
LOAN NUMBER VIE-2272(SF)

PROJECT AGREEMENT

(Central Region Small and Medium Towns Development Project)

between

ASIAN DEVELOPMENT BANK

and

NINH HOA URBAN JOINT STOCK COMPANY,
DAK NONG WATER SUPPLY, DRAINAGE AND URBAN WORKS MANAGEMENT
COMPANY,
NINH THUAN WATER SUPPLY COMPANY,
PHU YEN WATER SUPPLY AND DRAINAGE COMPANY LIMITED,
AND
CAM RANH URBAN WORKS JOINT STOCK COMPANY

DATED 24 MAY 2007

PA:VIE 30286

PROJECT AGREEMENT

PROJECT AGREEMENT dated 24 May 2007 between ASIAN DEVELOPMENT BANK ("ADB") and NINH HOA URBAN JOINT STOCK COMPANY, DAK NONG WATER SUPPLY, DRAINAGE AND URBAN WORKS MANAGEMENT COMPANY, NINH THUAN WATER SUPPLY COMPANY, PHU YEN WATER SUPPLY AND DRAINAGE COMPANY LIMITED AND CAM RANH URBAN WORKS JOINT STOCK COMPANY (together "the POEs").

WHEREAS

(A) by a Loan Agreement of even date herewith between Socialist Republic of Viet Nam (the "Borrower") and ADB, ADB has agreed to make to the Borrower a loan in various currencies equivalent to thirty six million thirty one thousand Special Drawing Rights (SDR 36,031,000) on the terms and conditions set forth in the Loan Agreement, but only on condition that a portion of the proceeds of the Loan be made available to the POEs and that the POEs agree to undertake certain obligations towards ADB as set forth in this Project Agreement; and

(B) the POEs, in consideration of ADB entering into the Loan Agreement with the Borrower, has agreed to undertake the obligations set forth in this Project Agreement;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Definitions

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the terms defined in the Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth, except that for purposes of this Project Agreement, the term "the Project" means Part A of the Project, as described in Schedule 1 to the Loan Agreement.

ARTICLE II

Particular Covenants

Section 2.01. (a) The POEs shall carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, environmental and water supply practices.

(b) In the carrying out of the Project and operation of the Project facilities, the POEs shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to the POEs and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. The POEs shall make available, promptly as needed, the funds, facilities, services and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, the POEs shall employ competent and qualified contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to the Loan Agreement. ADB may refuse to finance a contract where Goods, Works or consulting services have not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 2.04. The POEs shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. The POEs shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.05. (a) The POEs shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, the POEs undertake to insure, or cause to be insured, the Goods to be imported for the Project and to be financed out of the proceeds of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods.

Section 2.06. The POEs shall maintain, or cause to be maintained, records and accounts adequate to identify the Goods, Works and consulting services financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, their operations and financial condition.

Section 2.07. (a) ADB and the POEs shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) The POEs shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of their obligations under this Project Agreement or the Subsidiary Loan Agreement, or the accomplishment of the purposes of the Loan.

(c) ADB and the POEs shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, the POEs and the Loan.

Section 2.08. (a) The POEs shall furnish to ADB, through the PCU, all such reports and information as ADB shall reasonably request concerning (i) the Loan and the expenditure of the proceeds thereof; (ii) the Goods, Works and consulting services financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of the POEs; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, the POEs shall furnish to ADB, through the PCU, quarterly reports on the execution of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after physical completion of the Project, but in any event not later than three (3) months thereafter or such later date as ADB may agree for this purpose, the POEs shall prepare and furnish to ADB, through the PCU, a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by the POEs of their obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. The POEs shall (i) maintain separate accounts for the Project and for their overall operations; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, and related statements) audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; and (iii) furnish to ADB, promptly after their preparation but in any event not later than 6 months after the close of the fiscal year to which they relate, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of the Loan Agreement), all in the English language. The POEs shall furnish to ADB such further information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

Section 2.10. The POEs shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loan and any relevant records and documents.

Section 2.11. (a) The POEs shall, promptly as required, take all action within their powers to maintain their corporate existence, to carry on their operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of their business.

(b) The POEs shall at all times conduct their business in accordance with sound administrative, financial, environmental and water supply practices, and under the supervision of competent and experienced management and personnel.

(c) The POEs shall at all times operate and maintain their plants, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, financial, engineering, environmental, water supply, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, the POEs shall not sell, lease or otherwise dispose of any of their assets which shall be required for the efficient carrying on of their operations or the disposal of which may prejudice their ability to perform satisfactorily any of their obligations under this Project Agreement.

Section 2.13. Except as ADB may otherwise agree, the POEs shall apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreement and this Project Agreement, and shall ensure that all Goods, Works and consulting services financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Except as ADB may otherwise agree, the POEs shall duly perform all their obligations under the Subsidiary Loan Agreement, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Subsidiary Loan Agreement.

Section 2.15. The POEs shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of their Charter and shall afford ADB an adequate opportunity to comment on such proposal prior to taking any action thereon.

ARTICLE III

Effective Date; Termination

Section 3.01. This Project Agreement shall come into force and effect on the date on which the Loan Agreement shall come into force and effect. ADB shall promptly notify the POEs of such date.

Section 3.02. (a) This Project Agreement and all obligations of the parties hereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Loan Agreement shall terminate in accordance with its terms; or
- (ii) the date on which the Subsidiary Loan with the longest term shall terminate in accordance with its terms.

(b) If the Loan Agreement terminates in accordance with its terms before the date specified in paragraph (a)(ii) of this Section, ADB shall promptly notify the POEs of this event.

Section 3.03. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreement.

ARTICLE IV

Miscellaneous

Section 4.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project 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, facsimile or radiogram to the party to which it is required or permitted to be given or made at its 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 ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

(632) 636-2444
(632) 636-2228

For the POEs

Ninh Hoa Urban Joint Stock Company
345 Tran Quy Cap
Ninh Hoa, Khanh Hoa
Phone Number: (058) 844146
Facsimile Number: (058) 844147

Dak Nong Water Supply, Drainage and Urban Works Management Company
 36A Nguyen Van Troi
 Gia Nghia, Dak Nong
 Phone Number: (050) 543850
 Facsimile Number: (050) 543139

Ninh Thuan Water Supply Company
 23 Nguyen Trai
 Phan Rang, Ninh Thuan
 Phone Number: (068) 824732
 Facsimile Number: (068) 820350

Cam Ranh Urban Works Joint Stock Company
 70 Nguyen Trong Ky
 Cam Ranh, Khanh Hoa
 Phone Number (058) 854310
 Facsimile Number (058) 855510

Phu Yen Water Supply and Drainage Company Ltd.
 National Highway 25, Binh Ngoc Commune
 Tuy Hoa City, Phu Yen
 Phone Number (057) 827030
 Facsimile Number (057) 841134


Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement by or on behalf of the POEs may be taken or executed by their respective Director (for Ninh Thuan Water Supply Company and Dak Nong Water Supply, Drainage and Urban Works Management Company) or Chairman (for Ninh Hoa Urban Joint Stock Company) or by such other person or persons as he shall so designate in writing notified to ADB.

(b) The POEs shall furnish to ADB sufficient evidence of the authority of each person who will act under paragraph (a) of this Section, together with the authenticated specimen signature of each such person.

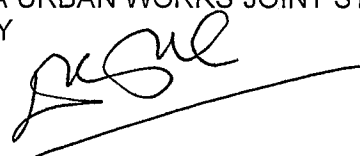
Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Project Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.


ASIAN DEVELOPMENT BANK

By 
AYUMI KONISHI
Authorized Representative

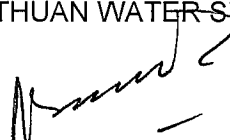
NINH HOA URBAN WORKS JOINT STOCK
COMPANY

By 
DUONG VAN LUC
Authorized Representative


DAK NONG WATER SUPPLY, DRAINAGE
AND URBAN WORKS MANAGEMENT
COMPANY

By 
PHAM VAN QUY
Authorized Representative

NINH THUAN WATER SUPPLY COMPANY

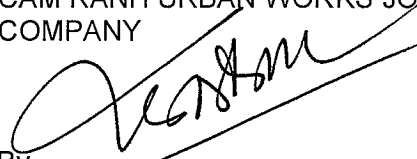
By 
NGUYEN THE DUONG
Authorized Representative

PHU YEN WATER SUPPLY AND DRAINAGE
COMPANY LIMITED

By 

NGUYEN PHU
Authorized Representative

CAM RANH URBAN WORKS JOINT STOCK
COMPANY

By 

BUI NGOC PHUC
Authorized Representative

SCHEDULE

Execution of Project; Financial Matters

Execution of Project

1. The POEs shall, in a manner satisfactory to the Borrower, ADB and the PPCs, develop, adopt and implement a time-bound action plan, which shall include (a) new employment policies, strategies and guidelines on hiring practices, including performance based remuneration systems, enhanced transparency in hiring practices and staff incentives, in accordance with the relevant laws and regulations of the Borrower; (b) training programs to improve staff capabilities; (c) improved accounting procedures; and (d) O&M plans and procedures, within 3 years after the Effective Date.

Anticorruption Measures

2. The POEs shall comply with ADB's Anticorruption. The POEs (i) acknowledge ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project; and (ii) agree to cooperate fully with any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation.

3. Without limiting the generality of the preceding paragraph, the POEs shall (a) conduct periodic inspections on the contractors' activities related to fund withdrawals and settlements and (b) ensure that all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of the POEs and all contractors, suppliers, consultants and other service providers as they relate to the Project.