

CONFORMED COPY

LOAN NUMBER 3907 IN

Project Agreement

(Second Madras Water Supply Project)

among

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

MADRAS METROPOLITAN WATER SUPPLY AND SEWERAGE BOARD

and

TAMIL NADU WATER SUPPLY AND DRAINAGE BOARD

Dated November 20, 1995

LOAN NUMBER 3907 IN

PROJECT AGREEMENT

AGREEMENT, dated November 20, 1995, among INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and MADRAS METROPOLITAN WATER SUPPLY AND SEWERAGE BOARD (Metro Water) and TAMIL NADU WATER SUPPLY AND DRAINAGE BOARD (TWAD).

WHEREAS (A) by the Loan Agreement of even date herewith between India, acting by its President (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to two hundred seventy-five million eight hundred thousand dollars (\$275,800,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Drainage and Sewerage Boards agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the State of Tamil Nadu and Metro Water, the proceeds of the loan provided for under the Loan Agreement and made available to Tamil Nadu will be relented to Metro Water on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS Metro Water and TWAD, in consideration of the Bank's entering into the Loan Agreement with the Borrower, and Tamil Nadu Agreement with the State of Tamil Nadu 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 Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) TWAD and Metro Water declare their commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out or cause to be carried out Parts B and C of the Project respectively 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.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and Metro Water and TWAD shall otherwise agree, TWAD and Metro Water shall carry out Parts B and C of the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Bank 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 Loan shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. (a) Metro Water and TWAD shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 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) Without limitation upon the provisions of paragraph (a) of this Section, Metro Water shall:

- (i) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Bank and Metro Water, a plan for the future operation of assets created under Parts B and C of the Project;
- (ii) afford the Bank a reasonable opportunity to exchange views with Metro Water on said plan; and
- (iii) thereafter, carry out said plan with due diligence and efficiency and in accordance with appropriate practices, taking into account the Bank's comments thereon.

Section 2.04. Metro Water shall duly perform all its

obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, Metro Water 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 2.05. (a) The Metro Water and TWAD shall, at the request of the Bank, exchange views with the Bank with regard to progress of the Project, the performance of their respective obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Loan.

(b) Metro Water and TWAD shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Loan, or the performance by Metro Water and TWAD of their obligations under this Agreement and by Metro Water under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of Metro Water and TWAD

Section 3.01. Metro Water and TWAD shall carry on their operations and conduct their affairs in accordance with sound administrative, financial and public utility practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. Metro Water and TWAD shall at all times operate and maintain their 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. Metro Water and TWAD shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) Metro Water and TWAD shall maintain records and accounts adequate to reflect in accordance with sound accounting practices their operations and financial condition.

(b) Metro Water and TWAD shall:

- (i) have their records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than nine 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 Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning said records, accounts and financial

statements as well as the audit thereof, as the Bank shall from time to time reasonably request.

Section 4.02. (a) Except as the Bank shall otherwise agree, Metro Water shall, from time to time, take all such measures (including without limitation, adjustments of the structure or levels of its tariffs) as shall be required to produce for each of its financial year, funds from internal sources equivalent to not less than 17.2 % of the annual average of its capital expenditures incurred, or expected to be incurred on the Project during the previous, current and following financial years of the average net value of its fixed assets in operation.

(b) Before December 31 in each financial year, Metro Water shall, on the basis of forecasts prepared by Metro Water and satisfactory to the Bank, review the adequacy of its tariffs to meet the requirement set forth in the preceding paragraph (a) in respect of such year and the next following financial year and shall furnish to the Bank a copy of such review upon its completion.

(c) For the purposes of this Section:

(i) "funds from internal sources" means the difference between:

(A) the sum of gross revenues from all sources related to Metro Water's operations, consumer deposits and cash consumer contributions in aid of construction, net non-operating income and any reduction in non-cash working capital; and

(B) the sum of all expenses of Metro Water's operations, including maintenance and administration (excluding depreciation and other non-cash operating charges), interest and other charges on debt, repayment of loans (including sinking fund payments, if any), all taxes or payments in lieu of taxes, all cash dividends and other cash distributions of surplus, increase in non-cash working capital and any other cash outflows other than cash expenditures related to the operations of Metro Water;

(ii) "capital expenditures" means all expenditures incurred on account of fixed or capital assets related to the operations of Metro Water;

(iii) "gross revenue" means the revenue earned and received for the services provided by Metro Water; and

(iv) "depreciation" means a provision derived in accordance with the straight-line method based on the useful life of assets on the gross value of Metro Water's fixed assets in service at the beginning of each year.

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 Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of Metro Water and TWAD thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify Metro Water and TWAD thereof.

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 Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

197688 (TRT),
248423 (RCA),
64145 (WUI) or
82987 (FTCC)

For Metro Water:

Madras Metropolitan Water Supply
and Sewerage Board
No. 1 Pumping Station Road
Chintadripet
Madras 600002, India

Telex:

418832 MMWS IN

For TWAD:

Tamil Nadu Water Supply and
Drainage Board
TWAD House
31 Kamarajar Salai, Chepauk
Madras 600005, India

Telex:

416152 TWAD IN

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 Metro Water may be taken or executed by its Chairman-cum-Managing Director and on behalf of TWAD by its Managing Director or such other person or persons as Metro Water and TWAD shall designate in writing, and Metro Water and TWAD shall furnish to the Bank 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.

Section 6.04. Any amendment to the provisions of this Agreement as applicable to Metro Water and TWAD may be made by an agreement between the Bank and Metro Water or TWAD, as the case may be.

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 BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Heinz Vergin

Acting Regional Vice President
South Asia

MADRAS METROPOLITAN WATER SUPPLY AND SEWERAGE BOARD

By /s/ N. Valluri

Authorized Representative

TAMIL NADU WATER SUPPLY AND DRAINAGE BOARD

By /s/ N. Valluri

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I. Procurement of Goods 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 (the Guidelines) and the following provisions of this Section, as applicable.

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) Prequalification

Bidders for the construction of transmission mains shall be prequalified in accordance with the provisions of paragraphs 2.9 and 2.10 of the Guidelines.

(b) Preference for Domestically Manufactured Goods and Domestic Contractors

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 Borrower and works to be carried out by domestic contractors.

(c) Dispute Review Board

Each contract for works estimated to cost \$50,000,000 equivalent or more shall include the provisions for a dispute review board set forth in the standard bidding documents for works referred to in paragraph 2.12 of the Guidelines.

Part C: Other Procurement Procedures

1. National Competitive Bidding

(a) Contracts for civil works at the source, rehabilitation work for the treatment plant and for the city distribution and conservation works may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

(b) Contracts for equipment for the city distribution and water conservation works and for package, estimated to cost the equivalent of \$1,000,000 each or less, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. National Shopping

Vehicles estimated to cost \$1,000,000 equivalent in the aggregate, 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.

Part D: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank 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 Bank, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for works and goods estimated to cost the equivalent of \$500,000 and \$200,000 or more, respectively, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the 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 Guidelines shall apply.

Section II. Employment of Consultants

1. Consultants' services shall be procured under contracts

awarded in accordance with the provisions 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 (the Consultant Guidelines). For complex, time-based assignments, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications thereto as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Bank shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts, shall not apply to (a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each or (b) contracts for the employment of individual consultants estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Bank review shall not apply to: (a) the terms of reference for such contracts, (b) single-source selection of consulting firms, (c) assignments of a critical nature, as reasonably determined by the Bank, (d) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above, or (e) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

SCHEDULE 2

Implementation Program

1. Metro Water shall:
 - (a) no later than December 31, 1995, award a consultant contract for the preparation of final designs and tender documents for the installation of distribution system under the Project;
 - (b) no later than December 31, 1996, furnish to the Bank final designs and tender documents satisfactory to the Bank for the initial phase of the work to be carried out for the distribution system under the Project; and
 - (c) carry out the planned Water Distribution and Conservation Strategy dated February 1995 agreed with the Bank in a timely manner.
2. The TWAD shall:
 - (a) (i) undertake the resettlement and rehabilitation of displaced persons and displaced families in accordance with the principles, procedures and practices acceptable to the Bank;
 - (ii) take all necessary steps to carry out the Rehabilitation Action Plan agreed with the Bank; and
 - (iii) without prejudice to the generality of the foregoing, shall ensure that (A) displaced persons are provided prompt and adequate compensation for lost assets, including dwelling and related structures; and (B) displaced persons who are required to relocate are provided adequate assistance, logistical and financial, to move to their new areas of residence and are provided necessary financial assistance, on a grant basis, during the period of relocation and for a reasonable period

thereafter.

- (b) For the purposes of paragraph 2 (a) (i) above, "family" means the head of the household, his or her spouse and minor children. Parents and major children, even though dependent on the head of the household shall, for the purposes of determining benefits and assistance for resettlement and rehabilitation, be treated as separate families.
 - (c) The TWAD shall, prior to award of contract for the construction of transmission mains under the Project, employ consultants to supervise construction of said works.
 - (d) The TWAD shall, not later than June 30, 1996, furnish to the Bank final designs and tender documents satisfactory to the Bank in respect of the rural water supply along the right-of-way of the transmission main.
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