

Public Disclosure Authorized

CONFORMED COPY

LOAN NUMBER 4869-UA

Project Agreement

(Urban Infrastructure Project)

between

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

and

AGENCY FOR DEVELOPMENT PROGRAMS OF ODESSA

and

ODESSA

Dated June 9, 2008

Public Disclosure Authorized



LOAN NUMBER 4869-UA

PROJECT AGREEMENT

AGREEMENT dated June 9, 2008, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and AGENCY FOR DEVELOPMENT PROGRAMS OF ODESSA (the Utility) and ODESSA (the Municipality).

WHEREAS (A) by the Loan Agreement dated May 26, 2008 between UKRAINE (the Borrower) and the Bank, the Bank has agreed to make a loan to the Borrower in the amount of one hundred and forty million Dollars (\$140,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Utility and the Municipality 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 Borrower, through MOF and MHCS, and the Utility and the Municipality, part of the proceeds of the loan provided for under the Loan Agreement will be made available to the Utility on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS the Utility and the Municipality, in consideration of the Bank's entering into the Loan Agreement with the Borrower, have 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) The Utility and the Municipality 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 Parts A.1, A.3, B, C and D.2 of the Project in the area of Odessa with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and environmental 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 the Borrower shall otherwise agree, the Utility and the Municipality shall carry out the Project in accordance with the Implementation Program set forth in Schedule 1 to this Agreement.

Section 2.02. (a) Except as the Bank shall otherwise agree, procurement of the goods, works and services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to the Loan Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) The Utility and the Municipality shall update the Procurement Plan in accordance with guidelines acceptable to the Bank, and furnish such update to the Bank not later than 12 months after the date of the preceding Procurement Plan, for the Bank's approval.

Section 2.03. (a) The Utility and the Municipality 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) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Utility and the Municipality 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 the Utility and the Municipality, a plan for the future operation of the Project; and
- (ii) afford the Bank a reasonable opportunity to exchange views with the Utility and the Municipality on said plan.

Section 2.04. The Utility shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, the Utility 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 Utility and the Municipality shall, at the request of the Bank, exchange views with the Bank with regard to progress of the Project, the performance of its obligations under this Agreement and the obligations of the Utility under the Subsidiary Loan Agreement.

(b) The Utility and the Municipality 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 Loan, or the performance by the Utility and the Municipality of its obligations under this Agreement and obligations of the Utility under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of the Utility

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

Section 3.02. The Utility 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 environmental practices.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Utility shall maintain a financial management system, including records and accounts, and prepare financial statements, in accordance with consistently applied accounting standards acceptable to the Bank, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to Parts B and C of the Project.

- (b) The Utility shall:
- (i) have its financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year (or other period agreed to by the Bank), audited, in accordance with consistently applied auditing standards acceptable to the Bank, by independent auditors acceptable to the Bank;
 - (ii) furnish to the Bank 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 Bank), (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 Bank), as so

audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Bank; and

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

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 and this Agreement has been duly signed in accordance with the Borrower's legislation.

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

Section 5.03. All this 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 Bank:

International Bank for
Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423 (MCI) or 64145 (MCI)	(202) 477-6391

For the Municipality:

Odessa City
1, Dumska Square
Odessa, 65004, Ukraine

Facsimile:

+380-48-722-2274

For the Utility:

Agency for Development Programs of Odessa
1, Dumska Square
Odessa, 65004
Ukraine

Facsimile:

+380-48-242-8055

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 Utility and the Municipality may be taken or executed by the First Deputy Mayor of Odessa or such other person or persons as the First Deputy Mayor of Odessa shall designate in writing, and the Utility 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.

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

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Dejan Ostojic

Authorized Representative

OF

AGENCY FOR DEVELOPMENT PROGRAMS
ODESSA

By /s/ Mikhail Freidlin

Authorized Representative

ODESSA

By /s/ Anatoly Vorokhaev

Authorized Representative

SCHEDULE 1

Implementation Program

Part A: Implementation Modalities

1. Operations Manual

The Utility shall carry out Parts A.1, A.3, B, C and D.2 of the Project in the area Odessa in accordance with the Operations Manual and EMP and shall not assign, amend, abrogate or waive the Operations Manual and the EMP or any provision thereof.

2. Subsidiary Loan Agreement

The Utility shall enter into an agreement with the Borrower, through MOF and MHCS, under terms and conditions satisfactory to the Bank and which shall include the terms referred to in Section 3.01 (c) to Loan Agreement. The Utility shall exercise its rights under Subsidiary Loan Agreement in such a manner as to protect the interests of the Utility, the Borrower and the Bank and to accomplish the purposes of the Project, and, except as the Bank shall otherwise agree, the Utility shall not assign, amend, abrogate or waive, said agreements or any provisions thereof.

Part B: Monitoring

The Utility 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 Bank, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about June 30, 2008, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, 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; and

(c) review with the Bank, by December 30, 2008, or such later date as the Bank shall request, the report referred to in paragraph (b) of this Section, 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 Bank's views on the matter.

Part C: Financial Covenants

For the Purposes of Parts B and C of the Project to be carried out in the Odessa area, the Utility shall:

- (a) cover all operating and maintenance costs by December 31, 2011;
- (b) provide financial forecasts through a Business Plan, satisfactory to the Bank by October 31, 2008, and on October 31 of each following year of Project implementation to ensure that projected operating revenues are sufficient to meet operating and maintenance expenses for the next fiscal year; and
- (c) not incur any debt unless a reasonable forecast of the utilities' revenues and expenditures shows that the estimated net revenue of the utilities for each fiscal year during the term of the debt to be incurred shall be at least 1.3 times the estimated debt service requirements of the utilities in such and future years on all debt of the utility, including the debt to be incurred.