

CONFORMED COPY

CREDIT NUMBER 2517 UNI

Development Credit Agreement

(Lagos Drainage and Sanitation Project)

between

FEDERAL REPUBLIC OF NIGERIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated July 30, 1993

CREDIT NUMBER 2517 UNI

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated July 30, 1993 between the FEDERAL REPUBLIC OF NIGERIA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

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 Association to assist in the financing of the Project;

(B) the Project will be carried out with the Borrower's assistance by Lagos State of Nigeria (Lagos State);

(C) the Borrower will, as part of such assistance, relend to Lagos State the proceeds of the Credit as hereinafter provided;

(D) the Borrower intends to obtain from the Japan International Cooperation Agency (JICA) a grant (the JICA Grant) to assist in financing the Project on the terms and conditions set forth in an agreement (the JICA Grant Agreement) to be entered into between JICA

and the Borrower;

WHEREAS the Association has agreed on the basis, inter alia of the foregoing to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement and in the Project Agreement of even date herewith between the Association 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 Development Credit Agreements" of the Association, 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. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Project Agreement" means the agreement between the Association 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 Project Agreement;

(b) "Subsidiary Loan Agreement" means the agreement to be entered 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 Subsidiary Loan Agreement;

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

(d) "Project Account" means the account referred to in Section 2.01 (b) of the Project Agreement;

(e) "Drainage Maintenance Account" means the account referred to in Section 2.01 (c) (i) of the Project Agreement; and

(f) "Lagos State Waste Management Authority" means the Lagos State Waste Management Authority referred to in Section 2.01 (d) of the Project Agreement which was established, and is operating, as a body corporate under the laws of Lagos State.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to forty-four million five hundred thousand Special Drawing Rights (SDR 44,500,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association 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 Credit.

(b) The Borrower shall, for the purposes of the Project, open and maintain, or cause to be opened and maintained, in dollars a special deposit account in a commercial bank on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment. Deposits into,

and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 1998, or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent ($1/2$ of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one per cent ($3/4$ of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on June 1 and December 1 in each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each June 1 and December 1 commencing December 1, 2003 and ending June 1, 2028. Each installment to, and including the installment payable on June 1, 2013, shall be one and one-fourth percent ($1-1/4\%$) of such principal amount, and each installment thereafter shall be two and one-half percent ($2-1/2\%$) of such principal amount.

(b) Whenever: (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the terms of repayment of installments under paragraph (a) above by requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid. If so requested by the Borrower, the Association may revise such modification to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(c) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as

provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 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 Development Credit Agreement shall, within the limits of its constitutional powers, cause Lagos State to perform in accordance with the provisions of the Project Agreement all the obligations of 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 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 Credit to Lagos State under a Subsidiary Loan Agreement to be entered into between the Borrower and Lagos State, under terms and conditions which shall have been approved by the Association, including provisions in the Subsidiary Loan Agreement requiring Lagos State to:

- (i) pay annual interest at the variable rate payable, on the date of the Subsidiary Loan Agreement, on loans made by the Bank to its Borrowers;
- (ii) repayment of principal in 20 years (including five years of grace); and
- (iii) assume any foreign exchange risks on proceeds of the Credit relent to it.

(c) The Borrower shall: (i) review jointly with Lagos State and with the Association, by July 31 of each year, the progress achieved in the execution of the Project; (ii) no later than July 31, 1995, carry out jointly with the Association and Lagos State a mid-term review of the Project to: (A) assess the overall progress made in the carrying out of the Project against an action plan agreed upon with the Association; and (B) review the management of the Project, and Lagos State's performance against the performance indicators agreed with the Association; and (iii) promptly thereafter take all action necessary to facilitate the carrying out by Lagos State of the recommendations of the reviews referred to above.

Section 3.02. Except as the Association 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 Credit shall be governed by the provisions of Schedule 1 to the Project Agreement.

Section 3.03. The Borrower and the Association hereby agree that 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) shall be carried out by Lagos State pursuant to Section 2.03 of the Project Agreement.

ARTICLE IV

Other Covenants

Section 4.01. (a) For all expenditures with respect to which withdrawals from the Credit 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 Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made;
- (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 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, the report of such audit by said auditors of such scope and in such detail as the Association 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 Association such other information concerning said records and accounts and the audit thereof as the Association shall from time to time reasonably request.

ARTICLE V

Remedies of the Association

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

- (a) Lagos State 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 Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that Lagos State will be able to perform its obligations under the Project Agreement;
- (c) the Borrower, or any other authority having jurisdiction, shall have taken any action for the dissolution or disestablishment of Lagos State Waste Management Authority or for the suspension of its operations;
- (d) Subject to paragraph (e) of this Section:
 - (i) the right of the Borrower to withdraw the proceeds of any loan, credit or grant made to the Borrower for the financing of the Project (including the JICA Grant) shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor; or
 - (ii) any such loan shall have become due and payable prior to the agreed maturity thereof; and

(e) paragraph (d) of this Section shall not apply if the Borrower establishes to the satisfaction of the Association that: (i) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and (ii) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 5.02. Pursuant to Section 7.01 (d) 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 days after notice thereof shall have been given by the Association to the Borrower; and

(b) the events specified in paragraphs (c) and (d) of Section 5.01 of this Agreement shall occur subject in the case of the event specified in paragraph (d) of that Section to the proviso of paragraph (e) thereof.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the furnishing to the Association by Lagos State of draft bidding documents, satisfactory to the Association, for the contracting to private sector contractors of maintenance of existing drainage under the Project;

(b) the employment by Lagos State of consultants to supervise construction and assist with the carrying out of the drainage maintenance program, included in the Project;

(c) the signing of the Subsidiary Loan Agreement;

(d) the issuance by Lagos State to the Borrower of the written instructions referred to in Section 2.01 (b) (iii) of the Project Agreement authorizing: (i) the deduction from the Federation Account of Lagos State's counterpart contributions to Project costs; and (ii) payment into the Project Account of the said counterpart contributions; and

(e) the payment by Lagos State into the Project Account of the initial amount referred to in Section 2.01 (b) (iii) (A) of the Project Agreement.

Section 6.02. The following is specified as an additional matter, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

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

(b) that the 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.

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:

The Honourable Secretary
Federal Ministry of Finance
P.M.B. 14
Garki, Abuja
Nigeria

Cable address:

FEDMINFIN
Abuja

Telex:

21248 (ITT)

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:

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

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/ Zubair M. Kazaure
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

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

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit, the allocation of the amounts of the Credit to each Category and the percentage of

expenditures for items so to be financed in each Category:

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Civil works (excluding drain maintenance):		100% of foreign expenditures and 55% of local expenditures
(a) Apapa Drainage	7,300,000	
(b) Surelere Channel	7,100,000	
(c) Lagos Island Drainage	4,000,000	
(d) Lagos Mainland Drainage	6,800,000	
(e) Transfer Station and Landfill	900,000	
(f) Urban Renewal demonstration	1,300,000	
Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(2) Drain maintenance	3,700,000	100% of foreign expenditures; and 40% of local expenditures, until December 31, 1995; 60% of foreign expenditures and 40% of local expenditures, until December 31, 1996; and 40% thereafter
(3) Goods and equipment	2,800,000	100% of foreign expenditures and 70% of local expenditures
(4) Training, technical assistance and construction supervision	6,400,000	100%
(5) Unallocated	4,200,000	
TOTAL	44,500,000 =====	

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:

(a) payments made for expenditures prior to the date of this Agreement;

(b) expenditures under Category (1) (a) and (b) unless Lagos State has: (i) employed a consultant acceptable to the Association to prepare plans satisfactory to the Association for the resettlement of persons likely to be affected by the following components of Part A of the Project, namely: (A) the upgrading, realigning and lining of the Apapa Drains; and (B) rehabilitation of the main Surelere channel; (ii) furnished to the Association said plans (including a detailed implementation schedule); and (iii) progress satisfactory to the Association has been achieved in the implementation of the resettlement plans prior to the award of construction contracts for the drainage scheme or for the Surelere channel; and

(c) expenditures under Category (2) unless the Association is satisfied that Lagos State has opened the Drainage Maintenance Account referred to in Section 2.01 (c) of the Project Agreement and has deposited therein an initial amount of Naira 9,000,000.

SCHEDULE 2

Description of the Project

The objectives of the Project are to: (i) assist the city of Lagos to function effectively as an economic center; (ii) improve stormwater drainage in the areas of the city subject to flooding; (iii) prepare for plans, feasibility studies and designs required for the upgrading of urban services and the improvement of human waste and waste water disposal in Lagos; and (iv) assist Lagos State Waste Management Authority to strengthen and improve its organization and system development.

The Project consists of the following Parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A: Improving Storm Water Drainage and Drain Maintenance

1. Rehabilitation of the main Surelere channel including: (i) the redredging and lining of parts of the channel; and (ii) the construction of an access road and a major culvert crossing of the Federal Highway.

2. Construction of primary and secondary lined drainage channels, covered box conduits and culverts in the following three areas of central mainland Lagos, namely, Oshodi/Expressway, City Way and Lagos University Teaching Hospital areas.

3. Upgrading and augmenting the highest priority existing drains to provide an adequate system of drainage for Lagos Island including: (i) improving the existing main outfalls; and (ii) replacement of concrete channels and culverts.

4. Upgrading, realigning and lining of highest priority drains in Apapa, the port and industrial area of Lagos.

5. The carrying out of a regular maintenance program by private sector contractors under contracts satisfactory to the Association including the establishment of a drainage maintenance account to ensure timely availability of funds for the program.

6. Construction of a transfer station and provision of bulk carriers and additional spare parts for the Lagos State Waste

Management Authority.

Part B: Technical Assistance

1. Development of sanitation strategy, preparation of plans, feasibility studies and designs for future developments in sanitation including: (i) conventional sewerage system (where appropriate); and (ii) supply of laboratory equipment for pollution monitoring.
2. Assisting the Urban Renewal Board to: (i) review its charter and plan its development strategy; (ii) prepare an urban renewal project; and (iii) undertake a demonstration project.
3. Provision of technical assistance for the strengthening and improvement of revenue billing and collection systems.
4. Assisting the development of a mapping ability and Land Information System for Lagos State.
5. Assisting the Lagos State Waste Management Authority to strengthen and develop its organization and the carrying out of engineering studies for future waste disposal sites.
6. Assisting Lagos State's regular drainage maintenance program and preparation of designs for future urban investment projects.
7. The carrying out of a training program to upgrade and strengthen the skills of Lagos State personnel participating in the Project in all aspects of drainage and sanitation.

* * *

The Project is expected to be completed by December 31, 1997.

SCHEDULE 3

Special Account

1. For the purposes of this Schedule:
 - (a) the term "eligible Categories" means Categories (1) through (4) 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 Credit 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 \$3,000,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.
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 Association 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 Association a request or requests for a deposit or deposits which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit 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 Association requests for deposits into the Special Account at such intervals as the Association shall specify.
- (ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association 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 Association shall, on behalf of the Borrower, withdraw from the Credit 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 Association from the Credit Account under the respective eligible Categories, 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 Association shall reasonably request, furnish to the Association 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 Association shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or

(b) once the total unwithdrawn amount of the Credit allocated to the eligible Categories, less the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association 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 Association 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 Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association 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 Association 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 Association, refund to the Association such outstanding amount.

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

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

