

CONFORMED COPY

LOAN NUMBER 4227 PH

Loan Agreement

(Water Districts Development Project)

between

REPUBLIC OF THE PHILIPPINES

and

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Dated May 15, 1999

LOAN NUMBER 4227 PH

LOAN AGREEMENT

AGREEMENT, dated May 15, 1999, between REPUBLIC OF THE PHILIPPINES (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) Part A of the Project will be carried out by the Metropolitan Waterworks and Sewerage System (MWSS), with the Borrower's assistance and, as part of such assistance, the Borrower will relend the proceeds of the Loan to MWSS, as provided in this Agreement;

(C) the Borrower has requested additional financial assistance toward financing Part B of the Project which will be carried out by Land Bank of the Philippines (LBP), and the Bank is agreeing to extend a loan of fifty four million five hundred thousand dollars (\$36,300,000) to LBP (the LBP Loan) pursuant to a loan agreement of even date herewith between the Bank and LBP (the LBP Loan Agreement);

(D) under a guarantee agreement of even date herewith between the Borrower and the Bank (Guarantee Agreement), the Borrower has agreed to guarantee the obligations of LBP in respect of the LBP Loan and to undertake such other obligations as set forth in such guarantee agreement; 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;

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 for Single Currency Loans" of the Bank, dated May 30, 1995, with the modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

"Section 6.03 is modified to read: Section 6.03. Cancellation by the Bank. If (a) the right of the Borrower to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the Loan for a continuous period of thirty days, or (b) at any time, the Bank determines, after consultation with the Borrower, that an amount of the Loan will not be required to finance the Project's costs to be financed out of the proceeds of the Loan, or (c) at any time, the Bank determines, with respect to any contract to be financed out of the proceeds of the Loan, that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of a beneficiary of the Loan during the procurement or the execution of such contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation, and establishes the amount of expenditures in respect of such contract which would otherwise have been eligible for financing out of the proceeds of the Loan, or (d) at any time, the Bank determines that the procurement of any contract to be financed out of the proceeds of the Loan is inconsistent with the procedures set forth or referred to in the Loan Agreement and establishes the amount of expenditures in respect of such contract which would otherwise have been eligible for financing out of the proceeds of the Loan, or (e) after the Closing Date, an amount of the Loan shall remain unwithdrawn from the Loan Account, or (f) the Bank shall have received notice from the Guarantor pursuant to Section 6.07 with respect to an amount of the Loan, the Bank may, by notice to the Borrower and the Guarantor, terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice, such amount of the Loan shall be cancelled."

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions, the Preamble to this Agreement, the LBP Loan Agreement and the Guarantee Agreement have the respective meanings therein set forth and the following additional terms, wherever used in this Agreement, have the following meanings:

(a) "Metropolitan Waterworks and Sewerage System" and "MWSS" mean the agency of the Borrower established under Republic Act 6243, responsible for developing, operating and maintaining water supply, sewerage and sanitation systems in and around Metro Manila, and any successor thereto;

(b) "MWSS Subsidiary Loan" means the loan made or proposed to be made by the Borrower to MWSS out of the proceeds of the Loan, under the provisions of the MWSS Subsidiary Loan Agreement;

(c) "MWSS Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and MWSS 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 MWSS Subsidiary Loan Agreement;

(d) "PPA" means the public performance audit system to be developed by MWSS under Part A of the Project, to measure the performance of the concessionaires for its water and sewerage services;

(e) "PPA Project Management Unit" means the entity to be established and maintained by MWSS in accordance with paragraph 1 of Schedule 2 to the Project Agreement;

(f) "Project Agreement" means the agreement between the Bank and MWSS of even date herewith, as the same may be amended from time to time, and such terms includes

all schedules and agreements supplemental to the Project Agreement; and

(g) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement.

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 equal to two million three hundred thousand dollars (\$2,300,000).

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 services required for Part A of the Project and to be financed out of the proceeds of the Loan.

(b) The Borrower may, for the purposes of Part A of the Project, open and maintain in dollars a special deposit account in a commercial bank specifically authorized for this purpose by the Bangko Sentral ng Pilipinas, on terms and conditions satisfactory to the Bank, including appropriate protection against set-off, seizure and attachment. Deposits into, and payments out of the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2003 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 percent (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 for each Interest Period equal to LIBOR Base Rate plus LIBOR Total Spread.

(b) For the purposes of this Section:

(i) "Interest Period" means the initial period from and including the date of this Agreement to, but excluding, the first Interest Payment Date occurring thereafter, and after the initial period, each period from and including an Interest Payment Date to, but excluding the next following Interest Payment Date.

(ii) "Interest Payment Date" means any date specified in Section 2.06 of this Agreement.

(iii) "LIBOR Base Rate" means, for each Interest Period, the London interbank offered rate for six-month deposits in dollars for value the first day of such Interest Period (or, in the case of the initial Interest Period, for value the Interest Payment Date occurring on or next preceding the first day of such Interest Period), as reasonably determined by the Bank and expressed as a percentage per annum.

(iv) "LIBOR Total Spread" means, for each Interest Period: (A) one half of one percent (1/2 of 1%); (B) minus (or plus) the weighted average margin, for such Interest Period, below (or above) the London interbank offered rates, or other reference rates, for six-month deposits, in respect of the Bank's outstanding borrowings or portions thereof allocated by the Bank to fund single currency loans or portions thereof made by it that include the Loan; as reasonably determined by the Bank and expressed as a percentage per annum.

(c) The Bank shall notify the Borrower of LIBOR Base Rate and LIBOR Total Spread for each Interest Period, promptly upon the determination thereof.

(d) Whenever, in light of changes in market practice affecting the determination of the interest rates referred to in this Section 2.05, the Bank determines that it is in the interest of its borrowers as a whole and of the Bank to apply a basis for determining the interest rates applicable to the Loan other than as provided in said Section, the Bank may modify the basis for determining the interest rates applicable to the Loan upon not less than six (6) months' notice to the Borrower of the new basis. The basis shall become effective on the expiry of the notice period unless the Borrower notifies the Bank during said period of its objection thereto, in which case said modification shall not apply to the Loan.

Section 2.06. Interest and other charges shall be payable March 15 and September 15 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.

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 this Agreement, shall: (i) cause MWSS to perform in accordance with the provisions of the Project Agreement all the obligations of MWSS therein set forth; (ii) take or cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable MWSS to perform such obligations; and (iii) shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall, in respect of Part A of the Project, relend the proceeds of the Loan to MWSS, under a subsidiary loan agreement satisfactory to the Bank, under terms and conditions which shall have been approved by the Bank and which shall include the following:

- (i) the principal amount of the MWSS Subsidiary Loan shall be denominated and repayable in dollars;
- (ii) the MWSS Subsidiary Loan shall be made for a period of twenty (20) years, including a grace period not to exceed five (5) years;
- (iii) MWSS shall pay interest on the principal amount of the MWSS Subsidiary Loan withdrawn and outstanding from time to time at the rate of 1% above the rate applicable to the Loan pursuant to Section 2.05 of this Agreement;
- (iv) MWSS shall pay a commitment charge on the principal amount of the MWSS Subsidiary Loan not withdrawn from time to time at a rate equal to the rate applicable to the Loan pursuant to Section 2.04 of this Agreement.

(c) The Borrower shall exercise its rights under the MWSS 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 MWSS Subsidiary Loan Agreement or any provision thereof.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the consultants' services required for Part A of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 1 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 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, and

maintenance, respectively) shall be carried out by MWSS pursuant to Section 2.03 of the Project Agreement.

Section 3.04. For the purposes of Section 9.08 of the General Conditions and without limitation thereto, the Borrower shall prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than December 31, 2000 a report on (i) the results of the application of the PPA until such date, and (ii) the potential expansion of the PPA to water and sewerage services outside of the jurisdiction of MWSS.

ARTICLE IV

Financial Covenants

Section 4.01. (a) For all expenditures with respect to which withdrawals from the Loan Account were made on the basis of statements of expenditure, the Borrower shall:

(i) maintain or cause to be maintained, in accordance with sound accounting practices, records and accounts reflecting such expenditures;

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

(iii) enable the Bank's representative to examine such records.

(b) The Borrower shall:

(i) have the records and accounts referred to in paragraph (a) (i) of this Section and those for the Special Account 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 six (6) months after the end of each such year the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested, including a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals; and

(iii) furnish to the Bank such information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

ARTICLE V

Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional events are specified:

(a) MWSS shall have failed to perform any of its obligations under the Project 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 MWSS will be able to perform its obligations under the Project Agreement.

(c) The legislation establishing MWSS shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of MWSS 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 MWSS or for the suspension of its operations.

Section 5.02. 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 5.01 of this Agreement shall occur and shall continue for a period of sixty (60) days after notice thereof shall have been given by the Bank to the Borrower; and

(b) any of the events specified in paragraphs (c), (d) and (e) of Section 5.01 of this Agreement shall occur.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following event is specified as an additional condition to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions, namely that the MWSS Subsidiary Loan Agreement shall have been executed on behalf of the Borrower and MWSS.

Section 6.02. 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, that:

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

(b) the MWSS Subsidiary Loan Agreement has been duly authorized or ratified by the Borrower and MWSS respectively, and is legally binding upon the Borrower and MWSS in accordance with its terms.

Section 6.03. 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 VII

Representative of the Borrower; Addresses

Section 7.01. The Secretary of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Department of Finance
Department of Finance Building
Roxas Blvd.
Manila
Republic of the Philippines

Telex:

40268 CB-CONF

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 (MCI) or
64145 (MCI)

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

REPUBLIC OF THE PHILIPPINES

By /s/ Joel Bañares

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Aloysius Ordu

Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

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

Category	Amount of the Loan Allocated (Expressed in Dollars)	% of Expenditures to be Financed
(1) Consultants' services under Part A of the Project	2,300,000	100%
TOTAL	<hr/> 2,300,000	

2. The Bank may require withdrawals from the Loan Account to be made on the basis of statements of expenditure for expenditures for consultants' services under contracts with firms costing less than \$100,000 equivalent, under such terms and conditions as the Bank shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objective of the Project is to assist the Republic of the Philippines in: (i) creating an institutional environment which would encourage the participation of the private sector in water utilities; and (ii) supporting the Participating LGUs in improving sewerage, sanitation and drainage services within the areas of their jurisdiction.

The Project consists of the following Parts, subject to such modifications

thereof as the Bank and the Borrower may agree upon from time to time to achieve such objectives:

Part A: Public Performance Audit

Development and piloting of a public performance audit system to measure the performance of concessionaires for water and sewerage services, through the provision of technical assistance.

Part B: Sewerage, Sanitation and Drainage Services

1. Improvement in the water, sewerage, sanitation and drainage services in Participating LGUs through the construction of: (i) water, sewerage and drainage systems in barangays, (ii) on-site and communal sanitation facilities for residents of such LGUs, (iii) a sewerage system consisting of house connections, feeder and trunk sewers; (iv) a sewage treatment plant; and (v) drainage facilities.

2. Strengthening the capability of the Project Management Office to support the Participating LGUs in the design of their respective Sub-projects and to manage the overall implementation of the Project, through the provision of consultants' services.

The Project is expected to be completed by December 31, 2002.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in Dollars)*
March 15, 2003	50,000.00
September 15, 2003	50,000.00
March 15, 2004	50,000.00
September 15, 2004	55,000.00
March 15, 2005	55,000.00
September 15, 2005	55,000.00
March 15, 2006	60,000.00
September 15, 2006	60,000.00
March 15, 2007	60,000.00
September 15, 2007	65,000.00
March 15, 2008	65,000.00
September 15, 2008	65,000.00
March 15, 2009	70,000.00
September 15, 2009	70,000.00
March 15, 2010	75,000.00
September 15, 2010	75,000.00
March 15, 2011	80,000.00
September 15, 2011	80,000.00
March 15, 2012	80,000.00
September 15, 2012	85,000.00
March 15, 2013	85,000.00
September 15, 2013	90,000.00
March 15, 2014	95,000.00
September 15, 2014	95,000.00
March 15, 2015	100,000.00
September 15, 2015	100,000.00
March 15, 2016	105,000.00
September 15, 2016	105,000.00
March 15, 2017	110,000.00
September 15, 2017	110,000.00

* The figures in this column represent the amount in dollars to be repaid, except

as provided in Section 4.04 (d) of the General Conditions.

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Category" means Category (1) set forth in the table in paragraph 1 of Schedule 1 to this Agreement in respect of Part A of the Project;

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

(c) the term "Authorized Allocation" means an amount equivalent to \$200,000 to be withdrawn from the Loan Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Bank shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$100,000 until the aggregate amount of withdrawals from the Loan Account plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions for Part A of the Project shall be equal to or exceed the equivalent of \$1,000,000.

2. 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 shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Bank a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Bank requests for deposits into the Special Account at such intervals as the Bank shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Bank from the Loan Account under the eligible Category, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Special Account:

(a) if, at any time, 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;

(b) if the Borrower shall have failed to furnish to the Bank, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Bank pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

(c) if, at any time, the Bank shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Loan allocated to the eligible Category, minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to Part A of the Project, shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan allocated to the eligible Category 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 an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Borrower shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) 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. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(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.

(c) The Borrower may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Loan Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

