
LOAN NUMBER 3064-UZB(SF)

PROJECT AGREEMENT

(Water Supply and Sanitation Services Investment Program - Project 4)

between

ASIAN DEVELOPMENT BANK

and

UZBEKISTAN AGENCY "UZKOMMUNHIZMAT"

DATED 27 February 2014

UZB 42489

PROJECT AGREEMENT

PROJECT AGREEMENT dated 27 February 2014 between ASIAN DEVELOPMENT BANK ("ADB") and UZBEKISTAN AGENCY "UZKOMMUNHIZMAT" ("UCSA").

WHEREAS

(A) by a Loan Agreement of even date herewith between Republic of Uzbekistan ("Borrower") and ADB, ADB has agreed to make to the Borrower a loan in various currencies equivalent to twenty seven million nine hundred seventy seven thousand Special Drawing Rights (SDR 27,977,000) on the terms and conditions set forth in the Loan Agreement, but only on the condition that the proceeds of the Loan be made available to UCSA and that UCSA agrees to undertake certain obligations towards ADB set forth herein; and

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

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I**Definitions**

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth.

ARTICLE II**Particular Covenants**

Section 2.01. (a) UCSA 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, UCSA shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to UCSA, and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. UCSA shall make available, promptly as needed, the funds, facilities, services, land and other resources as 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, UCSA 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, UCSA shall procure all items of expenditures to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to the 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. UCSA shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. UCSA 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) UCSA 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, UCSA 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. UCSA shall maintain, or cause to be maintained, records and accounts adequate to identify the items of expenditure 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, its operations and financial condition.

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

(b) UCSA 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 Agreement, or the accomplishment of the purposes of the Loan.

(c) ADB and UCSA 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, UCSA and the Loan.

Section 2.08. (a) UCSA shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loan 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 UCSA; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, UCSA 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, UCSA 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 UCSA of its obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) UCSA shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements for the Project audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of the Loan Agreement as well as on the use of the procedures for the imprest fund and statement of expenditures) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the close of the fiscal year to which they relate, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

(c) In addition to annual audited financial statements referred to in subsection (a) hereinabove, UCSA shall cause the vodokanals in both Fergana and Margilan Cities to (i) provide their respective annual financial statements prepared in accordance with national accrual-based financing reporting standards acceptable to ADB; (ii) have their respective financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; and (iii) furnish to ADB, no later than 1 month after approval by the relevant authority (or, if such approval is not required, promptly), copies of such audited financial statements in the English language and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(d) UCSA shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the vodokanals in both Fergana and Margilan Cities and their respective financial affairs where they relate to the Project with the respective auditors appointed by UCSA and the vodokanals pursuant to subsections (a)(iii) and (c) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of UCSA and/or the vodokanals, as applicable, unless UCSA and/or the vodokanals, as applicable, shall otherwise agree.

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

Section 2.11. (a) UCSA 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) UCSA 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) UCSA 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, UCSA 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, UCSA 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 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, UCSA shall duly perform all its 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. UCSA shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its charter, and 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 Agreement comes into force and effect. ADB shall promptly notify UCSA of such date.

Section 3.02. This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms.

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, 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:

(632) 636-2444
(632) 636-2407.

For UCSA

Uzbekistan Agency "Uzkommunhizmat"
 1, Niyozbek Yuli Street
 100035, Tashkent
 Republic of Uzbekistan

Facsimile Number:

(998-71) 234-1103.

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 or under Section 6.01 of the Loan Agreement by or on behalf of UCSA may be taken or executed by its Director General or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) UCSA 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 
 KAZUHIKO HIGUCHI
 Country Director
 Uzbekistan Resident Mission

UZBEKISTAN AGENCY
 "UZKOMMUNHIZMAT"

By 
 Authorized Representative

Utkir Khalmurhamedov
 Director General
 Uzbekistan Agency 'Uzkommunhizmat'

SCHEDULE

Execution of Project and Operation of Project Facilities

Implementation Arrangements

1. UCSA shall implement the Project in accordance with the detailed arrangements set forth in the FAM. Any subsequent change to the FAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the FAM and the Loan Agreement, the provisions of the Loan Agreement shall prevail.

Collection Efficiency and Tariffs

2. UCSA shall ensure that:

(a) the Fergana provincial government and related vodokanals take necessary measures for improving collection efficiency to achieve a collection rate of 90% for each vodokanal by December 2018;

(b) the Fergana provincial government reviews semiannually and adjusts as necessary the level and structure of tariffs to ensure that, by December 2018, the vodokanals have: (i) incorporated full operation and maintenance costs for water supply and sanitation in the tariffs; and (ii) serviced their debts, including proceeds of the Loan onlent to the vodokanals by the Fergana provincial government. Results of the reviews and adjustments shall be reported by UCSA to ADB within 3 months of each review; and

(c) the Fergana provincial government: (i) takes appropriate measures, including financial incentives and penalties, to reduce the level of payment arrears for water supply and sanitation bills; and (ii) protects its water supply and sanitation resources and facilities through the vigorous prosecution of violations such as water meter tampering and water theft.

Policy and Institutional Reforms

3. UCSA shall ensure that the policies and institutional reforms required to make the vodokanals more autonomous and efficient are implemented. Such reforms include:

(a) regularly revising and adjusting water supply and sanitation tariffs to reflect actual cost of operation and maintenance and capital depreciation by the Project completion date; and

(b) reviewing and adjusting the responsibilities of the vodokanals with the view of further improving quality of services in the Project Area and strengthening vodokanals' accountability; introducing performance-based management for the vodokanals; and establishing modern accrual-based accounting systems in the vodokanals.

Performance Benchmarking and Financial Management

4. UCSA shall ensure that the vodokanals shall develop and adopt computerized financial management systems and performance benchmarking systems by September 2017.

Operation and Maintenance

5. UCSA shall ensure that each vodokanal in the Project Area will prepare an operation and maintenance manual in respect of the Project facilities relevant to such vodokanal by September 2017.

Hygiene Consultation and Promotion

6. UCSA shall ensure that the implementation arrangements and plans for the hygiene promotion activities to be carried out in all schools in the Project Area are prepared, and that the hygiene baseline surveys and follow-up surveys are carried out according to the target years to be agreed for the Project.

7. UCSA shall ensure (a) implementation of the consultation and participation plan of the Investment Program in the Project that involves households, institutions such as schools, clinics and businesses, the vodokanals and other stakeholders from government agencies and the private sector; and (b) engagement of non-government organizations, where appropriate, to implement the hygiene program.

Environment

8. UCSA shall ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; (c) the EARF and (d) all measures and requirements set forth in the respective IEE and EMP, and any corrective or preventative actions set forth in an Environmental Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

9. UCSA shall ensure that (a) all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract; and (b) the Project does not have any land acquisition or resettlement impacts within the meaning of the SPS. If there are any such impacts, the Borrower shall ensure, or cause UCSA to ensure, that all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the RF; and (d) all measures and requirements set forth in the resettlement plan or any corrective or preventative actions set forth in a monitoring report on the implementation of the resettlement plan submitted by the Borrower to ADB.

Ethnic Minorities

10. UCSA shall ensure that the Project does not have any impact on ethnic minorities within the meaning of the SPS. If any impact on ethnic minorities is identified during the planning, design or implementation of the Project, the Borrower shall ensure that such preparation, design, construction, implementation and operation of the Project and all Project facilities shall comply with (a) all applicable laws and regulations of the Borrower relating to ethnic minorities; (b) the Ethnic Minorities Safeguards; (c) the EMDF; and (d) all measures and requirements set forth in the ethnic minorities plan or any corrective or preventative actions set forth in a monitoring report on the implementation of the ethnic minority plan submitted by the Borrower to ADB.

Human Resources to Implement Safeguards Requirements

11. UCSA shall make available necessary human resources to fully implement the EMP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

12. UCSA shall ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

(a) comply with the measures relevant to the contractor set forth in the IEE and EMP, and any corrective or preventative actions set forth in an Environmental Safeguards Monitoring Report;

(b) make available a budget for all such environmental measures;

(c) provide the Borrower with a written notice of any unanticipated environmental, resettlement or ethnic minorities risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE and EMP;

(d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and

(e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

13. UCSA shall:

(a) submit semi-annual Environmental Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected persons promptly upon submission;

(b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not

Schedule

considered in the IEE and EMP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and

(c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP promptly after becoming aware of the breach.

Gender and Labor

14. UCSA shall ensure that: (a) the GAP is fully implemented and monitored in a timely manner in accordance with its terms, related regulations of the Borrower, and ADB's Policy on Gender and Development (1998) and adequate resources are allocated for this purpose; (b) progress in achieving the GAP targets are reflected in the Project progress reports and Project completion report; and (c) targets under the GAP are achieved including, but not limited to (i) at least 30% of the participants in the technical and financial management provided for sewerage operators by September 2017 are women; (ii) at least 30% of the employees of the customer care unit established by the sewerage operators in each project city by September 2017 are women; (iii) sex-disaggregated consumer databases for sewerage services are developed and all consumers registered by September 2017; and (iv) at least 30% of water consumer group members are women by September 2017.

15. UCSA shall ensure that civil works contracts under the Project shall follow all applicable laws and regulations in Uzbekistan, and that civil works contractors: (a) to the extent possible, employ women and local people, including disadvantaged people, living in the vicinity of the relevant subproject; (b) provide equal pay to men and women for work of equal type; (c) provide safe working conditions and reasonable accommodation with access to safe water and proper sanitation facilities for male and female workers; (d) abstain from child labor; and (e) carry out HIV/AIDS awareness programs for laborer and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS for construction workers, as part of the health and safety program at campsites during the construction period. UCSA shall monitor compliance by the contractors during Project implementation and breaches by contractors can result in termination of contracts.

Good Governance and Anticorruption

16. UCSA acknowledges that ADB, consistent with its commitment to good governance, accountability, and transparency, reserves the right to investigate directly, or through its agents, any possible corrupt, fraudulent, collusive, or coercive practices relating to the Project. In support of these efforts and pursuant to ADB's Anticorruption Policy (1998, as amended to date), UCSA shall ensure that (a) the bidding documents for the Project, and all contracts financed by ADB in connection with Project, include provisions specifying the right of ADB to audit and examine the records and accounts of UCSA, and subproject vodokanals, and all contractors, suppliers, consultants, and other service providers as they relate to the Project; (b) periodic inspections of the contractor's activities relating to fund withdrawals and settlements are carried out by UCSA; and (c) the auditors, appointed by UCSA, have the right to conduct random or spot audits of contract implementation activities under the Project. All costs related to such periodic inspections and audits shall be borne under the Project.

Schedule

17. UCSA shall maintain and update its website with the information on the Project, including among other things, information on water tariff review procedures, results of annual reviews and adjustments, collection efficiency, details on the adopted bidding procedures, amounts of the contract awards and the list of goods and services procured and their intended and actual utilization.