

CREDIT NUMBER 2124 UG

Project Agreement

(Second Water Supply Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

NATIONAL WATER AND SEWERAGE CORPORATION

Dated April 24, 1990

CREDIT NUMBER 2124 UG

PROJECT AGREEMENT

AGREEMENT, dated April 24, 1990, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and NATIONAL WATER AND SEWERAGE CORPORATION (NWSC).

WHEREAS (A) by the Development Credit Agreement of even date herewith between the Republic of Uganda (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to forty-five million one hundred thousand Special Drawing Rights (SDR 45,100,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that NWSC agree to undertake such obligations-toward the Association as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and NWSC, part of the proceeds of the credit provided for under the Development Credit Agreement will be made available to NWSC on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS NWSC, in consideration of the Association's entering into the Development Credit 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 Development Credit Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth and the term "Fiscal Year" and the abbreviation "FY" means NWSC's fiscal year which begins on July 1 in each year and ends on June 30 of the following year.

ARTICLE II

Execution of the Project

Section 2.01. (a) NWSC declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement and, to this end, shall carry out Parts A and B.1 of the Project 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 Parts A and B.1 of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and NWSC shall otherwise agree, NWSC shall carry out the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Parts A and B.1 of the Project, and to be financed out of the proceeds of the Credit, shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. NWSC shall carry out the obligations set forth in Sections 9.03, 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, maintenance and land acquisition, respectively) in respect of the Project Agreement.

Section 2.04. NWSC shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Association shall otherwise agree, NWSC 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) NWSC shall, at the request of the Association, exchange views with the Association with regard to the progress of Parts A and B.1 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 Credit.

(b) NWSC shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Credit, or the performance by NWSC of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of NWSC

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

Section 3.02. NWSC 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 public utility practices.

Section 3.03. NWSC shall take out and maintain with responsible insurers or make other provision, satisfactory to the Association, for insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) NWSC shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) NWSC 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 Association;
- (ii) furnish to the Association as soon as available, but in any case not later than six 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 Association shall have reasonably requested; and
- (iii) furnish to the Association such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Association shall from time to time reasonably request.

Section 4.02. Except as the Association shall otherwise agree, NWSC shall undertake a valuation of the fixed assets of the water supply and sewerage facilities in Tororo, Mbale, Masaka and Mbarara by December 31, 1990 in accordance with sound methods of valuation, acceptable to the Association.

Section 4.03. Except as the Association shall otherwise agree, NWSC shall take all measures necessary (including but not limited to adjustments to the structure or levels of its water supply and sewerage tariffs) as shall be required to implement a water and sewerage tariff increase of 60 percent, on the average, which shall take effect from June 1, 1990.

Section 4.04. (a) Except as the Association shall otherwise agree, NWSC shall produce, for each of its fiscal years after its fiscal year ending on June 30, 1990, funds from internal sources equivalent to not less than the following percentages of NWSC's capital expenditures for the relevant fiscal year: 15% in FY 1990/91; 12% - in FY 1991/92; and 20% in FY 1992/93 and in the following years.

(b) Before January 31 in each of its fiscal years, starting January 31, 1991, NWSC shall, on the basis of forecasts prepared by NWSC and satisfactory to the Association, 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 Association a copy of such review upon its completion.

(c) If any such review shows that NWSC would not meet the requirements set forth in paragraph (a) for NWSC's fiscal years covered by such review, NWSC shall promptly take all necessary measures (including, without limitation, adjustments, on a quarterly or more frequent basis, if required, of the structure or levels of its rates) in order to meet such requirements.

(d) For the purposes of this Section:

- (i) The term "funds from internal sources" means the difference between:
 - (A) the sum of revenues from all sources related to operations, consumer deposits and consumer contributions in aid of construction, net non-operating income; and
 - (B) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends and other cash distributions of surplus, and other cash outflows other than capital

expenditures.

- (ii) 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.
- (iii) 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.
- (iv) The term "capital expenditures" means all expenditures incurred on account of fixed assets, including interest charged to construction, related to operations.
- (v) 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 Association.

Section 4.05. NWSC shall not, until the completion of the Project, incur any debt in excess of \$2 million, without prior consultation with the Association.

Section 4.06. NWSC shall take all measures necessary to improve its billing and collection efficiency to the following percentages by the end of each of its fiscal years:

| | | |
|----------------|----------------|--------------------|
| FY 1990 - 43%; | FY 1991 - 44%; | FY 1992 - 46% |
| FY 1993 - 54%; | FY 1994 - 60% | FY 1995 - 66%; and |
| FY 1996 - 77% | | |

Section 4.07. NWSC shall take all measures necessary to:

(a) reduce arrears on total billing to: (i) five months at the end of FY 1990; (ii) four months at the end of FY 1991; and (iii) three months from the end of FY 1992 onwards; and

(b) to reduce arrears by consumers by continuing to actively disconnect the supply of water to delinquent consumers.

Section 4.08. NWSC shall by July 1, 1990, employ an internal auditor, whose qualifications and experience shall be satisfactory to the Association.

Section 4.09. NWSC shall open and maintain a Project Account in accordance with Section 3.01 (d) of the Development Credit Agreement, and deposit therein an initial amount of the Uganda Shillings equivalent to one hundred thousand dollars (\$100,000). Thereafter, NWSC shall, at the beginning of each quarter, deposit 50% of the amount estimated to be required to cover expenditures for Parts A and B.1 of the Project during such quarter which are not covered by withdrawals from the Credit Account, grants or loans from the Cofinanciers.

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 Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of NWSC thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or
- (ii) the date 25 years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify NWSC of this event.

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 Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INDEVAS
Washington, D.C.

Telex:

440098 (ITT)
248423 (RCA) or
64145 (WUI)

For NWSC:

National Water and Sewerage Corporation
P.O. Box 7053
Kampala, Uganda

Cable address:

WATERS
Kampala

Telex:

61265 NATURAL

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 NWSC, may be taken or executed by its Managing Director or such other person or persons as NWSC shall designate in writing, and NWSC shall furnish to the Association 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 DEVELOPMENT ASSOCIATION

By /s/ Edward V.K. Jaycox

Regional Vice President
Africa

NATIONAL WATER AND SEWERAGE CORPORATION

By /s/ Stephen K. Katenta-Apuli

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

Except as provided in Part D hereof, goods and works 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 Association in May 1985 (the Guidelines).

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A hereof, goods manufactured in Uganda 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: Preference for Domestic Contractors

In the procurement of works in accordance with the procedures described in Part A hereof, NWSC may grant a margin of preference to domestic contractors in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraph 5 of Appendix 2 thereto.

Part D: Other Procurement Procedures

1. Local Competitive Bidding

Civil works and goods estimated to cost less than the equivalent of \$500,000 per contract, up to an aggregate amount not to exceed the equivalent of \$5,000,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Association.

2. Shopping

Items or groups of items estimated to cost less than the equivalent of \$50,000 per contract, up to an aggregate amount not to exceed the equivalent of \$1,100,000, may be procured under contracts awarded on the basis of comparison of price quotations solicited from a list of at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Association.

Part E: Review by the Association of Procurement Decisions

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

(a) With respect to each contract estimated to cost the equivalent of \$100,000 or more, 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 Association pursuant to said paragraph 2 (d) shall be furnished to the Association 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 Association pursuant to said paragraph 3 shall be furnished to the Association as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 3 to the Development Credit Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which the Association has authorized withdrawals on the basis of statements of expenditure.

2. The figure of 10% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II: Employment of Consultants

In order to assist NWSC in the supervision of works to be carried out under Part A of the Project and the training program under Part B of the Project, NWSC shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Association 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.

SCHEDULE 2

Implementation Program

1. NWSC shall be responsible for the implementation of Parts A and B.1 of the Project with the assistance of PCU.

2. Except as NWSC and the Association shall otherwise agree, PCU shall, in the name and on behalf of NWSC, carry out the procurement of goods and works and the hiring of consultants and experts to be financed from the proceeds of the Credit.

3. (a) NWSC shall, with the assistance of PCU, prepare and on each January 1 and July 1 of each year of Project implementation, submit to the Association, for its review and comments, semiannual progress reports.

(b) NWSC shall, on each January 1 of each year of Project implementation, prepare an annual progress evaluation report to be reviewed at an annual workshop which shall be organized in February of each year and which shall, inter alia, make recommendations on appropriate corrective measures and adjustments that may need to be adopted in the implementation of Parts A and B.1 of the Project.

Part A of the Project

4. NWSC shall take all measures necessary to obtain evidence, satisfactory to the Association, that such land and rights in respect of land are available to NWSC for purposes related to the carrying out of the Project at the following sites:

(i) Kampala

(A) Sites for waste stabilization ponds for Bugolobi and Port Bell; and

(B) Sites for water reservoirs of Rubaga and Mutungo.

(ii) Mbarara

(A) Site for new water works; and

(B) Sites for water reservoirs at Boma, Kamukuzi, Ruharo and Ruti.

(iii) Masaka

(A) Site for water work extension;

(B) Sites for reservoirs at Boma and Nyendo; and

(C) Site for waste stabilization pond for the hospital.

5. NWSC shall prepare and implement the resettlement programs referred to in Section 6.01 (e) of the Development Credit Agreement for the relocation, including compensation, of all families living on the sites referred to in paragraph 4 of this Schedule.

