

CONFORMED COPY

LOAN NUMBER 4227 PH

Project Agreement

(Water Districts Development Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

and

METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM

Dated May 15, 1999

LOAN NUMBER 4227 PH

PROJECT AGREEMENT

AGREEMENT, dated by May 15, 1999, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS).

WHEREAS (A) by the Loan Agreement of even date herewith between Republic of the Philippines (the Borrower) and the Bank (the Republic Loan Agreement), the Bank has agreed to make available to the Borrower an amount of two million three hundred thousand dollars (\$2,300,000), on the terms and conditions set forth in the Republic Loan Agreement, but only on condition that MWSS agree to undertake such obligations toward the Bank as are set forth in this Agreement;

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

WHEREAS MWSS, in consideration of the Bank's entering into the Republic Loan Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the General Conditions (as so defined), the Preamble to this Agreement, the

Republic Loan Agreement and the LBP Loan Agreement have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) MWSS declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Republic Loan Agreement, and, to this end, shall carry out Part A of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and public utilities practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part A of the Project.

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

Section 2.02. 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 Republic Loan shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. (a) MWSS shall carry out 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) in respect of the Project Agreement and Part A of the Project.

(b) For the purposes of Section 9.08 of the General Conditions and without limitation thereto, MWSS shall:

(i) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Bank and MWSS, a plan for the continued achievement of the objectives of Part A of the Project; and

(ii) afford the Bank a reasonable opportunity to exchange views with MWSS on said plan.

Section 2.04. MWSS shall duly perform all its obligations under the MWSS Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, MWSS shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the MWSS Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) MWSS shall, at the request of the Bank, exchange views with the Bank with regard to the progress of Part A of the Project, the performance of its obligations under this Agreement and under the MWSS Subsidiary Loan Agreement, and other matters relating to the purposes of the Republic Loan.

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

ARTICLE III

Management and Operations of MWSS

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

Section 3.02. MWSS shall at all times operate and maintain, or cause to be operated and maintained, its plant, machinery, equipment and other property, and from

time to time, promptly as needed, make, or cause to be made, all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and public utilities practices.

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

ARTICLE IV

Financial Covenants

Section 4.01. (a) MWSS shall maintain records and accounts adequate to monitor and record the progress of Part A of the Project and to reflect in accordance with sound accounting practices its operations and financial condition.

(b) MWSS shall:

(i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(ii) furnish to the Bank as soon as available, but in any case not later than six (6) months after the end of each such year, (A) certified copies of its financial statements for such year as so audited and (B) the report of such audit by said auditors of such scope and in such detail as the Bank shall have reasonably requested; and

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

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 Republic Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of MWSS thereunder shall terminate on the date on which the Republic Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify MWSS thereof.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

248423 (MCI) or
64145 (MCI)

For MWSS:

PANGASIWAAN NG TUBIG AT
ALKANTARILYA SA METRO MANILA
Metropolitan Waterworks and Sewerage System
Katipunan Road, Balara
Quezon City 1105, Philippines

Cable address:

MWSS PH

Telex:

(722) 27947 MWSS PH

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 MWSS, may be taken or executed by its Administrator or such other person or persons as said Administrator shall designate in writing, and MWSS shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Aloysius Ordu

Authorized Representative

METROPOLITAN WATERWORKS
AND SEWERAGE SYSTEM

By /s/ Macra A. Cruz

Authorized Representative

SCHEDULE 1

Consultants' Services

Part A: General

Consultants' services shall be procured in accordance with the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of

Consultants by World Bank Borrowers" published by the Bank in January 1997 (the Consultant Guidelines) and the following provisions of this Schedule.

Part B: Procedures for the Selection of Consultants

1. Quality-based Selection

Consultants' services for Part A of the Project shall be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

Part C: Review by the Bank of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under Part A of the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services for Part A of the Project shall be undertaken in accordance with such selection plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the second subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

SCHEDULE 2

Implementation Program

1. MWSS shall, by December 1, 1999 establish and thereafter maintain a PPA Project Management Unit, managed and staffed with personnel in adequate number, with functions and responsibilities satisfactory to the Bank, which shall be responsible for coordinating and supervising the implementation of Part A of the Project.

2. Unless otherwise agreed by the Bank, MWSS shall:

(a) not later than December 31, 1999, employ consultants, in accordance with the provisions of Schedule 1 to this Agreement, to assist MWSS in the development of a suitable public performance audit system for the activities of its concessionaires in the provision of water and sewerage services;

(b) ensure that said system shall be developed and furnished to the Bank for its review not later than July 1, 2000;

(c) afford the Bank a reasonable opportunity to exchange views with MWSS on said system; and

(d) thereafter, take all measures required on its part to introduce and apply said system, taking into consideration the Bank's views on the matter.

3. MWSS shall:

(a) not later than November 15, 1999 prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank a report on the results of the application of said public performance audit system; and

(b) review with the Bank the report furnished to the Bank pursuant to subparagraph (a) above with the view to ensure the continued and expanded applicability of the public performance audit system.

