
LOAN NUMBER 3060-PAL

LOAN NUMBER 3061-PAL (SF)

PROJECT AGREEMENT
(Koror-Airai Sanitation Project)

between

ASIAN DEVELOPMENT BANK

and

PALAU PUBLIC UTILITIES CORPORATION

DATED 28 MARCH 2014

PAL 42439

PROJECT AGREEMENT

PROJECT AGREEMENT dated 28 March 2014 between ASIAN DEVELOPMENT BANK ("ADB") and PALAU PUBLIC UTILITIES CORPORATION ("PPUC").

WHEREAS

(A) by a Loan Agreement of even date herewith between Republic of Palau ("Borrower") and ADB ("Ordinary Operations Loan Agreement"), ADB has agreed to make to the Borrower a loan ("Ordinary Operations Loan") of twenty six million nine hundred thousand Dollars (\$26,900,000) on the terms and conditions set forth in the Ordinary Operations Loan Agreement;

(B) by a Loan Agreement of even date herewith between the Borrower and ADB ("Special Operations Loan Agreement", and together with the Ordinary Operations Loan Agreement, "Loan Agreements"), ADB has agreed to make to the Borrower a loan ("Special Operations Loan", and together with the Ordinary Operations Loan, "Loans") of one million two hundred fifty eight thousand Special Drawing Rights (SDR1,258,000) on the terms and conditions set forth in the Special Operations Loan Agreement;

(C) ADB has agreed to make the Loans only on the condition that the proceeds of the Loans be made available to PPUC and that PPUC agrees to undertake certain obligations towards ADB as set forth herein; and

(D) PPUC, in consideration of ADB entering into the Loan Agreements with the Borrower, has agreed to undertake the obligations hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.01. (a) Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreements and in the Loan Regulations (as defined in each of the Loan Agreements) have the respective meanings therein set forth, except that for purposes of this Project Agreement:

- (i) the term "the Project" means of the Project, as described in Schedule 1 to the Special Operations Loan Agreement.

ARTICLE II

Particular Covenants

Section 2.01. (a) PPUC shall carry out the Project with due diligence and efficiency, and in conformity with sound applicable technical, financial, business, and development practices.

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

Section 2.02. PPUC shall make available, promptly as needed, and on terms and conditions acceptable to ADB, the funds, facilities, services, and other resources as required, in addition to the proceeds of the Loans, for the carrying out of the Project.

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

(b) Except as ADB may otherwise agree, PPUC shall procure all items of expenditures to be financed out of the proceeds of the Loans in accordance with the provisions of Schedule 4 to the Special Operations Loan Agreement. ADB may refuse to finance a contract where any such item has 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. PPUC shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. PPUC 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) PPUC shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, PPUC undertakes to insure, or cause to be insured, the Goods to be imported for the Project 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. PPUC shall maintain, or cause to be maintained, records and accounts adequate to identify the items of expenditure financed out of the proceeds of the Loans, 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, its operations and financial condition.

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

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

(c) ADB and PPUC 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, PPUC and the Loans.

Section 2.08. (a) PPUC shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loans and the expenditure of the proceeds thereof; (ii) the items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of PPUC; and (v) any other matters relating to the purposes of the Loans.

(b) Without limiting the generality of the foregoing, PPUC shall furnish to ADB periodic 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 period under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following period.

(c) Promptly after physical completion of the Project, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, PPUC shall prepare and furnish to ADB 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 PPUC of its obligations under this Project Agreement and the accomplishment of the purposes of the Loans.

Section 2.09. (a) PPUC shall (i) maintain separate accounts for the Project and for its 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 Loans proceeds and compliance with the financial covenants of the Loan Agreements and the Project Agreement as well as on the use of the procedures for imprest account and statement of expenditures), all in the English language. PPUC 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.

(c) PPUC shall enable ADB, upon ADB's request, to discuss PPUC's financial statements and its financial affairs from time to time with the auditors appointed by PPUC pursuant to subsection (a) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of PPUC unless PPUC shall otherwise agree.

Section 2.10. PPUC shall enable ADB's representatives to inspect the Project, the Goods and Works and any relevant records and documents.

Section 2.11. (a) PPUC shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its 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 its operations.

(b) PPUC shall at all times conduct its operations in accordance with sound applicable technical, financial, business, development and operational practices, and under the supervision of competent and experienced management and personnel.

(c) PPUC shall at all times operate and maintain its 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 applicable technical, financial, business, development, operational and maintenance practices.

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

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

Section 2.14. Except as ADB may otherwise agree, PPUC shall duly perform all its obligations under the Subsidiary Loan Agreements, 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 Agreements.

Section 2.15. PPUC shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its statutory documents, which, if implemented, could adversely affect the carrying out of the Project or the operation of the Project facilities. PPUC shall afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative 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 Agreements have come into force and effect. ADB shall promptly notify PPUC 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 2 dates:

(i) the date on which the Loan Agreements shall terminate in accordance with their terms; or

(ii) a date 32 years after the date of this Project Agreement.

(b) If the Loan Agreements terminate in accordance with their terms before the date specified in subsection (a)(ii) hereinabove, ADB shall promptly notify PPUC 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 Agreements.

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, mail or facsimile 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
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

+63 2 636-2444
+63 2 636-2446.

For PPUC

Palau Public Utilities Corporation
P.O. Box 1372
Koror
Republic of Palau 96940

Facsimile Number:

+680 488-3878.

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 PPUC may be taken or executed by its Chief Executive Officer or by such other person or persons as he or she shall so designate in writing notified to ADB.

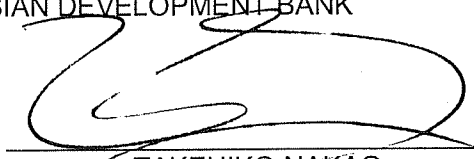
(b) PPUC shall furnish to ADB sufficient evidence of the authority of each person who will act under subsection (a) hereinabove, together with the authenticated specimen signature of each such person.

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 as of the day and year first above written, and to be delivered at the principal office of ADB.

ASIAN DEVELOPMENT BANK

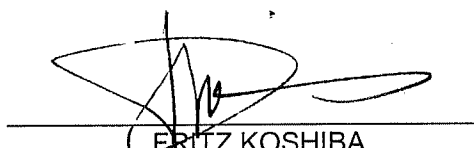
By



TAKEHIKO NAKAO
President

PALAU PUBLIC UTILITIES
CORPORATION

By



FRTZ KOSHIBA
Chairman