

CONFORMED COPY

LOAN NUMBER 2985 UNI

Loan Agreement

(Lagos State Water Supply Project)

between

FEDERAL REPUBLIC OF NIGERIA

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated March 31, 1989

LOAN NUMBER 2985 UNI

LOAN AGREEMENT

AGREEMENT, dated March 31, 1989, between the FEDERAL REPUBLIC OF NIGERIA (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Bank to assist in the financing of the Project;

(B) Lagos State of Nigeria (Lagos State) intends to obtain from a consortium of French Commercial Banks (the French Commercial Banks) two loans (the French Commercial Bank Loans) in an aggregate amount equivalent to one hundred thirty-seven million five hundred thousand dollars (\$137,500,000) to assist in financing Parts A and B (1) of the Project on the terms and conditions set forth in agreements (the French Commercial Bank Loan Agreements) to be entered into between Lagos State and the French Commercial Banks;

(C) the Borrower intends to obtain from the

European Investment Bank (EIB) a loan (the EIB Loan) in an amount equivalent to forty-seven million seven hundred thousand dollars (\$47,700,000) to assist in financing Parts B (2), B (3) and C (1) of the Project on the terms and conditions set forth in an agreement (the EIB Loan Agreement) to be entered into between the Borrower and EIB;

(D) the Government of Canada (CIDA) has agreed to make a grant (the CIDA Grant) in an amount equivalent to three million two hundred thousand dollars (\$3,200,000) to assist in financing Part E (1) of the Project on the terms and conditions set forth in an agreement (the CIDA Grant Agreement) dated June 10, 1986 between the Borrower and CIDA;

(E) the Borrower has obtained from the United Nations Development Programme (UNDP) a grant (the UNDP Grant) in an amount equivalent to five hundred fifty-four thousand dollars (\$554,000) to assist in financing Part E (6) of the Project on the terms and conditions set forth in an agreement (the UNDP Grant Agreement) dated October 4, 1985 between the Borrower and UNDP;

(F) the Project will be carried out by Lagos State Water Corporation (LSWC) with the Borrower's assistance and, as part of such assistance, the Borrower will relend to Lagos State the proceeds of the Loan as provided in this Agreement;

(G) Lagos State will in turn make the proceeds of the Loan relend to it by the Borrower available to LSWC under terms and conditions which shall have been approved by the Bank; and

WHEREAS the Bank has agreed, on the basis inter alia of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement, the Project Agreement of even date herewith between the Bank and LSWC and the Lagos State Agreement of even date herewith between the Bank and Lagos State;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985, with the last sentence of Section 3.02 deleted (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Project Agreement" means the agreement between the Bank and LSWC of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement;

(b) "Lagos State Agreement" means the agreement between the Bank and Lagos State of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Lagos State Agreement;

(c) "First Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and Lagos State pursuant to Section 3.01 (b) of this Agreement, as the same may be amended from time to time, and such term includes all schedules to the First Subsidiary Loan Agreement;

(d) "Second Subsidiary Loan Agreement" means the agreement to be entered into between Lagos State and LSWC, pursuant to Section 2.02 of the Lagos State Agreement, as the same may be amended from time to time, and such term includes all schedules to the Second Subsidiary Loan Agreement;

(e) "LSWC Edict" means the Lagos State Water Corporation Edict, No. 25 of 1986 as amended to the date of this Agreement;

(f) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement; and

(g) "Project Preparation Advance" means the project preparation advance granted by the Bank to the Borrower pursuant to exchanges of letters dated January 16, 1985, March 5, 1985, August 18, 1986 and September 29, 1986, between the Borrower and the Bank.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, an amount in various currencies equivalent to one hundred seventy-three million two hundred thousand dollars (\$173,200,000).

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Loan.

(b) The Borrower shall, for the purposes of the Project, open and maintain in dollars a special account in a commercial bank on terms and conditions satisfactory to the Bank. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

(c) Promptly after the Effective Date, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be cancelled.

Section 2.03. The Closing Date shall be March 31, 1996 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($3/4$ of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate per annum for each Interest Period equal to one-half of one percent per annum above the Cost of Qualified Borrowings for the last Semester ending prior to the commencement of such Interest Period.

(b) As soon as practicable after the end of each Semester, the Bank shall notify the Borrower of the Cost of Qualified Borrowings for such Semester.

(c) For purposes of this Section:

- (i) "Interest Period" means the six-month period commencing on each date specified in Section 2.06 of this Agreement, including the Interest Period in which this Agreement is signed.
- (ii) "Cost of Qualified Borrowings" means the cost of the outstanding borrowings of the Bank drawn down after June 30, 1982, expressed as a percentage per annum, as reasonably determined by the Bank.
- (iii) "Semester" means the first six months or the second six months of a calendar year.

Section 2.06. Interest and other charges shall be payable semiannually on February 1 and August 1 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

Section 2.08. The Director General, Federal Ministry of Finance and Economic Development is designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, without any limitation or restriction upon any of its other obligations under the Loan Agreement, shall within the limits of its constitutional powers, cause LSWC and Lagos State to perform in accordance with the provisions of the Project Agreement and the Lagos State Agreement all the obligations of LSWC and Lagos State therein set forth, shall take or cause to be taken all actions, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable LSWC and Lagos State to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall relend the proceeds of the Loan to Lagos State under a first subsidiary loan agreement to be entered into between the Borrower and Lagos State, under terms and conditions which shall have been approved by the Bank and which shall include annual interest at the variable rate referred to in Section 2.05

of this Agreement and repayment of principal in twenty years (including a five-year grace period) and the assumption of the foreign exchange risk by LSWC.

(c) The Borrower shall exercise its rights under the First Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Bank and to accomplish the purposes of the Loan and, except as the Bank shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the First Subsidiary Loan Agreement or any provision thereof.

Section 3.02. 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 the Schedule to the Project Agreement.

Section 3.03. The Bank and the Borrower hereby agree that 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) shall be carried out by LSWC pursuant to Section 2.04 of the Project Agreement.

ARTICLE IV

Remedies of the Bank

Section 4.01. Pursuant to Section 6.02 (k) of the General Conditions, the following additional events are specified:

(a) LSWC and Lagos State shall have failed to perform any of their obligations under the Project Agreement and the Lagos State Agreement.

(b) As a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation shall have arisen which shall make it improbable that LSWC and Lagos State will be able to perform their obligations under the Project Agreement and the Lagos State Agreement.

(c) The LSWC Edict shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of LSWC to perform any of its obligations under the Project Agreement.

(d) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of LSWC or for the suspension of its operations.

(e) (i) Subject to subparagraph (ii) of this paragraph:

(A) the right of the Borrower or Lagos State to withdraw the proceeds of any grant or loan made to the Borrower or Lagos State for the financing of the Project including the French Commercial Bank Loans, the EIB Loan, the CIDA Grant and the UNDP Grant) shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor, or

(B) any such loan shall have become due

and payable prior to the agreed maturity.

- (ii) Subparagraph (i) of this paragraph shall not apply if the Borrower or Lagos State (as the case may be) establishes to the satisfaction of the Bank that such suspension, cancellation, termination or prematuring is not caused by failure of the Borrower or Lagos State to perform any of its obligations under such agreement and adequate funds for the Project are available to the Borrower or Lagos State from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement or Lagos State under the Lagos State Agreement.

Section 4.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional events are specified:

- (a) the event specified in paragraph (a) of Section 4.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower; and

- (b) the events specified in paragraphs (c), (d) and (e) of Section 4.01 of this Agreement shall occur, subject in the ease of the event specified in paragraph (e) (i) (B) of that Section to the proviso of paragraph (e) (ii) thereof.

ARTICLE V

Effective Date; Termination

Section 5.01. The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions:

- (a) the First Subsidiary Loan Agreement has been executed on behalf of the Borrower and Lagos State;

- (b) the Second Subsidiary Loan Agreement has been executed on behalf of Lagos State and LSWC; and

- (c) all conditions precedent to the effectiveness of the French Commercial Bank Loan Agreements and the EIB Loan Agreement, except for the effectiveness of this Agreement, have been fulfilled.

Section 5.02. The following are specified as additional matters, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank:

- (a) that the Project Agreement has been duly authorized or ratified by LSWC and is legally binding upon LSWC in accordance with its terms;

- (b) that the Lagos State Agreement has been duly authorized or ratified by Lagos State and is legally binding upon Lagos State in accordance with its terms;

- (c) that the First Subsidiary Loan Agreement has been duly authorized or ratified by the Borrower and Lagos State and is legally binding upon the Borrower and Lagos State in accordance with its terms; and

(d) that the Second Subsidiary Loan Agreement has been duly authorized or ratified by Lagos State and LSWC and is legally binding upon Lagos State and LSWC in accordance with its terms.

Section 5.03. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. The Minister of Finance and Economic Development of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

The Honourable Minister
Federal Ministry of Finance and
Economic Development
PMB 12591
Federal Secretariat, Ikoyi
Lagos, Nigeria

Cable address: Telex:

 FEDMINFIN 21248 (ITT)
 Lagos

For the Bank:

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

Cable address: Telex:

 INTBAFRAD 440098 (ITT)
 Washington, D.C. 248423 (RCA)

or

64145 (WUI)

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.

FEDERAL REPUBLIC OF NIGERIA

By /s/ Hamzat Ahmadu
Authorized Representative

INTERNATIONAL BANK FOR

RECONSTRUCTION AND DEVELOPMENT

By /s/ Edward V. K. Jaycox
Regional Vice President
Africa

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Loan, the allocation of the amounts of the Loan to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Equipment, materials and vehicles (including spare parts)	60,300,000	100% of foreign expenditures or 85% if pur- chased locally
(2) Civil works	81,300,000	100% of foreign expenditures and 50% of local expenditures
(3) (a) Consultants' services	8,500,000	100%
(b) Technical assistance and training	5,700,000	100%
(4) Refunding of Project Prepara- tion Advance	1,500,000	Amount due pur- suant to Section 2.02 (c) of this Agreement
(5) Unallocated	15,900,000	
TOTAL	173,200,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of \$2,000,000, may be made on account of payments made for expenditures before that date but after May 31, 1986.

SCHEDULE 2

Description of the Project

The objectives of the Project are: (i) to increase population access to public water supplies; (ii) to eliminate subvention support from Lagos State to LSWC for recurrent expenditures; and (iii) to strengthen LSWC including its management, operations and maintenance, training facilities and programs, manpower management, accountability, economic efficiency, financial performance and future viability.

The Project which forms the first phase of a 15-year expansion program consists of the following Parts, subject to such modifications thereof as the Borrower and the Bank may agree upon from time to time to achieve such objectives:

Part A: Expansion of Water Supply Facilities

Construction of: (i) an intake structure on the Ogun River at Akute; (ii) a raw water pumping station, and 8.2 km of 1600 mm diameter raw water main to a treatment plant (320,000 m³/d) to be constructed as part of the Project at Adiyon, including facilities for the pumping and transmission of water to be stored at Oke-Aro reservoir (100,000 m³); and (iii) standby generators.

Part B: Transmission and Distribution System

(1) Laying of approximately 65.5 km of steel and ductile iron pipes and fittings from the Adiyon waterworks to and within metropolitan Lagos.

(2) Supply and laying of an additional 14 km of pipelines to improve access in the various parts of metropolitan Lagos.

(3) Supply and laying of approximately 280 km of secondary pipelines and 877 km of tertiary pipes together with valves and fittings.

(4) Provision and installation of materials for approximately 112,000 new service connections, together with 75,000 meters (consumer as well as production and zonal) and 420 additional public standposts.

Part C: Rehabilitation of Existing Systems

Rehabilitation works including: (1) the anti-salinity weir on the Ogun River to minimize salt water intrusion; (2) the Ishasi waterworks; (3) several mini waterworks to bring the rehabilitation works up to design output; (4) rehabilitation of about 94 km of pipelines including replacements for defective valves and hydrants; (5) supply and laying of tertiary pipes to reinforce the existing distribution system hydraulically including connections and metering; and (6) provision of other spare parts and materials appropriate for improving the performance of LSWC's facilities.

Part D: Administrative Infrastructure

(1) Expansion, improvement and/or rehabilitation of LSWC's offices, workshops, depot and stores facilities and housing for operating personnel of LSWC.

(2) Provision to LSWC of vehicles and mobile plant and workshop, distribution system, communications and training equipment and tools.

(3) Provision to and installation for LSWC of data

processing equipment.

Part E: Institutional Support

(1) Assistance to LSWC in carrying out: (a) a hydraulic analysis of the Lagos Metropolitan Area distribution system; and (b) detailed design of primary, secondary and tertiary systems and supervision of: (i) construction of the Adiyen treatment plant, (ii) the laying of primary, secondary and tertiary mains, and (iii) the laying of new service connections.

(2) Provision of technical support services to LSWC in the areas of project management, accounting, billing and collection, computing and data processing, decentralization and operation and maintenance.

(3) Development of training programs and training of LSWC staff, (including overseas training).

(4) Implementation Planning and Review Workshops for institutional development and miscellaneous support to LSWC.

(5) Assistance to LSWC in carrying out studies of groundwater potential and usage and of appropriate sanitation technologies to cope with increased public water supplies.

(6) An organization and management study of LSWC.

* * * * *

The Project is expected to be completed by September 30, 1995.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (Expressed in dollars)*
On each February 1 and August 1 beginning February 1, 1994 through February 1, 2008	5,775,000
On August 1, 2008	5,725,000

* The figures in this column represent dollar equivalents determined as of the respective dates of withdrawal. See General Conditions, Sections 3.04 and 4.03.

Premiums on Prepayment

The following premiums are specified for the purposes of Section 3.04 (b) of the General Conditions:

Time of Prepayment	Premium
	The interest rate (expressed as a percentage per annum) applicable to the balance outstanding on the Loan on the day of prepayment multiplied by:
Not more than three years before maturity	0.15
More than three years but not more than six years before maturity	0.30
More than six years but not more than eleven years before maturity	0.55
More than eleven years but not more than sixteen years before maturity	0.80
More than sixteen years but not more than eighteen years before maturity	0.90
More than eighteen years before maturity	1.00

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1), (2) and (3) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1, to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$2,000,000 to be withdrawn from the Loan Account and deposited in the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Except as the Bank shall otherwise agree, payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account may be made as follows:

(a) on the basis of a request or requests by the Borrower for a deposit or deposits which add up to the aggregate amount of the Authorized Allocation, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit in the Special Account such amount or amounts as the Borrower shall have requested.

(b) The Borrower shall furnish to the Bank requests for replenishment of the Special Account at such intervals as the Bank shall specify. on the basis of such requests, the Bank shall withdraw from the Loan Account and deposit into the Special Account such amounts as shall be required to replenish the Special Account with amounts not exceeding the amount of payments made out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Bank from the Loan Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. For each payment made by the Borrower out of the Special Account for which the Borrower requests replenishment pursuant to paragraph 3 (b) of this Schedule, the Borrower shall furnish to the Bank, prior to or at the time of such request, such documents and other evidence as the Bank shall reasonably request, showing that such payment was made for eligible expenditures.

5. (a) Notwithstanding the provisions of paragraph 3 of this Schedule, no further deposit into the Special Account shall be made by the Bank when either of the following situations first arises:

- (i) the Bank shall have determined that all further withdrawals should be made by the Borrower directly from the Loan Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or
- (ii) the total unwithdrawn amount of the Loan allocated to the eligible Categories, less the amount of any outstanding special commitment entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall be equal to an amount equivalent to twice the amount of the Authorized Allocation.

(b) Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account: (i) was made for any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule, or (ii) was not justified by the evidence furnished pursuant to paragraph 4 of this Schedule, the Borrower shall, promptly upon notice from the Bank, deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. No further deposit by the Bank into the Special Account shall be made until the Borrower has made such deposit or refund.

(b) If the Bank shall have determined at any time that any amount outstanding in the Special Account will

not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount for crediting to the Loan Account.

