (a) and (b) shall not apply to contracts on account of which the Association has authorized withdrawals from the Credit Account on the basis of statements of expenditure. Such contracts shall be retained in accordance with Section 4.01 (c) (ii) of this Agreement.

3. The figure of 10% is hereby specified for purposes of paragraph 4 of Appendix I to the Guidelines.

Section II. Employment of Consultants

In order to assist GUC in carrying out the Project, GUC shall employ consultants whose qualifications, experience and terms and conditions of employment shall be

satisfactory to the Association. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Association on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981.

