

CONFORMED COPY

LOAN NUMBER 3776 BEL

Project Agreement

(Second Power Development Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

BELIZE ELECTRICITY LIMITED

Dated August 8, 1994

LOAN NUMBER 3776 BEL

PROJECT AGREEMENT

AGREEMENT, dated August 8, 1994, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and BELIZE ELECTRICITY LIMITED (BEL).

WHEREAS (A) by the Loan Agreement of even date herewith between Belize (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to eleven million five hundred thousand dollars (\$11,500,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that BEL 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 and BEL, the proceeds of the loan allocated for Parts A through G of the Project under the Loan Agreement will be relented to BEL on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS BEL, in consideration of the Bank's entering into the Loan 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 Loan 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) BEL declares its 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 through G of the Project 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 such Parts of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank shall otherwise agree, BEL shall carry out Parts A through G of the Project in accordance with: (i) the Implementation Program set forth in Schedule 1 to this Agreement; and (ii) the Project performance indicators set forth in the Annex to a letter agreement of even date herewith between BEL and the Bank.

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 2 to this Agreement.

Section 2.03. BEL 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.

Section 2.04. BEL shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, BEL 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) BEL shall, at the request of the Bank, exchange views with the Bank with regard to progress of Parts A through G 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 Loan.

(b) BEL shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of Parts A through G of the Project, the accomplishment of the purposes of Loan, or the performance by BEL of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of BEL

Section 3.01. BEL 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 and without limitation to the provisions of this Section, maintain a Project implementation unit with an organizational structure satisfactory to the Bank.

Section 3.02. BEL shall at all times operate and maintain its plants and transmission lines and substations, 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.

Section 3.03. BEL 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) BEL shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition including separate accounts to reflect all resources and expenditures in connection with Parts A through G of the Project.

(b) BEL shall:

- (i) have its 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 four 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, BEL shall earn, for each of its Fiscal Years after its Fiscal Year ending on March 31, 1995, an annual return of not less than 7% of the average current net value of BEL's fixed assets in operation.

(b) Before January 1 in each of its Fiscal Years, BEL shall, on the basis of forecasts prepared by BEL and satisfactory to the Bank, 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 Bank the results of such review upon its completion.

(c) If any such review shows that BEL would not meet the requirements set forth in paragraph (a) for BEL's Fiscal Years covered by such review, BEL shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its tariffs) in order to meet such requirements.

(d) For the purposes of this Section:

- (i) The annual return shall be calculated by dividing BEL's net operating income for the Fiscal Year in question by one half of the sum of the current net value of BEL'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 4% per annum of the average current gross value of BEL's fixed assets in operation, or other basis acceptable to the Bank, but excluding interest and other charges on debt.
- (v) The average current gross value of BEL's fixed assets in operation shall be calculated as one half of the sum of the gross value of BEL's fixed assets in operation 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 Bank.
- (vi) The term "current net value of BEL's fixed assets in operation" means the gross value of BEL's fixed assets in operation, as

valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Bank, less the amount of accumulated depreciation.

Section 4.03. (a) Except as the Bank shall otherwise agree, BEL shall not incur any debt unless a reasonable forecast of the revenues and expenditures of BEL shows that the estimated net revenues of BEL for each Fiscal Year during the term of the debt to be incurred shall be at least 1.5 times the estimated debt service requirements of BEL in such year on all debt of BEL including the debt to be incurred.

(b) For the purposes of this Section:

(i) The term "debt" means any indebtedness of BEL maturing by its terms more than one year after the date on which it is originally incurred.

(ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

(iii) The term "net revenues" means the difference between:

(A) the sum of revenues from all sources related to operations and net non-operating income; and

(B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.

(iv) The term "net non-operating income" means the difference between:

(A) revenues from all sources other than those related to operations; and

(B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.

(v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

(vi) The term "reasonable forecast" means a forecast prepared by BEL not earlier than twelve months prior to the incurrence of the debt in question, which both the Bank and BEL accept as reasonable and as to which the Bank has notified BEL of its acceptability, provided that no event has occurred since such notification which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition or future operating results of BEL.

(vii) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Bank.

Section 4.04. (a) BEL shall not, during the period of execution of the Project, undertake any major works or acquire any new assets, not included in the Project, unless the Bank shall have been furnished with evidence satisfactory to the Bank showing:

(i) that the undertaking of such major works or acquisition of such new assets is technically and economically justified; and

(ii) that BEL has a sound financial plan for the undertaking of such

major works or acquisition of such new assets.

(b) For the purposes of this Section the term "major works" or "new assets" shall mean any works or new fixed assets involving expenditures exceeding the equivalent of \$500,000 each.

(c) The provisions of this Section supercede those of Section 4.05 of the Project Agreement entered into between the Bank and the Borrower's Belize Electricity Board, later succeeded by BEL on August 22, 1986, as amended to the date of this Agreement.

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 BEL thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify BEL 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:

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

For BEL:

Belize Electricity Limited
115 Barrack Road
Belize City, Belize, C.A.

Telex:

272-BEL

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 BEL, or by BEL on behalf of the Borrower under the Loan Agreement, may be taken or executed by the Chief Executive Officer or such other person or persons as the Chief Executive Officer shall designate in writing, and BEL 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 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/ Shahid Javed Burki

Regional Vice President
Latin America and the Caribbean

BELIZE ELECTRICITY LIMITED

By /s/ Dean R. Lindo

Authorized Representative

SCHEDULE 1

Implementation Program

Actions to be taken by BEL	Date (by)
1. Employ the consultants required to carry out the detailed engineering, design, and construction included in Parts A, B and D of the Project.	September 30, 1994
2. Furnish to the Bank:	
(a) for its comments the Borrower's and BEL's recommendations based on the results of the study included in Part E of the Project;	March 31, 1995
(b) an action plan, satisfactory to the Bank, for the training of BEL's staff in the areas referred to in Part G of the Project; and	January 31, 1995
(c) an action plan, satisfactory to the Bank, for the integration of its data processing system and the purchase of the hardware and software required therefor.	January 31, 1995
3. Employ the consultants required to prepare the plan for the monitoring and evaluation of the environmental impact of the Project included in Part F.3 of the Project, and for the training of BEL's staff included in Part G.1 of the Project.	January 31, 1995
4. Carry out the recommendations of the study referred to in (2)(a) above, and the action plans referred to in (2)(b) and (c) above.	Promptly after submission to the Bank.

5. Employ the consultants required to carry out the study included in under Part F.1 of the Project.

March 31, 1995

SCHEDULE 2

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

Except as provided in Part C hereof, goods and works (other than for Parts A.2, A.4, B and D of the Project) 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 1992 (the Guidelines).

(a) For fixed-price contracts, the invitation to bid referred to in paragraph 2.13 of the Guidelines shall provide that, when contract award is delayed beyond the original bid validity period, the successful bidder's bid price will be increased for each week of delay by two predisclosed correction factors acceptable to the Bank, one to be applied to all foreign currency components and the other to the local currency component of the bid price. Such an increase shall not be taken into account in the bid evaluation.

(b) In the procurement of goods and works in accordance with Parts A and C.1 hereof, BEL shall use the relevant standard bidding documents issued by the Bank, with such modifications thereto as the Bank shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, BEL shall use bidding documents based on other internationally recognized standard forms agreed with the Bank.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A hereof, goods manufactured in Belize 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 1 through 4 of Appendix 2 thereto.

Part C: Other Procurement Procedures

1. Goods for Part C of the Project may be procured under contracts awarded through limited international bidding procedures on the basis of evaluation and comparison of bids obtained from qualified suppliers eligible under the Guidelines and in accordance with procedures set forth in Sections I and II of the Guidelines (excluding paragraphs 2.8, 2.9, 2.55, 2.56 thereof).

2. Training materials and equipment for Part G of the Project estimated to cost the equivalent of \$25,000 or less per contract, up to an aggregate amount equivalent of \$50,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

Part D: Review by the Bank of Procurement Decisions

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

(a) With respect to each contract procured pursuant to the provisions of Parts A and C.1 hereof, 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 Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank 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 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 together with the other information required to be furnished to the Bank

pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 4 to the Loan Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Loan Account are to be made on the basis of statements of expenditure.

2. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II. Employment of Consultants

1. In order to assist BEL in carrying out the Project, BEL shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank 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 (the Consultant Guidelines). For complex, time-based assignments, BEL shall employ such consultants under contracts using the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, BEL shall use other standard forms agreed with the Bank.

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 contracts for the employment of consulting firms estimated to cost less than \$25,000 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; and (d) amendments to contracts for the employment of consulting firms raising the contract value to \$25,000 equivalent or above.